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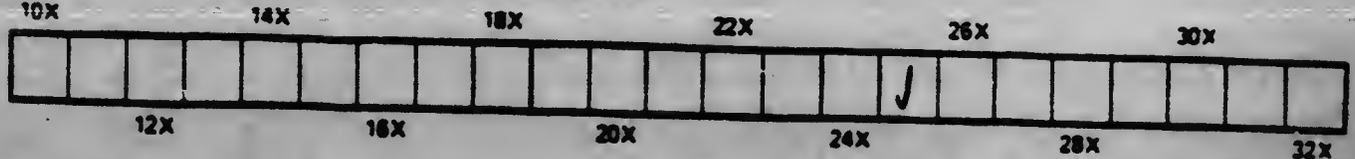

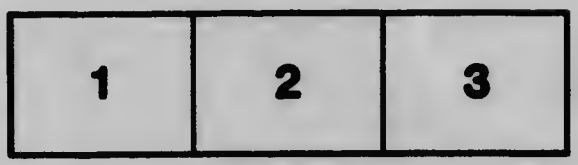


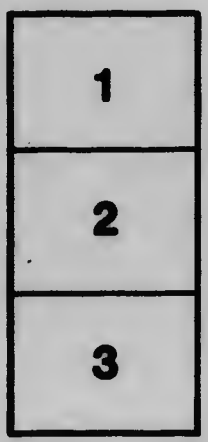


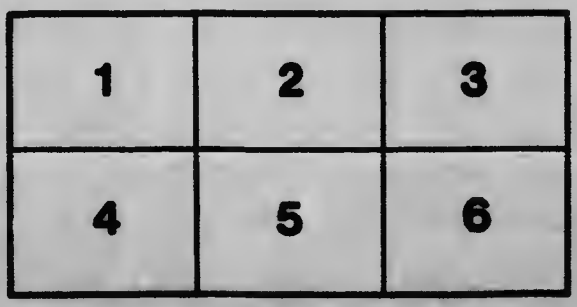

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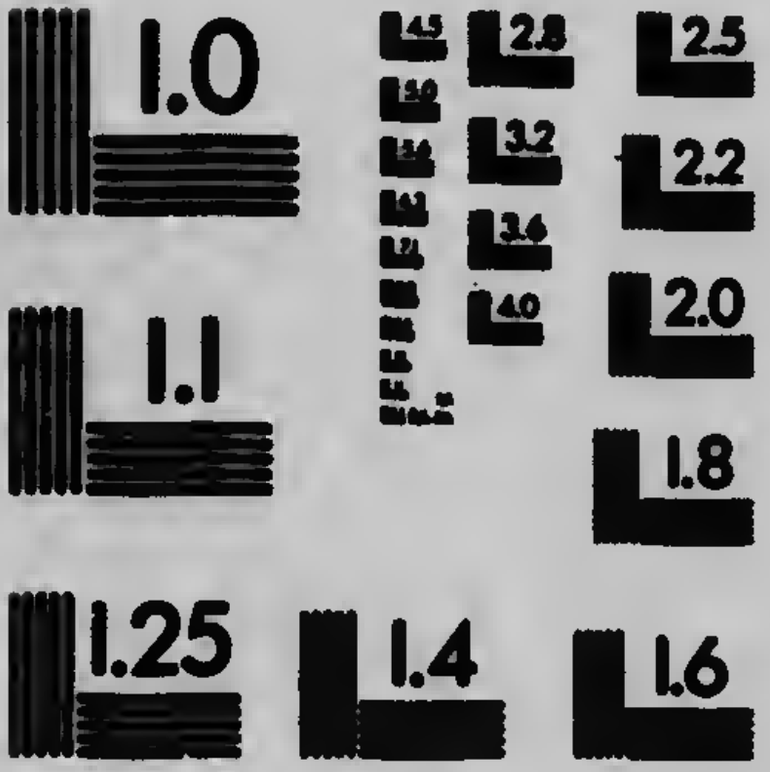


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# rime and Criminal Procedure

BY

R. W. CRAIG
Barrister-at-Law



## AN ADDRESS

Delivered at the People's Forum, Winnipeg
December 20, 1914

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# CRIME AND CRIMINAL PROCEDURE

For the purpose of this address I have chosen to use the words Delinquent, Offender and Criminal as synonyms to indicate without distinction of degree one who by his act or acts of omission or commission has brought himself within the class of those to whom such a term can properly be applied. By doing so I trust that as we proceed you may be able to divest yourselves of any preconceived or long-standing prejudice against the unfortunate to whom we apply the opprobrious epithet of *criminal*, with all that may be suggested to you, however unjustifiably, by the use of that expression, and that you may consider him as just what he is: namely, a man who has violated the laws decreed by the State to regulate the relations between its citizens.

What is Crime? We judge what is by what ought to be, and when the act does not correspond with the standard this want of correspondence may in different relations be variously described. In relation to human society and the rules it imposes on its members, action that ought not to be done is called *Crime*. A habit which is injurious to a man's own moral nature, especially if it involves evil physical consequences, is described as *Vice*. If a man is thought of as under the authority of God, any transgression of or want of conformity to the law of God is defined as *Sin*. Vice is a moral, sin a religious, and crime a legal term. Crime is a violation of the law. The law creates the crime. Crime has been described as an anti-social act, and its study leads one into the labyrinth of social conditions.

## HISTORY OF CRIMINAL LAW AND PROCEDURE.

To realize fully the present condition of the law which creates crime, a brief sketch of the history of our criminal law and procedure is of value. In his work on Ancient Law, Maine has laid down the general principle that the more archaic the code the fuller and the minuter is its penal legislation, but in this connection he shows clearly that the penal law of ancient communities is not the law of crimes, *i.e.*, of offences against the state, but rather the law of wrongs– technically called Torts—*i.e.*, offences against the individual. The person injured proceeded against the wrongdoer by civil action, and recovered compensation in money damages if he succeeded. At the head of the *Civil* wrongs recognized by the Roman law stood theft. Offences which we are accustomed to regard exclusively as crimes were exclusively treated as torts; and theft, assault and robbery are associated with trespass, libel

and slander, all alike being requited by a payment of money to the injured party. This appeared most strongly in the laws of the Germanic tribes. Without an exception they describe an immense system of money compensations for homicide and minor injuries.

The Anglo-Saxon law placed a money value on the life of every freeman according to his rank, and also on every wound to his person or injury to his civil rights or honor. Sins were also incorporated in ancient codes. In the Teutonic, Athenian and Roman codes there were laws punishing sins. It will thus be seen that these conceptions of offences against God and against one's neighbor were fully expressed in primitive law, but the idea of offence against the state did not at first produce a true criminal jurisprudence. Not that this simple and elementary conception was wanting, for every offence touching the security or interests of the state was punished by a separate enactment. This, then, is said to be the earliest conception of a crimen or crime, an act involving such high issues that the state, instead of leaving its cognisance to the civil tribunal or the religious court, directed a special law against the perpetrator. The state conceived itself to be wronged, and the popular assembly struck at the offender with the same movement that accompanied its legislative action.

Maine tells us that the true criminal law did not come into existence until 149 B.C., having passed through four stages:—

(1) The direct interposition of the state by its isolated acts to avenge itself on the offender.

(2) The delegation of its powers to commissions when crimes multiplied, to investigate particular accusations and punish the particular offender.

(3) The periodical nominations of commissioners in the expectation that certain crimes will be committed.

(4) The appointment of permanent judges, accompanied by the declarations of certain acts as crimes with appropriation of specified penalties.

Concurrently with the growth of the criminal law there went on the conversion of wrongs into crimes as the growing sense of the majesty of society disapproved of their entailing nothing worse than the payment of money damages. Gradually punishment of crimes was transferred to Magistrates, nominated by the Sovereign, and the theory of criminal justice ended in the doctrine that the chastisement of crime belonged to the Sovereign as representative of his people as a collective community.

## ANCIENT METHODS.

Our ancestors resorted to most fantastic methods of trial, and most unreliable modes of fixing guilt or innocence:—

(1) TRIAL BY ORDEAL, such as boiling water, red-hot irons, swallowing bread and cheese—all accepted as conclusive of the point in issue. This was generally abandoned in the 13th Century.

(2) TRIAL BY BATTLE, a small advance on the right of man to use his strength as the measure of his rights. One of the essential

conditions of the wager of battle was the oath of each party as to the justice of his cause—whoever was the loser was thus guilty of perjury, and on that account was further punished in England by a fine. This practice was abolished in 1571 in civil cases, but not until 1818 in criminal cases.

(3) TRIAL BY WAGER OF LAW consisted in the accused taking a solemn oath and finding sufficient numbers of witnesses to take another solemn oath that he was innocent and not necessarily an oath of absolute certainty as to the fact. This method was used in the 16th Century, was still in force in the 17th, and not finally abolished until 1833.

(4) TORTURE as a means of obtaining evidence was at one time part of the judicial system of nearly every country in Europe. Stories of the Inquisition are familiar, while many witnesses to the Gunpowder Plot gave their evidence under the stimulus of the rack. The last recorded instance of torturing an accused person in England is in 1640.

## MODES OF PUNISHMENT.

BANISHMENT—The practice of banishment of convicted persons began in the time of Elizabeth as a mode of getting rid of rogues, and led to the establishment of a colony in New South Wales. This mode was abolished in 1857 and transformed into penal servitude.

PAINS TO THE BODY SHORT OF DEATH—

(a) Whipping, now restricted by statute;

(b) Branding, to punish or identify certain criminals; long adhered to, now wholly abolished.

(c) Mutilation of the body—Lex Talionis—also the law of Moses, eye for an eye, tooth for a tooth—the law of retaliation. He that maimed any man whereby he lost part of his body was sentenced to lose the like part. This method went out of use,

(1) Because it was found inadequate;

(2) In case of repetition of the offence the punishment could not always be repeated.

(In Elizabeth's time a man was sentenced to have his right hand cut off for throwing a stone at a judge.)

(d) The Pillory—a punishment greatly appreciated and maintained, as it imposed the greatest contempt in a conspicuous way on an offender, exposing him helplessly to the derision and roughness of the rabble.

In 1816, when a Bill was before Parliament to abolish it, Lord Eldon resolutely defended it. It was abolished in that year except as to perjury and subornation of witnesses, and completely in 1837.

(e) The Stocks—analogous to the Pillory, though meant mainly as a cheap gaol to confine the prisoner.

DEATH.—This is a subject of surpassing interest, and forms the blackest chapter in every code of law. To dispense with it baulks the two great instincts which lie at the root of all penal law. Without it the community neither feels that it is sufficiently revenged on the

criminal nor thinks that the example of his punishment is adequate to deter others from imitating him. The ancient modes of capital punishment, stoning, starving, boiling, burning, all add their quota to the hideous history. England seems at an early period to have gone into excess in capital punishment, until finally public opinion revolted and tried to screen the victims, with the result that, in 1809, only about one-eighth of all those sentenced to death were really subjected to the death penalty. It has been said that so great became the hostility to the cruelty of our laws that there was among prosecutors, witnesses, juries, judges and ministers of the crown a general confederacy to prevent the law being executed. It is recorded, however, that Lord Wynford urged, when it was proposed to repeal the barbarous law of capital punishment for stealing five shillings, that if it were abolished the people of England could no longer sleep with safety in their beds.

In 1823, while France had only six crimes punishable with death, England had two hundred. This penalty is now restricted to murder, rape, treason and piracy. Without going into argument, its only justification is as a deterrent. It would appear that the repression of crime obviously does not depend upon the terror of punishments, otherwise all the atrocities heretofore practiced and even deemed perfection of reason and justice ought to be revived and rigorously administered.

IMPRISONMENT—The least painful of all bodily punishments is undoubtedly imprisonment, consisting in a restraint of the body within a limited space, during which period food is supplied, and no further bodily pain inflicted than depriving the prisoner of locomotion. This was for long the universal and ready resort for all who sought to recover payment of debt, and the history of English practice and procedure in that respect seems scandalous in these days.

As civilization has advanced, imprisonment has become the universal punishment of crime, and in nearly all minor offences where fines are imposed, imprisonment is usually ordered as a secondary punishment. The legislature when creating or describing a crime generally annexes to it a definite punishment, and imprisonment is the usual punishment. The law would thus be powerless if it had not prisons in which to confine offenders, to keep them safe until their trial and to keep them safe after sentence has been delivered. For purposes of arrest and punishment prisons are indispensable.

Sir Samuel Romilly deserves the credit of realizing the barbarity of English criminal law, and, ably seconded by Sir Joseph McIntosh, finally by patient effort opened the eyes of his fellow countrymen to its cruel and illogical character in the early years of the 19th Century. Then from their hands Sir Robert Peel carried through the English Parliament in 1825 the notable Acts which went so far to humanize and reform our criminal law, especially in regard to offences against property, and those the breach of which meant a death sentence. From his time there has continued the constant tendency towards more rational and humane legislation in respect of crime and its punishment, and latterly a change in the point of view of the treatment of offenders that will be dealt with later.

FINES—These originally appeared in the nature of the exactions in money or in kind meted out to the offender in favor of the injured

party or his family or tribe. The inequitable system of fining in vogue now is for use as a deterrent and incidentally levies tribute on the delinquent to recompense the community for the expense incidental to his detection, detention and conviction.

## CAUSES OF CRIME.

From the consideration of the nature of crime and the history and development of its penal legislation, let us pass on to deal with this subject as it presents itself to us in these latter days—and first let us study for a moment some of the prevalent *causes of crime.*

(1) HEREDITY—Professor Lombroso, the distinguished Italian criminologist, in his book, "The Criminal Man," has developed the theory that the criminal is a special type of the human race, and stands midway between the lunatic and the savage. His anti-social tendencies are the result of physical and psychic organization which differs essentially from that of a normal individual, and these criminal tendencies are of atavistic origin. In other words, such a man is a "born criminal possessing certain physical and mental characteristics which mark him out as a special type materially and morally diverse from the bulk of mankind." This doctrine of a criminal type, while containing some substratum of truth, has been justly subjected to criticism. We are too apt to say that the degenerate type will always be with us. We are too much inclined to be Lombrosians, and it is stimulating and refreshing to find that the most recent work on this subject takes the opposite view.

In England, Dr. Charles Goring has written a book called "The English Convict: A Statistical Study." From years of scientific study of several thousand convicts with systematic analysis of hundreds of thousands of facts secured he concludes that such a thing as a predestined criminal type does not exist. Nature has distributed the famous Lombrosian stigmata impartially among all classes. By going out into the world of actualities he has shown that these stigmata are copiously found among the best of the university population, both students and professors. "No such thing as a type of human being born to evil exists," says Dr. Goring.

(2) DISEASE—To some extent this may be associated with heredity, particularly in regard to crimes committed by victims of epilepsy. Insanity is a frequent cause of crime. Insane offenders may be:—

1. Those whose wrongdoing is the result of their insanity; or

2. Those who have been mentally sound to begin with, but who have become insane as a result of vicious indulgence. Their crimes are committed with no knowledge of the nature and quality of the act. This leads one to the logical conclusion that such an offender must be either a criminal or a madman. He cannot be both. Outside of cases of certified insanity, many crimes are directly attributable to mental deficiency. Physical defects or illnesses occasionally give rise to a morbidness resulting in the commission of crime.

(3) POVERTY, by reason of unemployment from whatever cause, is a frequent incitement to begging or stealing, and often compels men to live under conditions in which their vices may easily develop into

crimes, but it can hardly be held that there is any relation between the number of convictions and the poverty of any given district, for often where poverty is most pronounced there crime is noticeably absent.

(4) LUST is the obvious cause of practically all the sexual offences, or offences against morality.

(5) ACQUISITIVENESS forms the basis of most of the offences against property, such as theft. To reap where one has not sown is not an unknown quality even outside of the criminal domain.

(6) INTEMPERANCE—It is frequently stated, with perhaps strong justification, that the great majority of crimes are due to drink. It might be more accurate to say that most prisoners were under the influence of drink at the time of the commission of their offences. In England, Dr. W. C. Sullivan, medical officer in the prison service, calculates that intoxication is answerable for about sixty per cent. of indictable crimes of violence, and for a rather higher proportion of minor offences of the same class. Further, that it is probably the cause of nearly half the crimes of lust, but makes no appreciable contribution to crimes of acquisitiveness. Drink is almost wholly responsible for cruelty to and neglect of children by parents. The absence of statistics makes any definite statement impossible, but the opinion is generally held that intoxicating liquor is in Canada responsible for or at least the accompaniment of from fifty per cent. to seventy-five per cent. of our offences, and that nearly all the crimes against the person are committed by, or upon, people under the influence of liquor. As for England, Lord Chief Justice Alverstone is quoted as saying: "After forty years at the Bar and ten years as a Judge, I have no hesitation in saying that ninety per cent. of the crime of this country is caused by indulgence in strong drink."

(7) IMMIGRATION—Undoubtedly to the foreigner in our midst must be attributed a considerable part of our crime. His new found freedom, his reaction in new surroundings, the temptation of our cities and the retention of alien habits all contribute to this end, but do not let us be deceived in this respect. The number of offenders apprehended by the Winnipeg City Police in 1912 totalled 9,252. Of this number no fewer than 6,100 were Britishers, Americans and Canadians, so that in spite of the all too common odium thrust upon the foreign element, as we sometimes choose to call it, we cannot get away from the fact that our own nationalities after all supplied two-thirds of the grist for the police machine.

(8) JUVENILE DELINQUENCY—The inexperience of youth; lack of parental control; pernicious literature; doubtful amusements; mischief; lack of recreation; imitation of elders; adventure—all of these and many others enter into this phase of crime to which alone volumes might be devoted. The Superintendent of Neglected Children in Winnipeg dealt with 772 cases from 30th November, 1911, to 30th November, 1912, under 16 years of age, including those appearing in the Juvenile Court. In the Winnipeg Police Court in the same year there were 622 offenders between the ages of 15 and 20 fairly distributed among the different years. The offences show the same range and variety as those of adults—139 drunk or disorderly or both—38 forgery and

uttering—12 inmate of bawdy house—62 shopbreaking—96 theft and 119 vagrancy. As for juvenile female offenders, I am informed that, from the opening of the Social Service Rescue Home in this city in June, 1912, to December, 1913, there were 86 inmates, and of that number 47 were girls under the age of 21 years. A more significant fact still is that recently in the Industrial Home at Kildonan, under the operation of the Salvation Army, out of 41 inmates no fewer than 30 were girls under the age of 20.

(9) ENVIRONMENT—It is becoming increasingly recognized that the environment of the offender has had most to do with his downfall. There is no difference between a criminal and the rest of us, except that the criminal has been placed, often through no wilful act of his own, in circumstances that have contributed to and frequently are the cause of his offence. No one need flatter himself that under no circumstances would he commit crime. In this connection social conditions have a direct bearing on crime—social inequalities—social ambition—the get rich quick idea—the overcrowding of our cities—absence of recreation facilities—the evils of our present-day city life. These and a thousand others make it hard to do right and easy to do wrong.

(10) PRISON LIFE—One of the chief arguments used by many in the cause of prison reform is that detention in prison has a bad influence in leading the inmate to adopt a life of crime. Lombroso calls prisons "Criminal Universities." In our day one may easily appreciate the evil tendency of the wearing of convict stripes—the association of other convicts—the lack of uplifting environment and companionship—the brooding loneliness of the convict cell—the institutional and often unsympathetic management — the sensitiveness after liberation—the suspicion attached to an ex-convict and the prejudice of the general public all uniting to keep the prisoner in the path of crime.

## THE DELINQUENT HIMSELF.

Before undertaking to analyze the treatment of delinquency and the delinquent, it may be instructive to consider the nature of the delinquent himself. In all our dealing with this subject we must be careful to recognize that the problem that always presents itself or should present itself is that of the offender rather than the offence. Just here is to my mind the vulnerable point of criticism of our present system.

Our criminal law and procedure takes almost exclusive cognizance of the offence and its punishment. Much as we revile the cure-all patent medicine panacea for ills that require individual medical or surgical treatment in physical diseases, we have adopted that very principle in our dealing with crime. We prescribe for the illness of the patient and neglect his individuality. Our results have been anything but encouraging, and it is high time that in crime as in medicine quackery shall give way to intelligence and science.

Many classifications of crimes or criminals on many bases have been elaborated, but it would not be of any particular service to detail them here. Many of them overlap and all are more or less unsatisfactory; just as much so as the system which regards them as all of

one class. Zones of criminality cannot be delineated by arbitrary lines. Even a superficial examination of Stephen's Digest of the Criminal Law of England and of our Canadian Criminal Code would serve to show how arbitrary are the subdivisions there set out. For all practical purposes the criminal category may properly be reduced to two classes—

1. The Habitual Criminal;
2. The Single Offender.

The *criminal by habit* includes those who might be said to be the victims of heredity and those who are the product of a vicious social and personal environment. His chief characteristics are moral insensibility—cruelty—lack of remorse—fidelity to pals—untruthfulness—vanity—and a low order of intelligence.

The Lombrosian physical features attributed to him, *e.g.*, shape of the head, size of the ears, etc., have already been dealt with. As a general rule he is superstitious, addicted almost universally to the use of intoxicants and tobacco, and frequently the victim of the opium habit. As might be presumed, he is usually unmarried. The male sex largely predominates in numbers, though one writer has argued that this proves nothing, claiming that there is always a woman in the case, and that if a woman wants to commit crime she can always get a man to do it for her.

The influence of heredity in crime is an interesting study. That like begets like is the familiar axiom under which it operates. It asserts itself in the law of uniformity, its most familiar exemplification, and also in the law of diversity or reversional heredity. The case of the Jukes family is often quoted in this connection, whose antecedents were traced back through seven generations of 709 persons, of whom 280 were paupers and 140 were criminals covering 115 different kinds of crimes, incurring a direct cost to the state estimated at $1,300,000.00, to say nothing of the indirect damage to society which cannot be calculated. To what extent the habitual offender may be cursed by his parentage is not always possible to say; in any case environment, self-sought or imposed, is a material factor that enters into the composition of the criminal by habit. It has been said that "Heredity is the mother of crime; environment is the father." Certain it is that the initial step in vice and crime once taken from whatever cause is almost certain to be repeated if unrestrained by proper influence and instruction.

Here comes the old query—Is the habitual criminal a free moral agent. Some there are who stoutly maintain the doctrine of moral insanity as well as mental, and that all crime is a disease. Personally, I have little patience with this doctrine and must declare my adherence to the principle of freedom of will and personal responsibility.

As regards the influence of environment, however, we are on safer ground. An evil environment furnishes at once the temptation and the means for the perpetration of crime, and it is seldom indeed that the offender escapes from the atmosphere which he inhales. His prison experience is often only a finishing training which turns him out upon society a confirmed and expert criminal. It has been estimated that the habitual offender comprises perhaps 40% of the total delinquent prison population.

The *Single Offender* or, as he is sometimes called, "The occasional criminal," comprises roughly about 60% of the total prison population. He is a criminal because the law declares him so. He is a casual delinquent, one who has committed an isolated offence, possibly the result of surroundings for which society itself is largely to blame. He is something less than a criminal, something more than a non-criminal. He is the product of our social customs that lead to vice—the author of offences that result directly from all that is included in fast living, particularly in city life. The formation of loose habits of potential peril is the agency that paves the way for his downfall.

## TREATMENT OF CRIME AND THE CRIMINAL.

All that we have already considered is but a basis for the final and the most comprehensive subdivision of the subject of delinquency. We have the crime and the criminal. How *do* we and how *should* we treat it and him? I propose to discuss this most important phase of the subject under four heads:—

1. Canadian Criminal Procedure;
2. Punishment;
3. Reformation;
4. Prevention.

### 1. Canadian Criminal Procedure.

Under the British North America Act the Dominion Parliament has the exclusive right of control over our criminal law and procedure in Canada, including the appointment and payment of judges. The Legislature of each Province is entrusted with the maintenance and organization of the Courts and controls the appointment and payment of Magistrates and Justices of the Peace. Criminal offences are defined, punishments allotted and procedure determined by The Criminal Code, a Dominion statute. Ignorance of the law is no excuse for the commission of a crime. The evidence of one witness is sufficient for conviction in all offences with certain specified exceptions, notably perjury, forgery and certain offences against women and girls.

Criminal proceedings are commenced by the laying of an information or the making of a complaint before a Justice or Magistrate. If the offence charged is punishable on summary conviction the information or complaint need not be in writing or under oath, but the usual practice is for the complainant to swear to the commission of an offence set out in writing. If the offence is an indictable one and a warrant is to issue, the information must be in writing and made under oath. The information should contain the names of the informant and the offender and the time, place and nature of the offence charged.

Upon the laying of the information it is discretionary with the Justice to issue either a summons or a warrant as he thinks best. A summons is an order by the Justice directing the person named therein to appear at a certain time and place to answer to the offence charged and is usually issued for minor offences, such as breaches of by-laws and common assaults, when the ordinary penalty is a fine. A warrant is a direction to a constable or peace officer to take the alleged offender into custody and bring him before the Justice to be dealt with. After

the execution of such warrant the person arrested can make application for bail to secure his release from custody, pending the hearing of the offence charged against him.

Jurisdiction is then to be determined. This depends in the first instance upon the age of the accused. If the latter is of the age of 16 years or under the Code specifies the procedure to be adopted, but if there should be in the same district a Juvenile Court constituted under The Juvenile Delinquents Act the accused must be handed over to the Juvenile Court for hearing. The nature of the offence charged has an important bearing on the question of jurisdiction. In certain matters a Magistrate has absolute jurisdiction, *e.g.*, the offence of theft or obtaining money or goods by false pretences when the amount involved does not exceed the sum of $10.00. In other matters, such as murder, manslaughter, rape and defamatory libel, a Magistrate has no jurisdiction.

If the offence charged is one punishable by summary conviction, the Magistrate may proceed to try the accused without consent of the latter. If the offence is indictable, however, the Magistrate cannot proceed without the consent of the accused, who is given the option of a summary trial before the Magistrate or a trial by jury at the next following assizes. If the accused elects for a trial by jury the Magistrate proceeds to hear the evidence as a preliminary inquiry, not to determine the guilt or innocence of the accused, but to decide whether or not he shonld be put on his trial for the offence with which he is charged. If he decides there is evidence sufficient to justify a trial he commits the accused for trial at the next assizes and the accused may again be released by an order of the Higher Court upon suitable bail bonds being furnished.

With the consent of the Crown the accused may yet elect for a speedy trial before a Judge without a jnry, otherwise he is indicted by the Crown before the Grand Jnry at the next Assizes. If the Grand Jury is then of opinion, after hearing the Crown witnesses, that the accused should be put on trial a "true bill" is returned and he is placed upon his trial before a petty jury and adjudged "guilty" or "not guilty" by the verdict of twelve of his peers. If on the other hand the Grand Jury should decide that there was not sufficient evidence to justify the charge a "no bill" is returned and the prisoner discharged.

If the accused is found guilty either with or without a jury it is the dnty of the presiding Judge or Magistrate to mete out the punishment. This is discretionary within certain limits prescribed by the Criminal Code for the various offences to which are attached certain maximnm terms of imprisonment.

If an imprisonment of less than two years is imposed the prisoner is placed in the common gaol with or without hard labor, according to the order, but if a term of over two years is imposed then the prisoner is sent to the Penitentiary with hard labor as an implied accompaniment. If the prisoner is 16 years old or under he must be sent to a Reformatory. Any prisoner is entitled to a remission of his term for good conduct; in a goal, five days for each month and in a pentitentiary, six days for each month, and after 72 days earned then ten days for each subsequent month.

In addition to this a prisoner may be released on parole, usually

after he has served from one-half to three-fourths of his term, though there is no defined limit in that respect. This release is given under the provisions of The Ticket-of-Leave Act. During the 15 years of its operation in Canada there have been released 6,540 prisoners, of which number only 2.9 per cent. have been subsequently convicted and 3.5 per cent. have had their licenses revoked for non-compliance with conditions, making the total forfeitures only 6.4 per cent. of those paroled.

## 2. Punishment.

The object of punishment seems to be two-fold—

(1) To retaliate upon the offender and make him suffer by way of expiation for his misdeed.

(2) To exemplify to the community the evil consequences of wrongdoing and so deter others from following in his footsteps.

As for the first, few would now defend the application literally of the retributive "eye for an eye" principle. As Dr. Devon says, the eye which you take from the offender may not be of nearly as much use to him as the eye he destroyed may have been to his victim. Even if the eyes be equal in value, it does not in the slightest degree help the injured person to know that his assailant is as blind as he, and as for the community, it places two blind men where there was one before. Of course no one proposes now to deal in this manner with the person who blinds another, but many are quite satisfied to act on the principle and to apply it by killing a murderer in the name of the law, and by applying the lash to those who commit assaults. One must I think seek under the head of deterrent for the modern real aim of punishment, which is now reduced to four modes—Death, Whipping, Imprisonment and Fine.

*The death penalty* is now reserved to be meted out to those convicted of murder, treason, piracy or rape. The history of crime is a history of the gradual elimination of capital punishment, and there is a strong feeling, which I must admit I share, that it should be rooted out of our penal legislation. It has been conclusively shown to be a deterrent that does not deter. I do not say that no case can now be made out for the death penalty—what I do say is that it is now the outstanding example of the application of the retributory principle so long discredited. It is usually defended in practice on the ground that a murderer is not fit to live. But is he not fit to live? Who among us will assume the responsibility of deciding that? The fact is that the guards of criminals awaiting the death penalty in almost every case volunteer the opinion that they are not such bad fellows after all. There may be men who are so unfit to live that all the state can do is to kill them to secure the safety of others. Just as strong an argument could be held out, and perhaps stronger, in the case of some persons afflicted with certain diseases. Yet the state does not employ doctors to kill them. The doctor says the disease is incurable. What he really means is that he has not yet found the appropriate remedy and when we say a man is incorrigible we only use the word with the same limitation, meaning that so far we are not able to correct him. Were our system one that

lent itself more freely to reformation of the criminal and prevent
of crime there would be fewer cases of capital punishment to discu

*Whipping*—The lash is under our code an optional punishment
the following offences:—

Assault of the King;

Burglary if armed;

Carnal knowledge of a girl under fourteen and attempt to comm
such a crime;

Indecent assault;

Choking or drugging any person with intent to commit an indic
able offence.

It is a brutalizing penalty for a brutal offence. That there is
strong feeling against flogging is undeniable, yet many are ofte
heard to express the view that an extension of its use would not b
undesirable in certain cases. The danger is in the abuse of th
process. A fallacy lies here that should not be overlooked. Many me
who favor this mode of punishment argue that they were well whippe
in boyhood with great benefit; but to be whipped by a parent i
another thing altogether than to be whipped with a cat of nine tail
by an official who has no interest in the person to be whipped, in th
presence of a doctor who stands by to protect the lowering vitality
of the victim as the whip scores his flesh. Juvenile offenders ar
occasionally still whipped nearly always in the presence of or by thei
parents or guardians. To say that it is better to whip boys than t
send them to prison is only to admit that whipping is the less seriou
injury to them, and such punishment is due to a reluctance to sentence
them to detention in any existing institution coupled with a belief
in the necessity of inflicting some penalty on them for their misdeeds.

*Imprisonment*—The earliest object sought in imprisonment was
to secure the person of the accused to ensure his appearance before his
judges for trial and after conviction to produce him to take his punish-
ment. Long years elapsed before deprivation of liberty began to be
used as a punitive instrument. Penal codes depended rather upon
shorter methods—the scaffold, torture before and after sentence, ex-
posure, mutilation, exile and slavery.

The shocking picture drawn by John Howard of the state of
prisons at the end of the 18th Century will last for all time. Idleness,
drunkenness, vicious intercourse, sickness, starvation, squalor, cruelty,
chains, awful oppression and culpable neglect sum up the conditions
depicted by him. Even then prisons were primarily places of detention,
not of punishment, peopled by accused persons still innocent in the
eyes of the law and debtors locked up and deprived of all hope of
earning means to obtain their release, their families sharing their im-
prisonment. The first quarter of the 19th Century witnessed a re-
markable focussing of public attention upon the urgent necessity of
prison reform led by Bentham and Mrs. Fry and Prison Discipline
Societies, who had to overcome a century ago the same hostile criticism
handed out to prison reformers to-day—that they are seeking to make
jails too comfortable and only succeed in pampering criminals.

The progress of improvement was slow and it was not until 1840 that the principle of a separate sleeping cell for every prisoner was adopted. The scope of this lecture does not permit of any detail of the development and enforcement of penal discipline in Great Britain and Canada. The constant tendency in our penal system is to milder discipline, more intelligent classification of prisoners and amelioration of their lot. Imprisonment continues to be used as the chief penalty for all crime. It is so simple and so available that it is handed out almost automatically and indifferently to every law breaker. Fortunately, however, the practice of the Courts is changing faster than the law in late years, and there is a greater disposition on the part of judges to seek information regarding those who are brought before them as well as a more marked reluctance to send offenders to prison if there appears to be a probability that they will not repeat their offence. It has been said that the great aim of all penal processes should be the recognition of the general principle of dividing all offenders into two classes—

1. Those who ought never to *enter* a prison and
2. Those who ought never to be allowed to *leave* one.

Our criminal code makes provision for the operation of the suspended sentence, which simply means that the convicted offender is released from custody on his own recognizance conditioned on his good behaviour, a breach of which makes him at once liable to the infliction of the deferred penalty.

In England two systems of applying imprisonment have been effected by the Prevention of Crimes Act, passed in 1908. The first is intended for the reformation of young offenders already verging on the category of habitual offenders, and the second is the legal acceptance of the principle of indefinite detention or the infliction of an indeterminate sentence on those who have forfeited the right to be at large. Under this Act those who have been convicted of crime and are persistently leading a criminal life may, upon being sentenced for a fresh offence, be further sentenced to detention for a period not exceeding ten years to take effect after the end of the previous sentence.

Convicts undergoing such detention are confined in prisons set apart for the purpose. The obvious purpose of this treatment is the protection of the community and is visited only upon the habitual offenders.

As for conditions in our own country, the sentiment in favor of some measure of prison reform is strengthening very noticeably. The report of the Kingston Penitentiary Commission rather disturbs the self-satisfaction and confidence we have always felt in Canadian Prison Discipline. In a broader sense, the efforts devoted to prison reform in Ontario are most encouraging and no one could have heard the Hon. W. J. Hanna at the Conference of Charities and Corrections in this city without feeling that he was working along right lines.

*Fines*—For minor offences the prevailing method of punishing offenders is to impose fines on them. This is not an application of the principle of restitution or compensation, for the fines go not to the person injured, but to the local treasury.

It is a penalty imposed on the pocket and therefore falls unequally on the rich and the poor. The same fine for the same offence

may be a joke to one man, but a real privation to another. As an alternative, in default of payment the offender is kept in custody. If the man cannot pay, then the community or the state keeps him in jail at our expense. If the common drunk does not pay the usual fine of $3.00 and costs then the City of Winnipeg entertains him as its guest for ten days. The drunk is injured by being deprived of wages he might earn and the public is injured by having to pay for his keep. This is typical of most of our punishments. They injure others besides the criminal and there is room for doubt whether they benefit anybody. If a man is convicted of common assault and is fined the usual penalty of $10.00 and costs or two months in jail, what happens? If he is a poor man and pays the fine his family no doubt suffers. If he cannot pay and goes to jail his family suffers more. The injured party gets no compensation; in fact, he contributes to the upkeep of his assailant. The law sees that the offender is taken care of at the expense of the public, but the injured person and the families of both parties are left to their own devices. Did you ever stop to wonder by what calculation the astonishing conclusion is reached that $12.35 is the price of two months' freedom from imprisonment, and yet under our system that is the price the poor man pays for his liberty, nor is he allowed to make a part payment in proportionate reduction of his incarceration. Surely it is time that some method was devised to relieve this unfair and unreasonable condition.

## Some Anomalies of Punishment.

Listen to some anomalies in the matter of punishment. Under our law, if a man is charged with stealing property to the value of $10.00 or under he must take a summary trial before a Magistrate, and if found guilty the maximum sentence is a fine of $100.00 or imprisonment for 6 months; but if he is charged with stealing property valued at say $12.00 then he has the option of a jury trial or a summary trial, and, if found guilty, may be sentenced to imprisonment for seven years. The law makes no allowance for the moral element in the offence, and considers only the value of the thing stolen. Further, if the property were obtained by false pretences, often requiring more determination and design, the limit of punishment is three years.

Further than that the law undertakes to prescribe varying penalties for different articles. Steal a post letter and you may get a life sentence. Steal a post parcel and you can't get more than seven years. Steal any other kind of mailable matter and you can't get more than five years. Steal a dog worth less than $20.00 and the limit is one month. Steal a dog worth more than $20.00 and you may get two years, but be careful not to steal any old cow or you are liable to 14 years. If a man sells goods falsely marked his punishment is limited to imprisonment for two years, but if he draws a cheque falsely signed his period of detention may be for life.

Who will undertake to justify the arbitrary measure of offences as stated in our criminal code? Can any one tell me why the offence of carnal knowledge of an idiot should be measured by imprisonment for four years, and the offence of rape by death or life imprisonment, the essence of both being want of consent? What is the basis upon

which we fix a penalty of 14 years for robbery and three years for assault with intent to rob? So we might go on through the whole list.

Our dealing with offences against morality is characterized by the same irrational treatment. Our present standard of the age of consent seems unreasonably low. Civil law with regard to contracts of minors is exceedingly stringent. If a girl under the age of 21 years is not to be permitted to deal with what we call her real property without the order of the Court, then why in the name of all that is fair and reasonable should it be permitted that a girl of 16 years of age should be allowed to surrender irretrievably and for ever her most priceless possession. And why should a boy or girl 16 years of age charged with an offence under the criminal code be allowed to be burdened with the whole responsibility of his defence, to elect his mode of trial in case of an indictable offence and to be recognized in all respects as mature enough to deal with his personal liberty, while the civil law where his property is concerned insists that he shall be represented by a parent, or next friend, or an official guardian? And why further in the name of all that is fair should it be a good defence to a charge of seduction under promise of marriage, or of an employee of the accused that the girl seduced was over 21 years of age, and why should it be that an imputation previous unchastity successfully established should also constitute good defence to such an action, the essence of which is the false pretence or breach of promise of marriage on the part of the male offender or in many cases the undue influence of the employer.

Then consider the varying treatment by different magistrates for the same offence. Two young men plead guilty to several offences of obtaining money by false pretences in Winnipeg in large amounts. A humane Magistrate of sound judgment carefully investigates the careers of both and allows them to go on suspended sentence. Before they reach the open air they are detained on a telegram from Hamilton, and in a couple of days there arrive in this city two officers from that city who conduct them, under arrest and all at the expense of the Province of Ontario, back to Hamilton, where for an isolated offence of a similar kind in a hotel where they had spent most of their ill-gotten gain, they are sentenced to imprisonment for two years. Yet that is what we allow in the name of the law under our present system.

Our whole system of punishment is in need of thorough revision and reform. It can be justified only in so far as it protects society by removing one who has injured it. It is questionable how far it deters the great mass of our people from committing crimes. They are law abiding because they have no inclination to break the law and no inducement to do so. Let the contrary be the case and the result may be different. I put it to each of you. Are you an innocent man or woman simply from fear of punishment? If not, then it might be wise and fair to assume that the rest of the community is no worse than yourself. I submit that the real deterrent is social opinion and not fear of arbitrary punishment. The offender receives the bitterest part of his punishment before he appears for sentence and after he has served it.

In view of what I have said it must be apparent that too great importance cannot be placed upon the necessity of appointing only

essentially fit men to positions involving the administration of crimin law, whether judicial or ministerial. It may be that in time to con we shall separate the Court that finds a man guilty from the Cou that determines what shall be done with him after his conviction. I the meantime, with all honor to the judges who now adorn our benc I am strongly of the opinion that provision should be made for th appointment of judges in each of the provinces whose duties sha be confined to the hearing of criminal cases; the investigation of th offender's history and the supervision, with the assistance of suitabl officers, over his after-career.

### 3. Reformation.

The only remaining justification for punishment is that it aims at the moral regeneration of the criminal. It is a means to an end not this time the protection of the community, but the good of the offender. More and more we shall realize that to reform rather than punish should be the true aim as it is the logical procedure. I think we are now agreed that the criminal is the product of heredity and environment, and for that society itself is largely responsible. Society must be protected, of course, but the question arises—does society benefit greatly by the present system? Whatever may be said about the prisons, it cannot be shown that they ever were designed to reform their inmates, and if they fail to do so they do not, therefore, fail in the purpose for which they are built, which is to detain and punish criminals.

So far as reformation is concerned, there is a general agreement that the prison is a failure. The reformatory idea is the verdict of civilization upon past methods. The indiscriminate method of herding together prisoners is the evil of the existing prison system. The modern tendency is to discriminate between the different offenders. Different classes of prisons should be set apart for first offenders and for habitual criminals. If we must have prisons for the former, by all means let us do away with the degradation imposed by the enforced wearing of convict stripes and the shaving of the head. The plea that this prevents escape and aids in identification is a reflection upon the officials who urge it. Those humiliations are as stupid as they are vicious, and should not be tolerated in any prison system. I am not thereby pleading for kid glove treatment. The prison should not be a place of ease, but of hard labor and strict discipline, but surely we can have all that without the infliction of practices that destroy the self-respect of the inmate.

Agencies of Reformation—What are the reformation agencies at work in these days? It is now recognized that the most important time is that of youth. The Juvenile Delinquents Act, S.C. 1908, Chap. 40, marks a great advance in the methods of dealing with the delinquent youth. The preamble to the Act summarizes and justifies its provisions in the following words:—

"Whereas it is inexpedient that youthful offenders should be classed or dealt with as ordinary criminals, the welfare of the community demanding that they should on the contrary be guarded against association with crime and criminals, and should be subjected to such

wise care, treatment and control as will tend to check their evil tendencies and to strengthen their better instincts; therefore," etc., etc.

The Act provides for a system already in force in Great Britain, Australia, Germany, the United States and Sweden, which is likely to be adopted eventually throughout the civilized world. It provides that the law will be put in force by proclamation in such places only as ask for it and are provided with proper facilities for carrying it out. Improvement of environment is the principle that underlies the treatment of juvenile delinquency, if not indeed of all crime. Mr. W. L. Scott, Ottawa, well says: "The rights of parents are sacred and ought not to be lightly interfered with, but they may be forfeited by abuse. Paramount to the rights of parents is the right of every child to a fair chance of growing up to be an honest, respectable citizen. What chance has the daughter of a prostitute, if left with her mother, to be other than a prostitute? Or the son of a thief to be other than a thief? And why should this girl be condemned, through no fault of her own, to a life of prostitution, or that boy unwittingly to a career of crime? The state, too, has rights and ought not to stand idly by while children are trained either by evil example or by neglect to disobey her laws." (28 Canada Law Times, 892.)

The Act may be said to be based on the following principles:—

1. Probation is the only effective method of dealing with youthful offenders.

2. Children should be treated as children even when they break the laws, and not as adult criminals.

3. Adults should be held criminally responsible for contribution to delinquency in children.

Other features are:—

(a) Private trials of children before a Judge specially selected for his fitness for the work, and prohibition of publication of reports of these trials.

(b) Incarceration of children awaiting trial (when necessary) in detention homes exclusively for children, instead of police stations or gaols.

(c) Sentencing of children when probation fails to industrial schools or reform schools, and not to gaols or penitentiaries.

The key-note of the Act is set out in Section 31:—

"This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance."

This Act became law on 20th July, 1908, and to the credit of this Province it may be noted that a proclamation of the Dominion Government put the Act in force in the City of Winnipeg from January 30th, 1909, Manitoba being the first Province in the Dominion to take advantage of this legislation.

Industrial schools or reformatories follow as a natural sequence for the correction of minors convicted of such serious offences or having

acquired such habits that supervision has become an insufficient guara
tee against their becoming habitual offenders. In England the Preve
tion of Crimes Act (1908) deals in part with the reformation of youn
offenders between the ages of 16 and 21, who have been convicted
an indictable offence and are apparently of criminal habits or ten
encies, or associates of bad characters. Such offenders are sent
Borstal Institutions, from which they may be removed to a prison
reported as incorrigible or exercising a bad influence on the othe
inmates.

The principle of the indeterminate sentence has found much favo
in the United States and is in partial operation in Canada. The nam
strictly speaking is a misnomer. There is no sentence without
maximum. This treatment makes the duration of the punishment o
the criminal dependent not upon his guilt, but his potentiality fo
reformation. It stands for the individualization of punishment and
entrusts its exercise to boards of parole. Closely allied to this is the
probation system, which dispenses with imprisonment altogether. The
advantages of this system, apart from the reformation idea, are that
it saves the offender from the stigma of imprisonment, his family
from disgrace and loss of wages, and the public from the expense of
his support.

In Canada this system is adopted by the provisions of The Ticket-
of-Leave Act, R.S.C. 1906, Chap. 150. The practice seems to be justify-
ing itself by experience. A recent report from the Department of
Justice shows that during the year ending September 30th, 1913, 986
prisoners were released under the provisions of this Act from the
penitentiaries, jails, reformatories and Industrial Schools of Canada.
During that period only 45 licenses or about 5 per cent. were revoked,
while 35 licenses (about 4 per cent.) were forfeited.

The Canadian Criminal Code grants a valuable power for the
release of offenders on suspended sentence (sec. 1081):—

1. "In any case in which a person is convicted before any Court
of any offence punishable with not more than two years' imprisonment,
and no previous conviction is proved against him, if it appears to the
Court before which he is so convicted, that regard being had to the
age, character and antecedents of the offender, to the trivial nature
of the offence, and to any extenuating circumstances under which the
offence was committed, it is expedient that the offender be released
on probation of good conduct, the Court may, instead of sentencing
him at once to any punishment, direct that he be released on his
entering into a recognizance, with or without sureties, and during
such period as the Court directs, to appear and receive judgment when
called upon, and in the meantime to keep the peace and be of good
behaviour.

2. "Where the offence is punishable with more than two years'
imprisonment the Court shall have the same power as aforesaid with
the concurrence of the counsel acting for the Crown in the prosecution
of the offender."

Simply stated the principle that underlies this provision is that
so long as a man will behave outside a prison there is no sense in
sending him inside. It is an attempt at least to deal with an offender

in such a way as to avoid making him worse and to give him a chance to behave better.

The reasons which are advanced for the separate Courts for juvenile offenders apply equally well to female delinquents for whom special treatment should be provided. The position of the male convict is not as bad as that of the female—the percentage of criminality among women is much lower and therefore she is much more conspicuous. The position of the fallen woman is harder to retrieve and the attitude of her own sex is less tolerant and generally one of hostility. There is nothing more difficult than the treatment of these women. Only at rare intervals is a family found willing to take in and look after one of them. The result is that Institutional Rescue Homes have come to be the principal agencies of reform as well as punishment, and are given recognition as homes of detention for convicted women.

I have time to mention only one more agency of reform, and that is the effective work possible in aiding a newly discharged or liberated prisoner to secure and hold employment and strengthen his powers of resistance to evil suggestions by cordial encouragement and proper environment, so that he may be able to tide over the critical period of his career.

I should like to record also a plea for the removal of prison administration from the spoils of victory of political parties. Aside from other obvious considerations there should be to the prison officer a reasonable guarantee of permanency of tenure of office dependent upon efficiency and good behaviour. He should be specially trained for his work, and should show an adaptability for such a profession. The increasing number of Prison Associations and prison conventions give strong evidence of the growing interest in this department of civic and social life. In England there was established in 1896 a Training School for Prison Officers. I hope that the day is not far distant in Canada when some qualification of that kind in addition to essential personal characteristics of the highest order will be a condition precedent to an appointment in our penal institutions.

In the meantime such an Association as the American Prison Association can exercise a very great influence through directing and leading public opinion along the lines set out in the objects of their Association which have been stated as follows:—

1. The improvement of the laws in relation to public offences and offenders and the modes of procedure by which such laws are enforced.

2. The study of the causes of crime, the nature of offenders and their social surroundings, the best methods of dealing with offenders and preventing crimes.

3. The improvement of the penal, correctional and reformatory institutions throughout the country, and of the governmental management and discipline thereof, including the appointment of boards of trustees and of other officers.

4. The care of, and providing suitable and remunerative employment for discharged prisoners, and especially such as may have given evidence of reformation.

## 4. Prevention.

The aim of the modern school of penology is to prevent formation of criminals rather than to punish them; failing prevent to effect their cure; and failing a cure, to segregate incorrigible suitable institutions for the protection of society until such time a may appear safe to allow them their liberty. It is obvious that vention should be seriously undertaken first. As with the treatm of disease, it is the only sane, economical and humane course to rem as far as possible or at least ameliorate the conditions which prod crime rather than spend all our effort punishing or reforming criminal. Like disease also, there is the greater chance of succ the earlier the conditions are dealt with. For this reason the great attention should be and is being concentrated upon the conditi affecting children. The motto of the Winnipeg Children's Aid Soci is very much to the point—"It is wiser and less expensive to s children than to punish criminals." In view of the division of o subject, it ought also to be stated that it is wiser and less expensi and incidentally more feasible, to save children than to *reform* crimina To assist in carrying out this idea in actual practice we have Manitoba an excellent Act for the care of children, known as "T Children's Act," affecting boys and girls under 16 years of age. Th Act covers the care of immigrant children and gives powers of appr hension of neglected or dependent children, as defined by the Ac If any child so apprehended is found by examination before a Judg or Magistrate to be dependent or neglected so as to be in a state habitual vagrancy or mendicancy or ill-treated so as to be in peril life, health or morality by continued personal injury, or by grave mi conduct or habitual intemperance of the parents, or guardians, suc child may be delivered to any approved Society to be kept until place in a suitable foster home.

The Juvenile Delinquents Act has already been referred to. A important section of this Act, Section 29, makes provision for th dealing with persons charged with promoting or contributing to th delinquency of juveniles. This section reads as follows:—

"Any person who knowingly or wilfully encourages, aids, causes abets or connives at the commission by a child of a delinquency, or who knowingly or wilfully does any act producing, promoting or con- tributing to a child's being or becoming *a juvenile delinquent*, whether or not such person is the parent or guardian of the child, or who, being the parent or guardian of the child and being able to do so, wilfully neglects to do that which would directly tend to prevent a child's being or becoming a juvenile delinquent, or to remove the conditions which render a child a juvenile delinquent, shall be liable on summary conviction before a Juvenile Court or a Justice to a fine not exceeding Five Hundred Dollars, or to imprisonment for a period not exceeding one year, or to both fine and imprisonment.

2. The Court or Justice may impose conditions upon any person found guilty under this section, and suspend sentence subject to such conditions; and on proof at any time that such conditions have been violated may pass sentence on such person."

In addition to these Acts, specially dealing with children, there are other Acts which include clauses directly affecting juveniles. For

instance, the Manitoba Liquor Act provides that no liquor shall be supplied to any person under sixteen not resident on the premises or a bona fide guest, lodger or traveller. I fail to see, however, any good reason why these exceptions might not be done away with. Why protect the casual and not the constant lodger, and by all means why not protect the travelling child? An Act respecting Pool-rooms also requires the consent of the parents to justify a pool-roomkeeper in allowing children under 18 to frequent his premises. In view of the laxity of parental discipline in many cases I think it highly desirable that such frequenting should be made an offence whether with or without the parents' consent, and if with the consent of the parents, that the penalty should be meted out to the parent.

Just here may I emphasize the pressing necessity of parental control. A boy or girl uncontrolled to-day may be uncontrollable to-morrow, and in most cases of juvenile delinquency it is found that the fault in the first instance lies in indulgence, laxity, indifference, neglect or positive ill-treatment by the parents. The tendency in these days on the part of parents leans too much towards throwing responsibility for the training of their children upon the school and the Church, and where evil results the school is blamed or the Church or social conditions, while the real fault lies at the door of the home. The ignorance of parents in this respect as to the conduct of their children is appalling. A common experience of the mo lity officers of this city is to find a parent incapable of belief that his child has gone wrong, and the shock of the bitter experience is felt all the more keenly.

The question of child saving is too large a subject to be more than briefly mentioned here, as it is so dependent upon the social conditions of our community. I am impelled, however, to record my conviction that we cannot commence too soon in Winnipeg a thorough investigation into the question of child labor. I feel most strongly also that for the general welfare of the state and the betterment of the influences that mould the after-lives of our children we should take care that in this Province as well as in the [redacted] Provinces of this Dominion, the recognized right of every child to [redacted]mmon school education should be made the legal duty of every parent and, in their default, the duty of the state.

At the risk of an infringement of the liberty of the press there should also be curtailed, except where such is for any reason desirable in the interests of the community, the publicity now given in our newspapers to crimes and criminals. Aside from the consideration of fairness to an accused before being found guilty, the desire for notoriety, the instinct for imitation and the mental suggestion towards the commission of crime are all so constantly enhanced by the prominent displays in our daily papers that the prohibition of such publicity is surely worth favorable consideration.

There should also be rigorously repressed the publication or circulation of anything in the nature of vicious literature or pictures. I see no reason why books, plays, magazines and picture post cards should not be subject to censorship as well as moving picture films, and I see no valid objection to the provisions of the Criminal Code being extended to make this possible, having in mind the application

of the principle before enunciated—prevention rather than punishm
or cure.

I am convinced that crime can be to a considerable extent mi
ized by a rational and scientific treatment of the conditions ari
from the influence of heredity and disease, including in the latter t
all manifestations of mental deficiency. The moral and mental
ponsibility of the delinquent affected by the presence of such
ditions and what should be done with him can only be determi
to my mind by the history of each individual case.

Whatever crime is directly attributable to the influence of pove
might be coped with by the extension of labor bureaus. The Dep
ment of Labor in our Dominion Government should take a br
view of its opportunity in this respect with a view to the pro
distribution of laborers, possible only to a Department having accur
knowledge of national demand and supply. The local organi
charities should be properly equipped to relieve cases of want a
report to the proper authorities those persons who require spec
treatment of any kind.

Offences against morality can only be successfully combated
unremitting vigilance and constant repression. Toleration in the fo
of passive or active segregation of the social evil is contrary to la
As a principle it is indefensible and as a policy it is unjustified
results. It is with satisfaction that one notices the increasi
stringency both of law and practice in dealing with these most debasi
forms of crime.

In view of the bearing of intemperance upon the commission
crime before stated it is almost unnecessary to add that to meet wi
any success in the prevention of crime there must be prohibition
restriction of the traffic in intoxicating liquor. I cannot but quo
with approval the expressions of the Grand Jury and the presidi
Judge at a recent assize held in this city. The Grand Jury said:—

"In most of the cases which came before us at the present assiz
the excessive use of intoxicating liquor was directly or indirectly th
cause of cr[redacted]We therefore recommend that the existing liquo
regulations be more strictly enforced, and we feel that the time ha
arrived when the excessive and inordinate consumption of intoxicatin
liquor in public places should be prohibited."

Mr. Justice Galt from the Bench replied:—

"I am quite sure that anyone having the interest of the com
munity at heart will be sympathetic with regard to your recommend
ations as to the liquor traffic and its being the cause of so much crime
especially amongst the foreign population, hard working and indus
trious when sober, but wild beasts when under the influence of liquor."

There are frequently local conditions which require a remedy
in this respect. Only a short time ago during the trial of a manager
of one of our Hotels upon the charge of assault, occasioning actual
bodily harm, it was brought out in evidence that the primary cause
of the row was that the employee in charge of the pool-room had
given change in the form of beer checks instead of money to a player,
who objected to accepting them. This employee in Court justified
his action on the ground that it was a common practice, not only in
his hotel, but in many [redacted]. Representations as to this highly

reprehensible practice were subsequently made to the proper authorities with good results.

Under the Manitoba Liquor Act there is a provision that no wages shall be paid to workmen in hotels or places licensed to sell liquors. This is obviously an excellent enactment, but in view of the conditions which prevail in this city and the practice that is unfortunately all too common, I am of the opinion that this section should be widened in its scope by forbidding the cashing of cheques in hotels or barrooms except by bona fide guests.

Our treatment of the delinquent known as the common drunk is a disgrace. We take money from certain people for the privilege of making him what he is and then we take money from him (if he has any left) because they succeed. If he has no money left or available, instead of letting him go home when sober we keep him at our expense for ten days. His wife and children get on as best they can. He comes again, pays the usual fine or is again our guest; again and again recurring detention always at our expense, and always the poor man who should be earning wages. Fortunate he is indeed if his drinking proclivities have not ere long caused his detention for a more serious offence. Surely there can be something better than this. For the single offender why not release to earn his fine, and if he does not pay it we are at least better off by the amount his keep for ten days would have cost us. For the habitual offender why not an inebriate home to try to cure him or a farm for open air, regular hours, separation from evil associations and for physical, mental and moral upbuilding?

In regard to the foreigner and crime our Dominion Immigration Act provides for the deportation of undesirables within three years of their arrival in Canada. In my opinion less occasion for deportation would arise if we were more careful of the character of our immigrants before they land. Canada cannot afford from other considerations besides that of crime to be careless about the people she allows to become her citizens.

Preventive measures in regard to immigration should not be difficult of enforcement. When one considers that unrestricted emigration has been defended in European countries on the ground that it acts as a safety valve that carries off many easily driven to crime, we might well pause to consider the argument from our end of the proposition. Being so satisfied of their quality the community to which they come as foreigners could help to solve many problems that now confront us by a more cordial welcome, a readier sympathy and a closer co-operation in the development among them of a loyal and law-abiding Canadian citizenship.

Prison reform is I believe much needed to overcome the effect of imprisonment itself in the production of crime. The treatment apart from imprisonment previously suggested, tends to minimize this evil, and we may yet get back to the ancient conception of the prison as a place of detention only. Legislation along the lines of indeterminate detention of habitual offenders is well worth attention. The recidivist would then find that he is no longer up against the system of penalty either in money or time, but that he must behave himself outside of prison or be permanently incarcerated in prison.

The greatest agencies in the prevention of crime will not be a negative but of a positive character. The social conditions of people will largely determine the relative amount of crime and th agencies which make for the social uplift of the people will hav corresponding tendency to reduce the number of our delinquent po lation. Good housing conditions, regular employment at decent liv wages, facilities for education and recreation, child saving, segregat of the socially unfit, the spiritualizing influence of the Church, all these will make for social conditions that will reduce delinquen to a minimum.

There is a social responsibility here that cannot be avoided. "Lo thy neighbor as thyself" has rung through all the years with an creasingly suggestive answer to the question—Who is my neighbo In the realm of delinquency the delinquent is my neighbor. Wh are we going to do with him? We must find out why he h gone wrong and having regard to his individuality and the welfa of the state we must make the best of him and help him to make t best of himself. We must not injure him.

"He's true to God who's true to man.
Whatever wrong is done
To the humblest and the weakest 'neath the all beholding Sun,
That wrong is also done to us, and they are slaves most base
Whose love of right is for themselves and not for all their race."

**Many addresses of exceptional interest are delivered at the People's Forum, it is the desire of the Committee to publish as many of these as possible. Any one willing to assist in the printing of further addresses is invited to send a contribution to Mr. E. Beveridge, Messrs. Beveridge & Hamilton, 313 Somerset Building, Winnipeg, secretary-treasurer of the People's Forum Publication Fund.**

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