

*Prison* *Dup*

# PRISON REFORM

IN THE

UNITED STATES.

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PROCEEDINGS OF A CONFERENCE

HELD AT

NEWPORT, RHODE ISLAND,

AUGUST 1ST AND 2D, 1877.

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NATIONAL PRINTING COMPANY,  
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## PROCEEDINGS OF THE CONFERENCE.

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IN response to an invitation issued by the Hon. Richard Vaux, of Pennsylvania, and the Rev. Dr. Wines, of New York, jointly with the Board of State Charities of Ohio, a number of gentlemen, interested in the matter of prison discipline and reform, met in conference in the city of Newport, R. I., at 10 a. m., Wednesday, August 1, 1877. The Conference was held in the State House, by invitation of the state authorities. It was strictly private, the general public not being admitted, and the discussions were of an informal and conversational character.

On motion of the Hon. J. W. Andrews, of Ohio, Dr. Wines was called to the Chair; and the Rev. J. L. Milligan, of Pennsylvania, and the Rev. T. D. Howard, of Massachusetts, were appointed Secretaries.

The sessions of the Conference were opened by prayer, in which the assembly was led by the Rev. A. G. Byers, of Ohio.

The Conference was composed of the following persons, viz.:

E. C. WINES, D. D., LL.D., Sec. Nat. Pris. Ass'n, . .	New York.
SAMUEL ALLINSON, Pres. Bd. Mans. State Ref. School, .	New Jersey.
HON. J. W. ANDREWS, Mem. Bd. State Charities, . .	Ohio.
HON. JOSEPH PERKINS, " " " "	" "
MURRAY SHIPLEY, " " " "	" "
REV. A. G. BYERS, Secretary " " " "	" "
HON. FREDERICK SMYTH, Ex-Governor, . . . .	N. Hampshire
EBEN WENTWORTH, Sup't State Reform School, . .	Maine.
F. B. SANBORN, Secretary Am. Social Science Ass'n, .	Mass.
H. W. B. WIGHTMAN, Member Bd. of Pris. Com'rs, .	"
REV. T. D. HOWARD, Secretary " " " "	"
BURNHAM WARDWELL, . . . . .	"



## PRISON REFORM

JAMES B. CONGDON,	Mass.
CAPTAIN M. L. ELDRIDGE, Sup't Prov. Ref. School,	R. Island.
E. M. SNOW, Pres. Bd. for building new State Prison.	"
COL. T. W. HIGGINSON,	"
E. B. HEWES, Warden State Prison,	Connecticut.
HON. ISAAC T. ROGERS, Mem. Bd. State Pris. Directors,	"
HON. GEO. W. HALL, Ch. Joint Leg. Com. Pris. Labor,	Pennsylvania
HON. H. J. FISHER, Mem.	"
HON. A. J. HERR,	"
S. B. COLLINS, Stenographer,	"
REV. J. L. MILLIGAN, Chaplain Western Penitentiary,	"
J. G. ROSENGARTEN, Member Phil. Prison Society,	"
HON. T. S. WILKINSON, Warden State Prison,	Maryland.
J. T. FORD, Member Bd. Directors	"
C. FAIRBANK,	Virginia.
REV. FRED. H. WINES, Sec. Ed. State Charities,	Illinois.
MAJOR R. W. McCLAUGHRY, Warden State Prison,	"

The Hon. Mr. Vaux was detained at home, and unable to be present, by reason of sickness in his family.

The Chairman read letters of apology for non-attendance from Governors Rice of Massachusetts, Hubbard of Connecticut, Bedle of New Jersey, and McCreary of Kentucky; also from Hon. C. I. Walker of Michigan, Chancellor Hammond of the Law School of Iowa University, Rev. Wm. Clarke, D. D. of New Hampshire, Gen. Eaton, U. S. Commissioner of Education, Hon. Geo. L. Harrison and T. H. Nevin, of Pennsylvania, Hon. Ezra Graves and Z. R. Brockway, of New York, and others, expressing sympathy with the objects of the Conference and regret at not being able to be present. Dr. Wines, of New York, submitted to the Conference a Syllabus of Propositions embodying, in outline, the draft of a complete system of preventive, reformatory and penitentiary institutions and discipline for a state. This paper was, on motion of Dr. Byers, made the basis of the informal discussions of the Conference, and, during successive sessions, its several points engaged the body in animated, interesting and instructive conversation, in which all the members, more or less, participated.

After discussion, on motion of Mr. Sanborn, the paper was referred to a Committee of three, for the introduction therein of such modifications as had been already indicated as the sense of the Conference, and of such others as the Committee, on a closer examination of the document, might deem advisable. The Chair named, on the proposed Committee, Messrs. Sanborn, Allinson, and Hall. Subsequently the Committee reported back the Syllabus with a number of amendments, which were further discussed and amended. Whereupon the following resolutions, reported by the Committee, were unanimously adopted, to wit:

*Resolved:* That this Conference has listened with deep interest to the Syllabus containing a summary of principles, lying at the foundation of a reformed prison discipline, and the outline of a prison system for a state, and hereby expresses its concurrence with the general views therein contained.

*Resolved:* That the Syllabus be adopted as the sense of the Conference, with the modifications voted,\* and that it be recommended to the careful and earnest consideration of the Legislatures of the several States of the Union, especially such as are seeking to introduce improved systems of prison management.

After listening to a statement by Mrs. S. L. Little, of Rhode Island, President of the Prisoners' Aid Association of that State, in reference to the plan of a Temporary Industrial Shelter for Discharged Prisoners who desire to live an honest life, and the progress made therein, the Conference, on motion of Dr. Byers, passed the following vote, viz.,

*Resolved:* That this Conference has heard with great interest the statement of Mrs. S. L. Little, of Newport, R. I., President of the Prisoners' Aid Association of that

\* These modifications are incorporated in the text.



State, and we hereby desire to express our sympathy in this work, and would heartily commend the enterprise of the Association in providing a temporary industrial shelter for discharged prisoners; but in doing so, the Conference desires to place upon record its conviction that such institutions should be looked upon as transitional in their character; that the prisoner's stay in them should be the shortest possible, and that permanent work should be provided for him at the earliest practicable moment.

Dr. Snow stated that it had been the intention of Professor Chase, President of the Rhode Island Board of State Charities, to be present to-day, but, being unavoidably prevented, he had commissioned him to invite the Conference, in the name of the Board, to visit the public institutions of Rhode Island. On motion of Mr. Milligan, the invitation was accepted with thanks.

Messrs. Wines, Milligan, and Sanborn were appointed a Committee to superintend the printing of the proceedings.

Mr. Andrews moved, and it was voted, that the thanks of the Conference be given to the Chairman, for his work in organizing the Conference, for his preparation of the able and admirable paper offered to its consideration, and for the acceptable manner in which he had discharged the duties of presiding officer.

Thanks were also voted to the authorities of the state for the use of the State House.

Mr. Sanborn invited the members of the Conference to attend and take part in the meeting of the American Social Science Association, to be held in Saratoga, Sept. 4th, ensuing.

On motion, the Conference adjourned without day.

J. L. MILLIGAN, }  
T. D. HOWARD, } *Secretaries.*

E. C. WINES,  
*Chairman.*

NEWPORT, R. I., AUGUST 2, 1877.

## PRISON REFORM IN THE UNITED STATES.

OUTLINE DRAFT of a System of Preventive, Reformatory, and Penitentiary Institutions and Discipline, adopted by the Prison Reform Conference of Newport, August 2nd, 1877, and recommended to the Legislatures and People of the several States, for their Study and Adoption, so far as approved.\*

### SECTION FIRST.

The problem submitted to the examination of this Conference is the minimization of crime—how to bring it down to the narrowest possible limits. This problem has three terms:—

\* On presenting to the Conference his Syllabus of Propositions, DR. WINES prefaced the reading with the following remarks:—

MR. CHAIRMAN AND GENTLEMEN:—Before I proceed to the reading of this paper, a word of explanation and apology may not be inappropriate. It may be thought presumptuous in me to offer to the Conference a document of this kind, when there are others as well or better qualified for such a service. But as the Conference has been called together on the sudden, without preparation, and is intended to be quite informal and even conversational in its character, not supposing that any other person would be likely to undertake a labor of this sort; yet, believing that it would tend to facilitate the work in hand to have a kind of nucleus around which our thoughts and discussions might gather, I have ventured to prepare this Syllabus of Propositions, embodying, in outline, something like a general system of preventive, reformatory, and penitentiary institutions and discipline for a state. The paper is both longer and shorter than I could have wished: longer of necessity, because the field is so broad; shorter of necessity, because the argument on each point had to be compressed into so narrow a compass. Yet I have sought to realize, as far as possible, the *juste milieu* between length and brevity; and I have, especially, endeavored to so frame my propositions, that the simple statement of them should carry with it an argument in their support. With what success, the members of the Conference will judge. One word further:—My aim has been truth, rather than originality. Consequently, I have not hesitated to draw upon my own previous writings; upon the transactions of our several National Prison Reform Congresses—particularly the last, in New York; and, to some extent, upon the productions of the man whom I regard as the wisest as well as the profoundest of all thinkers and writers on the penitentiary question—ALEXANDER MACONOCHE.



1. How to secure a suitable education to all the children of the state. 2. How to save homeless, destitute, neglected, and vicious children from a first fall; or, if they have fallen, how to lift them up again, and rescue them from a criminal career. 3. How to bring adult criminals to a better mind and a better life, through agencies applied to them during their imprisonment. When these three questions are correctly answered, the whole problem of the prevention and repression of crime will have been solved. It is a problem that may well engage the interest and study of the highest statesmanship, since it concerns the order and safety of society, and the lives and property of men. As it unfolds itself in all its length and breadth, it will be seen to be among the foremost problems of the day. Happily, it has now, almost everywhere, taken a strong hold of the public mind. Baron von Bülow, Minister of Foreign Affairs for the German Empire, in a conversation with a member of this Conference, made the striking remark: "This question of the prevention and repression of crime is infinitely more worthy to engage the interest and study of statesmen than nine-tenths of the little every-day politics that occupy so much of the time and attention of cabinets." Ex-President Thiers of France, in a letter to the same gentleman, said "Prison reform is a work in which all civilized nations have an interest. To punish men, with a view to their reformation, is the best of social labors, and the one whose success is most to be desired."

#### SECTION SECOND.

The two master forces which have heretofore opposed, and do still oppose, the progress of prison discipline and reform in our country, are political influence and instability of administration. In many states the prisons have formed, and do form, a part of the political machinery of the state. The interest of politicians has mainly controlled their management; while the interest of the people and the interest of the prisoners, which are really the same, have been practically ignored. With every turn of the political wheel there is a clean sweep of the officers in charge; the adherents

of the defeated party marching out, and those of the victorious party marching in to fill their places, with the regularity of clock-work. The prison systems of the Old World are not burdened with this weight, nor impeded by this obstruction; nor is there anything so incomprehensible to gentlemen connected with prison affairs in those countries as this state of things among us. Under such a system—that is to say, a system of political appointments—the whole theory of our penal and penitentiary legislation becomes well nigh a nullity; and, while inspection may correct isolated abuses and philanthropy relieve isolated cases of distress, broad, thorough, systematic, and above all, permanent reform, is impossible. To such reform it is absolutely essential that political control be eliminated from our prison administration, and that a character of greater stability be impressed thereupon. But how? That is the important practical question: and its difficulty is equal to its gravity. In 1864 the Prison Association of New York, in view of an approaching Convention for the revision of the Constitution of that state, appointed a Committee of its most experienced and able members, to prepare the draft of an amendment to be submitted to the Convention. The draft, thus prepared, embodied substantially the following propositions:

1. The appointment of a Board of five Managers of State Prisons, to serve for ten years; one member to go out every two years, but to be eligible to reappointment.
2. The Board to be appointed by the Governor and Senate, and to serve without pay, but to appoint a salaried Secretary, who should give his whole time to the work.
3. The Board to appoint the wardens, chaplains, medical officers and clerks of the several State Prisons, who should hold office during good behaviour, and be removable only for cause, after being heard in their own defence.
4. The subordinate officers—keepers and guards—to be appointed by the wardens, and to be removable by them, subject to their responsibility to the Board.
5. The Board to possess such powers and discharge such duties in respect to the county jails and penitentiaries, reformatory institutions, and all establishments looking to the



prevention and repression of crime, as the Legislature might, from time to time, prescribe.

The amendment was adopted by the Convention, but the revised Constitution, as a whole, was rejected by the people, and of course the prison article shared the same fate. The provisions cited above appear to this Conference to neutralize political influence in prison management, and to give to it a character of stability, as far as these things are attainable under a popular government. While, therefore, we do not recommend the measure above cited in all its details—admitting that these might possibly be improved, or perhaps replaced by better—we do recommend, with emphasis, the two great principles which underlie it—the removal of our prisons from the domain of party politics, and the imparting to their government and administration a higher degree of permanence.

In Pennsylvania, the Boards of Prison Managers are appointed by the Supreme Court, which has proved an effectual defence against the controlling influence of partisan politics in the government and administration of the prisons.

### SECTION THIRD.

As the work of minimizing crime, whether by way of prevention or repression, is one, so it is the conviction of this Conference that no prison system of a state can be perfect or successful, to the most desirable extent, without some central and supreme authority moderating, guiding, controlling, unifying and vitalizing the whole. It is our opinion, therefore, that the board of prison commissioners or prison managers suggested in the preceding section, should be invested with the general oversight and control of all places of detention—jails, state prisons, houses of correction, detention prisons, police stations, reformatories, preventive institutions, etc., except such as may be exempt by special enactment. We further venture the suggestion, but do not insist upon this point, that the general board should have power to appoint all the chief officers of the state institutions referred to in this section, such officers being removable only for incompetency or misconduct; and that it also give its sanction to the appointment, by local

authorities, of the chief officers in county jails or reformatories, and all places of legal detention under voluntary management, such officers being removable only for cause.

### SECTION FOURTH.

The work of preventing and repressing crime should be organized in a gradation of institutions, extending, so to speak, from the cradle to the grave—viz., the common school; the preventive institution, under whatever name and of whatever grade; the reform school; the police station; the detention prison; the prison for young criminals; the house of correction; the woman's prison; and the state prison.

### SECTION FIFTH.

*The Common School.*—This, though not, in its primary intent, an institution preventive of crime, is, nevertheless, in its operation and effect, eminently so. Ignorance, as a crime-cause, proximate if not ultimate, is conspicuously shown in the statistics collected and published by the late International Penitentiary Congress of London. Carefully compiled statistics for the state of New York show that one-third of the crime is committed by one-fiftieth of the population: in other words, that the criminality of the illiterate, as compared with that of the educated, is as sixteen to one; so that the man with some education is sixteen times less likely to be convicted of crime than he who has none. Now it is the interest—that is, the duty—of the state, to furnish the needful education to all her children. This is a duty which the state owes to her children; owes to herself; owes to posterity. Charity, prudence, statesmanship and public policy, all demand it. But when the needful education has been provided, not all the children, nor all the parents, choose to avail themselves of the opportunity thus held out. The question arises, What is to be done in such case? The answer is, Establish compulsory education, and, by adequate agencies, enforce it. It is far better to force education upon the people than to force



them into prisons, to pay the penalty of crimes, of which neglect of education has been a chief cause.

## SECTION SIXTH.

*Institutions Preventive of Crime by Express Intent.*—It is a maxim, trite but true, that the prevention of evil is easier and better than its cure; and in nothing is this maxim more true than in relation to crime. To destroy the seeds of crime, to dry up its sources, to kill it in the egg, is better than repression—better even than reformation of the criminal. But after all that the best organized and best administered system of public instruction can accomplish, there will remain a considerable residuum of children (it cannot be, to-day, in the United States, less than half a million, and is probably much more), whom these systems will not reach. Their destitution, their vagrant life, their depraved habits, their ragged and filthy condition, forbid their reception into the ordinary schools of the people. It is from this class that the ranks of crime are continually recruited, and will be, so long as it is permitted to exist. They are born to crime, brought up for it.

All this little world—and it forms a world of itself—is borne along by a current that rushes ever towards the deep sea. Shall we let it go on till it reaches the abyss, or shall we draw it to the shore? What shall be done with these waifs of society, these "street arabs," as they are often not unfitly called? We answer: Gather them; shelter them; care for them; educate them; prevent evil by teaching good. Give them the notion of the just and the unjust. Teach them honesty, as well as reading; trades, as well as figures. Impart to them the knowledge and love of duty, justice, and respect for law, as you impart to them the knowledge and love of letters. But how is this to be done? A whole series of preventive institutions is required for the work:—the infant nursery (*crèche*, as it is beautifully called in France); the infant or kindergarten school; the orphan asylum; homes for the destitute; industrial schools, in which food and instruction only are supplied; industrial schools, in which lodging and clothing are added to these; apprentice schools; and patronage

societies in aid of apprentices. Institutions of this kind should be multiplied tenfold. Into these shelters and retreats should they be gathered to receive that mental, moral, religious, and industrial training, not otherwise attainable by them, and thence to be sent out, in due time, to good places, on farms or in workshops, where they will grow into virtuous and useful citizens; thus adding to, instead of preying upon, the productive industry of the country.

The Conference desires to emphasize the high importance it attaches to the industrial or professional training of the classes of children referred to in the preceding paragraph. Among the most fruitful of crime-causes is, beyond all question, the lack of just such technical training; in other words, the want of a trade. The creation of apprentice-schools to this end, cannot be too much encouraged. They ought to share largely in the attention of the legislature. Legislators cannot, without a dereliction of duty, refuse to interest themselves in the trade-education of the children of the poor, whose labor must be their sole source of support, and their only, or at least their chief, defence against crime. If it is the duty of society to establish the primary school, that all may have an opportunity to learn to read and write, is it less its duty to see that at least all destitute, homeless, and neglected children be taught some trade or business? If it is just to inscribe, among the obligatory expenses of the state, those of primary instruction, it seems to this Conference no less just to place there the cost of trade instruction, where it is necessary to secure such instruction to the unfortunate child. Apprentice-schools should therefore be established in sufficient numbers to insure the professional education of all such children as are included in the present reference. Charity must watch over all such children, and the law must furnish it the means of accomplishing its work, in spite of the indifference or even the opposition of parents, and of all other adverse circumstances.

Is it said that all this will cost money? It will, no doubt; but not a tithe of what it would to let them grow up into criminals to prey upon the community by their thefts, to swell the cost of criminal prosecutions and to increase taxation by the building of prisons for them, and their maintenance therein.



During a period of 120 years, Pennsylvania has expended the aggregate sum of \$377,000 in aid of efforts for the *prevention* of crime, while the first cost of one of her penitentiaries for the *repression* of crime exceeded a million and a half of dollars. There is a condensed volume of statesmanship and common sense in the answer given by a Swede to an Englishman, to the question whether the care of the children picked up in the streets was not costly? "Yes," said he, "it is costly, but not dear; we Swedes are not rich enough to let a child grow up in ignorance, misery and crime, to become afterwards a scourge to society, as well as a disgrace to himself." It thus appears that every state has a profound interest in the good education of all its citizens; that it is at once its right and its duty to enforce this principle with respect to all its children; that neither the misfortune nor the fault of parents ought to shut the door of the school against their offspring; that both the right and the duty are, above all, imperative in countries where all the citizens, without distinction, are admitted, through universal suffrage, to a participation in public affairs; that the child badly brought up must necessarily become a cause of trouble to society, since the idler and the vagrant soon pass into the criminal; that if the state ignores its right, or neglects its duty towards these children, it cannot, in fairness, hold them to a strict account for their acts; that, as we do not wait till a plant is well grown to water it, but begin our care even before it appears above the surface, so the soul, from the moment it commences its existence, demands an active and enlightened solicitude; and that to aid parents, and when necessary, to replace them, in the accomplishment of their obligations, is an imperative duty of the state.

The question arises here, whether the state should itself fulfill this task, by centralizing, in the hands of its official agents, the aid and instruction to be given to destitute and deserted children? This question must be answered in the negative; for something more than money is wanted in the work of this kind, viz., the sympathy of loving hearts and the zeal of private charity, whose activity the state only needs, by moderate subsidies, to stimulate and encourage.

This last is the plan on which the whole vast system of in-

dustrial and reformatory schools (some 200 in all) is organized and managed in Great Britain—organized and managed with such admirable skill and efficiency, that there has been, during the last twenty years, throughout the whole of England, a gradual but sensible diminution of crime, which has been most apparent in Gloucester county, where to-day they have one gaol in place of the seven with which the county was supplied thirty years ago, and an average daily aggregate of 170 prisoners, against 870 at the earlier date. The sort of institution now under consideration is, generally, in England, the outcome of private benevolence. Individual citizens or a charitable association establish the school, and have it examined by the government inspector. If the requisite conditions have been complied with, the school is "certified" by the administration, which thenceforth pays a fixed sum per week for each child; the land, buildings, furniture, and all other needful appointments having been previously provided by private charity.

In other words, the government, having a grave duty to perform in respect to certain classes of children, makes use, to that end, of an agency by which it can do its work both cheaper and better than it could accomplish the same thing by any official action of its own; the agency, that is to say, of private charity and zeal. The state does not supervene to modify or direct, in any manner or degree, the conduct of the school, but restricts itself to such inspection and supervision as may insure compliance with the conditions on which its grants of money are made.

To sum up this article, then, and conclude the present section:

1. The state should assume the control of all young persons under the age of fourteen, who are without proper guardianship.
2. The state should delegate the guardianship of all such children either to individuals who undertake to adopt them into a family, or to corporate bodies selected by the citizens, who undertake the charge of these young persons in home institutions, known as industrial schools, asylums, retreats, homes for neglected children, or by whatever other designation they may be called.
3. The state, while delegating parental authority to such



persons or bodies, will lay down the conditions which are to be fulfilled by them, and will exercise such inspection as will enable it to judge, whether the required conditions have been complied with.

4. These conditions having been fulfilled, the state will make such allowance for each child as may be agreed upon as necessary.

5. All industrial schools, by whatever name called, should develop, as far as possible, the conditions of a home.

6. The normal place of education for such children is the country—the fields. Whatever the world may say, make as many tillers of the soil as you can. Farm work is more healthful to the soul than shop work. Let such institutions, then, as far as possible, be in the country, and be entirely disconnected from institutions for the treatment of pauperism and crime. Let them be adapted to prepare their inmates to be respectable, self-supporting citizens; and let different departments be arranged for infants, for girls, and for boys.

7. It will be preferable to have a number of small institutions, having from 40 to 60 inmates each, in different localities, instead of a few of monster proportions. More voluntary effort, more individual interest, more sympathy and zeal, will thus be called forth.

8. The infant schools should be entirely under female management, and the industrial schools for boys should have matrons. Ladies, as well as gentlemen, should be on the boards and on the executive committees.

#### SECTION SEVENTH.

*The Reform School.*—The juvenile reformatory is intended, not, like the preceding class of institutions, for children who are in danger of becoming criminals, but for those who have actually committed criminal acts. Nevertheless, with the exception that the persons committed to them must, in all cases, be held night and day till some legal disposition has been made of them, they are to be organized and managed on substantially the same principles as industrial schools. There are three methods of organizing such institutions, viz., as

a work of private charity exclusively; as a work done by state agency exclusively; and as a work in which private initiative and management are combined with state aid and supervision.

The first was the form universally adopted at the beginning of such efforts, and is extensively practised to-day on the continent of Europe. The second is the prevalent form in the United States. The third is the form adopted and practised in England, with absolute uniformity, or with exceptions so rare (two only in the whole kingdom) as to be of no practical account. We have one example of this form of organization in the United States—the Girls' Reform School, at Middletown, Connecticut, whose condition and success afford to the authorities in charge unqualified satisfaction. Preference is given to such institutions over purely state schools for these among other reasons:

1. This principle places the control of the school in the hands of its tried and best friends.

2. It shuts the door against all outside interference in the management, except in cases of manifest abuse.

3. It gives greater intensity and power to religious influences.

4. Such institutions will, in the end, be more certainly and liberally provided with the means of sustenance and growth, since they will enlist a wider circle of friends; legacies will be left to them; individuals will erect memorial homes; and associations and families will send their yearly contributions for festivals, libraries, and prizes.

5. Political influence will be little felt, and the needful freedom from change in the administration will be secured.

6. The union of public and private action offers strong inducements for the multiplication of such schools. Let it once be known that it is the policy of the state to encourage private gifts by a pledged stipend, sufficient to support, wholly or in part, any well-managed reform school, and benevolent individuals, religious bodies, charitable associations, and municipal corporations, will be willing to incur the first cost, wherever a real want exists for such an institution.

If private bounty is willing to shelter and clothe these in-



ipient criminals, shall not the state aid in their reclamation, by supplying the means to feed and educate them? We answer by an emphatic yes, and take the ground that where the want of parental guardianship is supplied by private benevolence, the state should do her part in the work of reformation, by making a moderate per capita allowance to reform schools or houses of refuge reestablished by private and philanthropic enterprise. Such is the plan adopted in England, where the government interferes as little as possible with the ordinary superintendence, prescribing certain general regulations, but leaving the appointment of the officers and the details of the management to the local boards or committees. The state may be said to contract, on certain terms, with the several institutions, for the work which it wants done; and so long as the work is fairly performed, the state exercises no further interference than to satisfy itself of the fact.

#### SECTION EIGHTH.

*The Station-house, or Lock-up.*—We come now to the treatment of adult criminality. Here the first institution of the series is the station-house, or police prison; a class of prisons whose population exceeds, probably, twice told, if not more, that of all others put together. No further statement is required to show their importance and need of attention.

The multitude, perhaps, scarcely realize the existence of such prisons; and the few who do, knowing that the inmates are put there for a night, or a day, or, it may be, a few hours only, think it a matter of small moment how they are treated, or under what circumstances of discomfort placed. It is here, emphatically, in these primary schools of corruption and degradation, that the first work of prison reform must begin; and the increased attention they have been receiving of late is a pleasing token of progress in the humanities of prison discipline.

The right construction and management of lock-ups are subjects that challenge careful thought and study. If the principle, *obsta principiis*—stop the beginnings of evil—be a law of moral government, then the lock-up is the point where the prison

reformer must commence his work, if he would do it well; since on the moral condition in which his previous imprisonments have left the culprit will depend, in great measure, the reformatory action of the house of correction or the state prison; for how can we raise a man up, in whom there is nothing left of moral stamina, upon which we can lay hold?

The needed reform here requires that these prisons be constructed and managed on the following principles:

1. Such an enlargement of accommodations, at whatever cost (for it will be the cheapest in the end), as will furnish a separate cell for each inmate.
2. A complete fulfillment of the laws of sanitary science in respect to ventilation, cleanliness, etc.
3. A decent degree of physical comfort in plain but wholesome, well-cooked, and well-served food.
4. The avoidance of all unnecessary publicity and disgrace.
5. A provision of humane, respectable, and competent keepers.
6. The footfall of the city missionary, the members of young men's Christian Associations, and other judicious persons, who are willing to work for Christ and humanity, should be often heard there. The use of such influences might be legally recognized, though not provided or enforced by law.
7. Of course, considering the extremely short periods of detention, the prevention of evil, rather than its correction, must ever be the aim in establishments of this sort.

#### SECTION NINTH.

*The County Jail.*—The whole system of county jails in the United States is a disgrace to our civilization. It is hopelessly, irremediably bad, and must so remain, as long as it exists under its present form. It needs, not improvement, but revolution; not modification, but reconstruction. De Tocqueville, half a century ago, pronounced our county jails "the worst prisons he had ever seen;" and there has been little marked improvement since. The system is wasteful of time, wasteful of opportunity, wasteful of money; and it does not reform. The moral atmosphere of these prisons is foul; no fouler exists



anywhere. It is loaded with contagion. The contact of their inmates is close; their intercourse unrestricted; their talk abominable. The effect of such promiscuous association is to increase the number of criminals, and to develop and intensify their criminality. The lessons taught are: contempt for authority, human and divine; hostility to law and its officers; the delights of vicious indulgence; the duty of revenge upon society for imaginary wrongs; the necessity of craft, of daring, of violence if need be, in the commission of criminal acts, and of sullen submission to punishment, if caught; the hopelessness of all efforts at amendment; and the best methods of success in criminal undertakings. Thus the country has, in its county jails, about two thousand schools of vice, all supplied with expert and zealous professors. The condemnation of the system may be pronounced in a single sentence: it is an absurd attempt to cure crime, the offspring of idleness, by making idleness compulsory; and to teach virtue, the fruit of careful and painstaking moral culture, by enforced association with those who scoff at virtue, duty, and religion.

But the essential point is the remedy for a state of things at once so disgraceful and so pernicious. It may be said, and it had better be curtly and plainly said, that there is no remedy, so long as the state ignores and evades its responsibility for the treatment of all offenders against state laws; for the counties—owing, on the one side, to the smallness and sparseness of their populations, and, on the other, to their limited resources—are incompetent to discharge this function. This fact explains the reason for a remark already made, that our county jail system cannot be *improved*, but must be *reconstructed, revolutionized*. The state has assigned to the counties a task impossible of execution by them. It must put its own shoulder to the wheel. The very first step towards a reform of the system must be the assumption by the state of the custody and control of the entire body of convicts, of whatever grade—misdemeanants as well as felons. The county prison proper should be a simple house of detention for the safe custody of prisoners awaiting examination or trial, or of prisoners *in transitu* after conviction; though there might, perhaps, be superadded the function of punishment, so far as to give, for a first offence, a

short, sharp notice against the commission of criminal acts. Cellular separation is the only *régime* proper to prisons of this sort, and that as regards both classes of prisoners just named: the latter, because a first punishment ought to be strongly deterrent, a real intimidation; the former, because persons merely suspected of crime, and not yet proved to be criminals, have a right to be protected against contamination; and, if they are really guilty, others have a right to be shielded from their corrupting influence.

This doctrine is as old as the Roman jurisprudence, which distinguished sharply between the suspected and the convicted, calling the former the *hostage of justice*, the latter the *slave of punishment*. It also distinguished between the places in which they were detained, naming the prison of the former *carcer*; that of the latter *vincula publica*; and declaring the *carcer* to be simply a prison for safe custody, the *vincula publica* a prison for punishing. Of course, there is the same reason, only stronger, for throwing around the detention prison all the moral and material guards which were claimed in the last section in behalf of the police prison, or lock-up. The indiscriminate association of persons held for trial, we believe to be a prolific source of crime; and, further, that all prisons used for the detention and safe custody of such persons, should be constructed and administered in such manner as to prevent such association. The functions now discharged by the county jail—or rather undertaken by it, and, from necessity, left undischarged—must, in an effective prison system, be assumed by the state, the only agent competent to their due performance. The new state establishments to be created for replacing the county jails, in every thing but their function of safe custody, will therefore be transferred for treatment to subsequent sections.

#### SECTION TENTH.

Prisons for punishment, as well as their inmates, should be classified, or graded; so that there shall be prisons for young criminals; prisons for men guilty of minor offences; prisons for women; and prisons for men guilty of the higher crimes. But before proceeding to a detail of the principles and methods on



which these institutions should be severally organized and managed, it will be proper to offer a general idea of the bases on which a prison system should be constructed, and the agencies by which it should be worked, as repetition will thereby be avoided, and the whole subject be presented in a clearer and more satisfactory light.

## SECTION ELEVENTH.

In the reaction which has taken place against the system of cellular separation in this country, it is the belief of this Conference that the pendulum has swung far over to the opposite extreme. We believe that the cell has an important place and function in every wise and good system of prison discipline. We believe that absolute isolation should never be resorted to in the case of children, except for purposes of disciplinary punishment; that it should be exclusively employed in prisons of preliminary detention, except when otherwise ordered on medical grounds; and that it should form the initial stage in all punitive imprisonment, with a wide range between the minimum and maximum terms of its duration—never, however, terminating in less than two or three months, nor continuing beyond twelve months. We believe that here is a common ground, on which the friends of cellularism and the friends of association may meet as brethren of the same household, and “dwell together in unity,” to the great and manifold advantage of both systems.

## SECTION TWELFTH.

The protection of society by the prevention and repression of crime, is the supreme object of all child-saving as of all penal institutions; but inasmuch as society is best protected by the reformation of its culprits, this is declared, in the penal codes of most, if not all, of our states, to be a primary end of public punishment and prison discipline. Whether criminals are susceptible to reformatory influences and may be lifted out of the abyss into which they have fallen, is no longer an open question. Experience has demonstrated the fact; and all

authority, worthy of the name, utters its voice to the same effect.

## SECTION THIRTEENTH.

*The Essential Bases of a Reformatory Prison Discipline.*—1. Such a system must work with nature, not against it. The Creator has impressed, indelibly, upon the human soul certain great principles. Of these the most deeply rooted, the most active, the most potent, and the most beneficent, are HOPE and SOCIABILITY. We must not crush out of the man, by our modes of prison discipline, these primal and essential elements of humanity; but rather seek to guide, control, and mould them to our purpose.

Hope is the master-spring of human action. Without it, even the good could scarcely retain their goodness; without it, the bad cannot possibly regain their virtue. It must be implanted in the breast of the prisoner the first hour of his incarceration, and kept there as an ever-present and living force. Hope is the great inspiration and impulse to exertion in free life. Why should it not be made to fulfill the same benign office in prison life? Can anything else supply its place? Hope is just as truly, just as vitally, just as essentially, at the root of all right prison discipline, as it is of all vigorous and successful effort in free life. Undoubtedly, the first stage in a criminal's imprisonment ought to be made intensely penal; it should be such as to produce in him a profound impression that “the way of the transgressor is hard.” Cellular separation is the mode of imprisonment best adapted to this stage; but even amid the stern discipline of isolation, justice must be tempered with mercy, and hope made to shed its cheering and invigorating light on the prisoner. Amid these rigors, it should be impressed and re-impressed upon him, that his destiny is placed, to a great extent, in his own hands; and this assurance he should find, on emerging from his solitary cell, to be, not an illusion, but a reality. Manifold inducements to industry, lesson-learning, and obedience should be held out in this second stage of his imprisonment—shortening of sentence, increased percentage of earnings, improved dress and dietary, a gradual lifting of restraint, a gradual enlargement of privilege, etc., etc., with



the intermediate stage of moral imprisonment, almost indeed of absolute liberty, looming up before him. Thus would the bracing stimulus of hope be kept ever active, and the prisoner would be encouraged and quickened in a course of vigorous self-restraint, self-conquest, and self-culture.

Sociability is the second of the principles named. It is among the strongest instincts of humanity. It constitutes one of the vital forces of society; a main-spring of its progress in civilization. Why may it not, under proper regulation, be made equally beneficial to prisoners? It was Maconochie, the most philosophical of writers on penal subjects, who said: "Man is a social being; his duties are social; and only in society can he be adequately trained for society." Thus only, it would seem, can a suitable field be provided for the voluntary cultivation of active social virtues, and the voluntary restraint of active social vices. To prepare men for society in society appears to be just as necessary as to prepare them to be seamen on the sea, or engineers in the woods. Moral lessons, like navigation and engineering, require a field of progressive experimental application. Books, counsels, exhortations, are not enough. There must be friction; the contact with temptation; and the toning up and hardening of the character, which result from the habitual and successful resistance of temptation. It is objected that the intercourse of prisoners is corrupting. Not necessarily so. The nature and conditions of that intercourse must be considered. Promiscuous, unchecked intercourse of prisoners is demoralizing to the last degree. But this corrupting power of association may be counteracted; nay, such association may be converted into a means of moral amendment, by being subjected to virtuous direction and control. There are members of this Convention who have seen such a result accomplished in certain prisons in Switzerland, Germany, and Scandinavia.

The social relations and sentiments, as noticed above, are the mainsprings of human improvement. It is by them that the heart is stirred. It is by them that warmth and energy are imparted to the character. Man droops and pines in solitude, whether that solitude be created by a physical or a moral separation—by walls of granite or a wall of absolute and

eternal dumbness. No sound excites like that of the voice of his fellow man. This imparts strength to dare, to do, and to suffer; and these three words express the sum of human duty, so far at least, as citizenship is concerned. Upon the whole, then, the conclusion is, that the best system of prison treatment is not one which thwarts nature, but one that employs her as an auxiliary.

The Conference desires to add that, in what has been said concerning the advantages of association among prisoners under well considered and well arranged regulations, no condemnation is implied of the cellular system of Pennsylvania, further than that which unavoidably results from sincere difference of opinion in regard to questions that cannot yet be considered as definitively settled.

2. The second essential basis of a reformatory prison discipline is a union of wills between the prison keeper and the prison inmate. It is indispensable that the will of the convict be gained. He is to be amended; but how is such a thing possible, with his mind in a state of hostility? No system, therefore, can succeed in reforming the criminal, which does not secure a harmony of wills between officers and prisoners, so that the prisoner shall choose for himself what his officer chooses for him. But such a result can never be attained, except where the officer really chooses, and wisely and steadily pursues, the good of the convict. There must be, not on the lip, but in the heart, a benevolent consideration of the convict's best interest. Nor is this at all inconsistent with the conscientious discharge by the officer of his duties to society, since, in effect, society's and the convict's interests, instead of being antagonistic, are identical. The prison may be made, without in the least impairing its discipline, an effective school of reform; for the conviction has a solid basis to rest upon, that society is best served by saving, not sacrificing, its criminal members.

3. A third essential basis of a reformatory prison discipline is a system of reliable tests, which may serve as a guaranty to employers of the reality of the reformation, claimed for the liberated prisoner. The problem is, how to effect the re-absorption of reformed criminals into virtuous society? Such re-absorption is an indispensable condition of the permanence of even genu-



ine reformation. An army of convicts is every year discharged from prison. Society distrusts and refuses to employ them. How can that distrust be overcome?

There are just two elements in the solution of this problem—the reformation of the convict and a guaranty of his reformation that shall satisfy the public. His reformation is to be effected by processes to be applied to him during his imprisonment. But the guaranty—how is that to be had? How is his moral cure to be *tested*?—for *a test there must be*. Such test is indispensable to any general readiness on the part of the public to take him into its employ. He leaves the prison reformed, but he fails to get work. Why? Society has no confidence in him; and, what is more to the purpose, it has no guaranty for its confidence. It is this want of confidence that builds a wall of granite between the released prisoner and honest bread. Conquer the distrust of society, replace it with confidence, furnish the required guaranty that the man is *trustworthy*, and all difficulty will vanish. Every work-shop, factory and farm, all the avenues of honest toil, will be open to his entrance.

But the question is, How to overcome the dread of him felt by society; how to quiet its fears; how to conciliate its favor? There is but one road to this result. The convict must furnish proof, during his imprisonment, that it is safe to trust him; his cure must be tested and shown. Now this cannot be done where the system is one of material isolation to the end; nor can it any more be effected where the system is one of moral isolation to the end. There must be some field, some opportunity, for the trial. But such a theatre can be afforded neither by the cellular system nor the silent system, as now conducted. Both must be in part retained, in part discarded, in part modified. They must be so modified that the passage from imprisonment to freedom shall no longer be by a single bound, but in such manner that the former shall gradually, almost imperceptibly, melt into the latter. The system must be such that the last part of the imprisonment shall be little more than moral; in which, so far as may be, all the arrangements shall be those of ordinary life, with its trusts, its temptations, its motives, its responsibilities, its victories over self and sin, and

its silent strengthening of the whole character by the friction to which the man is subjected.

The three propositions, in which we have stated the essential bases of a reformatory prison discipline, seem self-evident truths, moral axioms, as indisputable as the axioms of geometry, since a perverted nature can never be righted through a contravention of nature's laws; since a man who has fallen away from virtue can never be restored to it against his will; and since society will not, as a general rule, employ men who have shown themselves untrustworthy, till they have given evidence of such a change of character as to again render them trustworthy.

#### SECTION FOURTEENTH.

*Special Agencies to be Employed in the Work of Reforming Criminals.*—1. The first is a hearty desire and intention, on the part of the officers, to accomplish this result. Such desire and purpose, really entertained and acted upon by all prison officials, would revolutionize prison management. It would change the whole spirit and tone of prison administration. This accomplished, the fit processes will follow as a matter of course. It is not so much any specific apparatus that is wanted, as it is the introduction of a really benevolent spirit and of common sense into our prison work. Once let prison officers understand and feel that their business is to reform and not merely to punish their prisoners, and let their desire and purpose be conformed to that conviction, and they will speedily become inventive of the methods conducive to that end. Right processes will follow right principles as naturally as the harvest follows the sowing.

2. Equally essential is a serious conviction, on the part of prison officers, that prisoners are capable of being reformed. This belief is indispensable to success, for no man can heartily maintain a discipline at war with his inward beliefs. No man can earnestly strive to accomplish what in his heart he despairs of accomplishing. Doubt is an element of failure; belief a guaranty of success. Nothing so weakens moral forces as unbelief; nothing so strengthens them as faith. "Be it un-



to thee according to thy faith," is not a mere dictum in theology; it is equally the statement of a fundamental principle of success in all human undertakings—especially when our work lies within the realm of mind and morals.

3. Greater use than heretofore should be made of moral forces, and less of those which are merely physical. By physical forces is to be understood whatever is intended to coerce; by moral forces, whatever offers a choice, and thus strengthens the will, while guiding it. The essential distinction is that between force and persuasion; between fettering the body and gaining the soul. There needs to be introduced into prison discipline a higher aim—a treatment which seeks to gain the will, and not merely to coerce the body. What is wanted is, that prisoners be trained to become honest and industrious freemen, and not merely that they be reduced, for a time, to the condition of well ordered and obedient bondmen. All past systems of prison discipline have been, in the main, but modifications of force. Authority has been their chief, too often their exclusive, reliance. The result, so far as reforming criminals is concerned, has been failure. Let *organized persuasion* now have a trial—not coaxing, not pampering, not indulgence, not a *dilletante* system of treatment, which is as false as it is feeble; but persuasion, with such forces behind it, resulting from a judicious application of motives, as, while leaving the will free, will yet, by a sort of moral necessity, determine it to a right choice.

Let us briefly indicate two or three of those moral forces, whose use would be likely to be attended with good results. (a) The ability of the prisoner to better his condition while in prison, through his own exertions, in other words, a regulated self-interest is one of the mightiest as well as healthiest of these forces. This can be effected only by a system of progressive classification, whereby the prisoner will be enabled during his incarceration, through industry and good conduct, to raise himself, step by step, to positions of increased freedom, privilege, and comfort; while idleness and disobedience, on the other hand, keep him in a state of coercion and restraint. (b) The cultivation of the prisoner's self-respect develops a moral force of great potency. Self-respect is one of the most power-

ful sentiments of the human soul, for the reason that it is the most intensely personal. Hence the maxim, "Do not further degrade in prison the man who has come to it already degraded by his crimes," should be constantly and carefully applied in prison treatment. Therefore, cast aside the parti-colored dress, the lock-step, the exhibition of the prisoner for a fee, and call him by his own name instead of a number, which robs him of his personality, and reduces him to an abstraction. No prison administrator will ever beneficially influence his wards, who does not seek to strengthen in them this sentiment of manhood and personal dignity. (c) "The law of love and love in law"—in other words, kindness duly regulated—is a moral force of almost unlimited power. But the kindness suggested is not that which seeks merely, or mainly, to alleviate present suffering. It is rather a prudent, forecasting kindness, which seeks to lift the prisoner up, to strengthen his manly qualities, and to prepare him for the battle of life. This spirit, once introduced into our prison management and possessing itself of the hearts of our prison officers, would prove both inventive and creative in their hands. It would find or make means to accomplish the reform of the prisoners, and when one agency proved abortive, it would have recourse to others; *it would not be wholly baulked*. A liberal application of "the law of love and love in law" to prisoners, is not incompatible with a calm, steady, resolute discipline. Tenderness may be fitly and fruitfully blended with justice. It is not against the rigors of justice that the prisoner rebels, but rather against capricious harshness, which vexes and irritates for the very reason that it lacks the element of justice. Criminals are not much accustomed to kindness, and therefore they are the more touched by it. Show them that you have a genuine sympathy, a kindness that has its seat in the heart, and their sensibility is instantly awakened. There lies a regenerative and redemptive power just here, which no degradation can crush, and no depravity obliterate.

4. Individualization is an essential agency in a reformatory prison discipline. To insure the highest improvement of prisoners, they must be, like children of the same house-hold, to a certain extent, treated individually. Though all must be placed under the same general law, the conduct of each, as di-



rected by it, should be specially noted, and his treatment modified, as far as may be, according to his own individuality. Each prisoner should be informed, from time to time (and the intervals ought not to be too long), of the light in which his conduct is viewed by those placed over him; for thus only, as his good purposes strengthen, will he be enabled to correct that wherein he may be noted as deficient. To facilitate the study of individual character, prisons should not be too large. In our opinion (and it was also that of the London Congress), 500 is the maximum for effective treatment, and a less number would be better. The warden should be able to know, and should know, personally, each individual under his care.

5. Indefinite sentences, that is, sentences not to run for a fixed time, but till reformation, would, in our judgment, prove an effective agency in the reform of prisoners. This proposition may have a rather startling sound to some minds; but reflection, we think, will modify any unfavorable first impression. The principle, as here stated, was first announced by Mr. Frederic Hill, in one of his reports as government inspector of prisons for Scotland. Maconochie's idea was substantially the same, but formulated in a different manner. He did not propose the imposition of a sentence indefinite in form, but only in operation and effect. His sentence took the shape of marks—so many hundred or so many thousand good marks—to be earned by industry, study, and general good conduct, as the sole condition of release. The effect of such a sentence would be, of course, to destroy fixity as an element in its duration, and to render it as indefinite in fact, as if it had been made so in form. In like manner, Archbishop Whately recommended that, instead of a certain period of time, the convict should be sentenced to a certain amount of work, which also introduced an element of indeterminateness into the duration of the sentence, though far less than either of the other propositions cited. The question is: Is the principle of indefinite or reformation sentences fair and just? The question of its practicability is put aside for the moment, and we are to consider simply the justice and policy of the principle, assuming it, for argument's sake, to be practicable. Now, what end do we propose in public punishment? The diminution of crime

But this is to be sought, mainly, in the reformation of the criminal. It is, therefore, a legitimate, not to say necessary exercise of human authority, to detain him till that effect is accomplished. Dr. Despine of France, one of the deepest and safest thinkers on penal and penitentiary science, goes so far as to say that the use of this principle will become a necessity, whenever a really reformatory system of prison discipline comes to be generally introduced, and pursued in sober earnest. Another view: A criminal is a man who has committed an offence, and deserves punishment. But he is also a man morally diseased, and needs a cure. The prison is intended to effect both these ends—the punishment and the cure; nay, to effect the cure by means of the punishment. Now, as it is clearly impossible to predict the date of a sick man's restoration to bodily health, so it is no less impossible to foretell the day when a moral patient will be restored to moral soundness. So that, by fixing the duration of the sentence in this latter case, we run a double risk, viz., on the one hand, of turning the criminal loose on society before he is cured, and, on the other, of detaining him after he is cured; so that by making his release depend on the mere lapse of time, we are almost sure of committing a wrong on one side or the other—a wrong to society or a wrong to the prisoner. Still another view: The protection of society is at once the end and the justification of imprisonment. But society is not protected by the criminal's imprisonment, unless he is reformed by it. There is the same reason, therefore, for keeping as for putting him in prison, until there is a moral certainty that, if set at liberty, he will not go out to prey upon honest people, and despoil them of their property. In such a case, the end for which he was imprisoned (the protection of society) fails utterly; the state is cheated of its due benefit, and receives absolutely nothing for all the trouble and expense it has incurred in his apprehension, trial, conviction, and incarceration. Once more: Experience has shown that it is impossible to adjust penalties to degrees of guilt, and that standards of punishment are more easy to imagine than to realize. In what principle, then, can we find relief, but in that of reformation, or cure? But since a cure cannot, in any case, be predicted



with absolute certainty; and since, if it could, the time required for its accomplishment cannot be measured in advance, no alternative seems left, except that of sentences undefined in extent. We do not set the madman free till he is cured of his madness; neither can we safely, or even justly, set the criminal free till he is cured of his proclivity to crime. As the safety of society and the good of the lunatic require that his confinement should be regulated upon this principle, so, equally, do the safety of society and the good of the criminal require that his detention should be adjusted upon the same principle. Indeed, the justness of the principle must, it would seem, strike every mind the moment it is announced.

The difficulty felt by all is as to the possibility of applying it. Certainly, this could not be done while politics govern our prisons, nor until their administration is placed permanently in the hands of competent men. Still, we are of the number of those who believe that God never made a truth into which he did not put a power, that sooner or later would cause it to prevail. The directors of the Ohio Penitentiary have given the principle an emphatic endorsement, and have declared their belief that its general adoption is only a question of time. But it is not likely that so great a change as that of determinate to wholly indeterminate sentences can be made on the sudden; nor would it be desirable, if it could. The principle must first be applied (perhaps always) under limitations. The courts must assign a maximum duration to the punishment, and, within that term, leave the time of release discretionary, just as is now done in the case of juvenile offenders sentenced to reformatory institutions. This is what has been done in the act regulating discharges from the new State Industrial Reformatory at Elmira, New York.

But it may be fairly asked, how is the fact of cure to be ascertained? There cannot, we think, be much more difficulty in forming a correct judgment of the cure of a criminal than of a madman, supposing the judges to be, in each case, equally competent by the possession of the requisite knowledge and experience. At any rate, all that can be aimed at is to secure a strong presumption in favor of reformation before the prisoner shall go free; and after he is set at liberty, the law must still keep

its grasp upon him, till the maximum period of his detention is exhausted. This strong presumption is the only proof of which the case admits with respect to either the insane or the criminal. Indeed, on careful analysis, all moral certainty resolves itself into a high degree of probability; such a probability, says Beccaria, as justifies us in acting upon it.

After all, the method of Maconochie has much to recommend it, since, on that plan, the sentence is in marks to be earned, and is therefore indefinite only in effect, and not in form; an indefiniteness further increased by the fact that the marks are made to perform the function of money in paying for all the prisoner requires — food, clothing, schooling, etc., etc.; and only the surplus that remains — the savings, so to speak, after meeting all these expenses — count towards his liberation. Under this system, the prison becomes, to a certain extent, an image of real life. It is a system which gives to the prisoner an object of pursuit, worthy of his best ambition and his best efforts, by making his release depend on the conduct and character evinced by him, on his diligence in labor and learning, and on his self-command and self-culture; and he is thus lifted into a moral atmosphere higher, purer, and more bracing. In the presence of such an object, all the manly energies are called out. Time which, under the old system of determinate sentences, was his greatest enemy, now becomes his best friend and ally. Idleness is shunned. Distractions are repressed. Industry is courted. Evasion of duty brings its own punishment by lengthening his term of sentence. And it is a consideration of the highest moment that the impulse to exertion is thus moral, instead of physical; that it comes from within, rather than from without. This accustoms the prisoner to act for himself, instead of being led or driven by others. It prepares him, moreover, to meet subsequent temptation in the great world without. And the habit of self-control and self-guidance thus formed in prison, will be likely to remain with him after his discharge, and will, of itself, more than compensate for all the sacrifices it may have cost him to acquire it.

6. Of all reformatory agencies religion is first in importance, because most potent in its action on the human heart



and life. To Moses Pilsbury, one of the most distinguished prison officers of the last generation, this question was put: "What do you think of a prison without a chapel, where the convicts can be assembled on the Sabbath for worship and Sunday-school instruction; and on week days, for morning and evening prayers?" His reply was: "It is like a ship laden with a rich cargo, and sent to sea without rudder, compass, or chart." This puts the supreme importance of religious teaching in prisons in a light as clear as it is striking. Religion is the only power able to calm that restless irritation of vice that saps the moral forces of these men of powerful impulses, whose neglect of its teachings has been the cause of their being immured within prison walls. Reference is made in the answer of Mr. Pilsbury to the earlier practice of daily religious services in our prisons—a practice which this Conference earnestly believes might, with great fitness and the best results, be revived and restored. Such is the practice in European prisons, both English and continental.

7. Education must have a large development in a penitentiary system designed to be reformatory in its action upon the prisoners. Its effect is, to quicken intellect, give new ideas, supply food for thought, inspire self-respect, excite honorable ambition, open new fields of exertion, and thus afford a healthful substitute for low and vicious amusements. Need more be said to show its great value in this work? The work of the prison keeper is, pre-eminently, a work of education, in its broad sense of educating, developing, bringing out, what is in the man. In pursuing this end, he ought to show himself an educator full of wisdom, solicitude and zeal, by giving to each prisoner the special instruction and training of which, according to his condition and character, he stands in greatest need.

8. Labor is a prime agency in every reformatory system of prison discipline. It was a favorite maxim with Howard, "make men diligent, and they will be honest." Unless prisoners acquire, during their captivity, both the will and the power to earn honest bread—which can be done only by imparting to them the love and the habit of industry—the chances

will be many of their return to crime after their release. But this is a proposition admitted by all; denied by none.

The mode of organizing and managing the labor of a prison is a question of no little importance, in the study of this subject. Prison labor must not be of the crank or treadmill; not a mere "grinding of the wind." Useless labor is as demoralizing to a prisoner as it would be to a free man. Further: a free choice of labor by the prisoner is an essential condition of a reformatory prison discipline. Therefore, as in Maconochie's plan, the details of the discipline had better be such that, if the prisoner works, studies, and behaves himself to the satisfaction of the authorities, he will not only have a comfortable support, but be able to lay by something against the day of his discharge; whereas, on the other hand, if he be idle and disobedient, he will suffer hunger and other inconveniences, precisely as it happens to the diligent and the lazy outside. Now, when a prisoner, under this sharp but natural spur, begins to exert himself, he does so by an act of his own will. It is an inward impulse, not a mere outward pressure, that moves him. This little circumstance—little in appearance, not in reality—makes all the difference between an automaton and a man. The process which, under these circumstances, induces in the prisoner habits of labor, is a process by which his self-respect, self-control, and self-reliance are strengthened; and this is precisely what is wanted to make him a better man and better citizen. It is to no purpose that he is forced to work by an external coercion; for when the coercion is withdrawn and he is again free, he will be what he was before. The force which impels him to labor must be an inward power, that will abide with him after he leaves the prison, and will control his subsequent life. It avails little that *you* force him to work; he must force *himself* to work, under the double impulsion of hunger and self-interest.

While industrial labor in prisons is of the highest utility and value, we regard the contract system of prison labor as, in general, prejudicial alike to discipline, finance, and the reformation of the prisoner; but we cannot recommend a change to state management of such labor, so long as our prisons are made the football of party, and the agents of



their administration are changed almost with every change of the moon.

9. To secure the spirit and manner of administration sketched in the foregoing detail, the most vigilant inspection and oversight are required. "The dark places of the earth are full of cruelty;" and prisons are exceeding dark places, in the sense of being screened from observation. Prison walls are as effectual in keeping critics out, as in keeping culprits in. The class of officials, who look upon the inmates of their institutions as mere subjects for discipline and severity, have a thousand ways of evading any real supervision, any searching scrutiny. It is very necessary that the interiors of prisons should be watched and subjected to perpetual and vigilant observation. It is very necessary that impartial men, holding office, not for fee or reward, but from motives of philanthropy, and appointed by an authority possessing the highest repute for wisdom and independence, should be invested with powers of inspection and oversight which would authorize them to look into the interiors of the prisons, to scrutinize them closely, and to make themselves acquainted with the whole economy of treatment, and with the spirit in which it is conducted.

#### SECTION FIFTEENTH.

*Special Education of Prison Officers.*—The need of trained and thoroughly qualified officials for prison work is coming to be daily more and more recognized, the world over. The reformation of fallen humanity is a work as complex, as delicate, as difficult, and demanding qualities of head and heart as high and as broad as any ever committed to the hand of man, and as worthy of being raised to the dignity of a profession as any other within the wide range of human employment. If law, medicine, and divinity; if sculpture, painting, and music; if engineering, military command, and school-keeping; if even every handicraft that requires manual dexterity, demand a special technical education in those who devote themselves to these callings, why not equally the work and calling of a prison keeper, whose proper business—the regeneration and redemption of fallen immortals, the cure of souls all sick and

leprous with sin—is the peer of any of them, and the superior of most, in the dignity, grandeur, and beneficence of its aims? M. Demetz, the founder and for nearly forty years the head of the agricultural penitentiary colony of Mettray, in France, and the highest authority in the world on this subject—for he founded his training school before he opened his penitentiary, and continued it to the day of his death—has declared his opinion in these words: "As there is no good penitentiary system without aid to discharged convicts, so there is no good penitentiary establishment which does not create a nursery of agents, from which to recruit its staff. The men who are needed to implant the love of goodness in vicious natures are not improvised; and moral transformations are obtained only through persevering efforts and an enlightened zeal." We do not, then, hesitate to affirm the proposition that whenever, through the elimination of party-politics, the necessary stability shall have been given to our prison administrations, it will become the duty, as it will be the interest, of the several states, to organize some agency for the special education and training of every grade may reach which the prisons and reform schools of every grade may replenish their respective staffs. Such agency will be likely to be most effective, as well as practical and practicable, if established in connection with some good prison. It will then, also, become necessary to so increase the salaries of this class of public servants as to secure constant supplies of able and well qualified men for this most important and useful service. At the same time the subordinate officers—the overseers or keepers—ought to be skilled mechanics, so that they may discharge the function of trade instructors and employés a special education for their work—by impressing a character of stability and permanence on the prison administration and the tenure of office, by making the keepers trade-instructors, and by gradually increasing the salaries of the officials till they reach a maximum sum sufficient to insure an independent living to men honest, devoted, and of a certain intellectual value, the result of the penitentiary system will become as certain as things human can ordinarily be made.



## SECTION SIXTEENTH.

*Care of Discharged Prisoners.*—The London Congress declared that the prisoner, on his discharge, should be systematically aided to obtain employment. This is the demand at once of justice and policy; of justice, because it is the state's duty not simply to raise the fallen man, but to help hold him up when on his feet; of policy, because it is cheaper to care for him as a discharged prisoner, than it is to care for him when re-imprisoned for a new crime. The state may discharge this duty by an agent of its own, or through the instrumentality of a prisoners' aid society. This latter we look upon as the best mode, because the work will be done more heartily, more broadly, more effectively, and more cheaply:—more heartily, because private charity is more sympathetic than official duty; more broadly, because the aid associations for the state would have branches, or committees, wherever there was a prison; more effectively, because a larger number of workers would be enlisted; more cheaply, because the moderate subsidies granted by the state, would be largely supplemented by private benevolence.

## SECTION SEVENTEENTH.

We resume, at this point, our exposition of the machinery of our preventive, reformatory, and punitive systems—if that is the right word by which to designate the series of institutions designed to effect a diminution of crime. We have given our opinion as to preventive institutions, reformatories for children and youths, and police and detention prisons; that is, prisons intended for the confinement of adult criminals prior to their conviction and sentence. We now proceed to give our views as regards the system and series of prisons designed for the treatment of persons convicted and under sentence.

## SECTION EIGHTEENTH.

*The Juvenile Prison.*—From the statistics of our state prisons, it appears that fully one-fifth of their inmates are minors, and

that more than one-half are under thirty years of age. The tendency of crime seems to have been, of late years, *youthward*. Precocity is, indeed, a characteristic of the times; and it is not strange that it should show itself in this direction. Accordingly, thieves, burglars, murderers even, average many years younger now than they did a half-century ago; and the same is true of drunkards. This is a state of things well suited to awaken alarm and anxiety. It has attracted the attention of the heads of a number of our state penitentiaries (who have noticed it in their annual reports), as well as that of other benevolent and thinking persons, to the question of instituting separate prisons for those who are too old for reform schools and too young to be shut up with practised offenders, without peril of greater contamination—prisons where greater attention can be given to education than would be practicable, or perhaps desirable, in institutions for criminals of a more advanced age and more hardened character. This Conference is in entire sympathy with this view of the question.

But we are of the opinion that, although the persons to be committed to the proposed institution are such as have been convicted of state prison offences, it should not bear the name of prison, but rather that of Reformatory, with some suitable prefix, as "State Reformatory;" or, better still, "State Industrial Reformatory." There is a large class of persons—more than half of those convicted of felonies by the courts, if the age of admission is fixed, as probably would be best, at between sixteen and thirty years—who are fit subjects for such institutions. The design of the treatment should be reformatory as distinguished from penal, though not, by any means, to the exclusion of punishment, either in fact or by name; for the young transgressor should be made to feel that the commission of crime is invariably attended with penalty, privation, and suffering. Hence, in the outset, like all other convicted felons and misdemeanants, he should be subjected to a term of solitary confinement, from which he may learn this salutary lesson. Here, also, he will be fully informed of the character, methods, and designed effect of the treatment to be applied to him. He will learn that his destiny will be measurably placed in his own hands, both as regards the removal of burden-



some restrictions and the concession of coveted privileges. In this way the inmate of the reformatory will be placed in a situation resembling, more or less completely, that in which one finds himself in ordinary life. In the approval which he daily receives for a life of merit, he will have a continual tonic to brace him against the assaults of temptation and a relapse into crime. It is proposed to carry this principle so far in the juvenile prison, as to make the sentences substantially "reformation sentences." A sentence for so short a term as one or two years, with the commutation laws now generally in force, is not long enough for the efficient action of reformatory agencies. We therefore propose that, when the sentence of a criminal is less than five years by existing law, the sentence to the juvenile prison shall be until reformation, not exceeding five years. There will thus be no inmate of the institution on whom the forces of reformation cannot be made to act for that period, if need be; whereas the time may be much shorter, if the circumstances are sufficiently hopeful to warrant it. On its part, the state should give to these young criminals every facility to improve, and put forth all effort to that end. It should definitively abandon the idea that the main consideration is to make the institution yield a profit, or even to be self-supporting. Labor ought of course to be required, and the aim may and should be to make the industries as remunerative as may be consistent with the improvement of the inmates.

If a prison does not reduce the criminal class, it has no *raison d'être*—no right to be sustained. If it does, then its existence is more than justified, though it shows no balance of profits. The main interest, then, being to reform, the industries must be selected and practised with that end in view. Should it appear that agriculture, as has been widely found to be the case in Europe, is the most powerful agent in producing reform, it should be largely resorted to; though not, certainly, to the exclusion of mechanical industry.

In the same spirit, the ignorant (and nearly all will be ignorant) should receive the rudiments of education. These prisons, being at the same time and chiefly reformatories, should be rather schools for instruction than places of punishment; and especially should they assure a careful and kindly inculca-

tion of moral and religious principles. Interesting and instructive lectures—conversational rather than rhetorical in style and delivery—should be given from time to time, and all legitimate means be adopted to rouse and fix attention on worthy objects of study and contemplation, and to draw the thoughts away from those unworthy subjects which had previously attracted and engaged them. The discipline should be strict and firm, but at the same time of a character to conciliate as well as to subdue. Let the officers, without yielding a tittle of the authority due, with which they are clothed or the respect which is their due, show themselves the friends of the prisoner, and his antagonism will be allayed, and even replaced with love. He may and surely will come to consider them as his best friends, stern and unyielding in correcting his misconduct, but quick to see and warm to approve his every meritorious act.

No contractor should be permitted to obtain a footing in this class of institutions. The superintendent must have the supreme control of the discipline and the industries; and he can not, ordinarily, have the former without the latter. Indeed, the great objection to the contract system of prison labor everywhere, is, that it tends to interfere with and subvert the discipline. It introduces into prisons an outside disturbing element which may possibly be controlled and its injurious influence neutralized by a skillful and able head, but which it is extremely difficult to control, and which nine out of every ten prison governors fail utterly in the attempt to master and counteract. In that proportion of cases, at least, it has hitherto gained the mastery, instead of yielding it; or, if it has not absolutely secured the upper hand, it has held the balance so evenly poised, that it amounts practically to much the same thing. While we believe contract labor to be open to other objections, we urge only, now, that the system does not, and practically cannot, in the vast majority of cases, co-exist with a considerate, firm, and equitable reformatory discipline. The interest of the contractor is one thing; that of the state and the prisoner is often quite another. It is unjust to a warden, and oft-times destructive of his influence and self-respect, to place him in a position in which he must have a daily struggle between his convictions of duty and the claims, the importunities, perhaps even the men-



aces, of contractors. The late General Pilsbury, though claiming for himself a complete control of the system in his own prison, has been heard to say that there was not a state prison in New York, whose warden could not and would not be removed in twenty-four hours, if the contractors willed it.

However, the Conference desires to record its belief that, when the reforms indicated in Section Second of this Syllabus shall have been accomplished, contract labor in prisons may be so regulated and controlled as not seriously to interfere with the discipline of the prisoners, and certainly not with the interests of free labor.

It remains only to say that, in the smaller states, one prison of this kind would be sufficient, while the larger states will require two or more, if they are kept down to the proper maximum; further, that there should exist a power of removal from the juvenile prison to the state prison proper, in case of a necessity arising, and, alternatively, from the state to the juvenile prison, where unusually hopeful cases appear among the younger class of prisoners in the former; and finally, that the institution should keep its grasp upon the prisoners, provisionally released, until the expiration of their full term of sentence.

#### SECTION NINETEENTH.

*The District Prison, or House of Correction for Adult Male Prisoners.*—To this should be committed all males sentenced to terms of less than five years, except such as, for a slight first offence, shall be sentenced, for the purpose of a vigorous notice, to a short, sharp imprisonment in the county detention-prison. The house of correction will hold a middle place between the prison now known as the county jail and the state prison, and will serve to discharge, in part, the functions of both; that is to say, it will be the place of punishment for all now sentenced to the county jail, except the small class of offenders just referred to, and for all the younger and less criminal convicts now sentenced to the state prison, except those who shall hereafter be committed to the juvenile prison, as recommended in the immediately preceding section. Much

of what has been said touching the organization and management of the juvenile prison is applicable here, and need not be repeated. It goes without saying, that the number of these district prisons, or houses of correction, needed in any given state, will depend upon the number of its criminal population. The Conference would make a very special recommendation in favor of this class of prisons: such prisons to be subject to state inspection or control—our preference being for state control rather than for simply state inspection. The benefits to be expected from the establishment of this class of prisons are: 1. The organization of each, with a full staff of officers, and with all the other appointments necessary for an effective performance of the work assigned them. 2. The arrangement of buildings, cells, workshops, chapels, school-rooms, libraries—in a word, the entire premises—in a manner suited to a complete penitentiary system. 3. The introduction of a comprehensive, well-adjusted system of industrial labor. 4. Diminished cost of maintenance, despite the increase of officers—owing in part to the earnings of the prisoners, and in part to greater economy in the administration. 5. The opportunity thereby afforded of a complete reconstruction of the existing common-jail system; that is, its destruction, and the substitution therefor of a system of simple detention prisons. 6. The relief of the state prisons by punishing, in houses of correction, the younger and less criminal of their inmates. 7. The crowning recommendation of the system lies in the reformatory character to be impressed upon it.

#### SECTION TWENTIETH.

*Prisons for Women.*—It is the decided belief of this Conference that entirely separate prisons should be provided for criminal women; and that for them, as for men, there should be, wherever the population of the state is large enough to require it, two female prisons—one for young women, who are nevertheless too old or too vicious to be placed in a girl's reformatory; the other for those of a more advanced age and a deeper criminality. We further think that, where the population is



not sufficient to warrant the erection of two prisons, these two classes of women should be treated in separate wards.

Female prisoners should, as a rule, be under female treatment; and although we do not undertake to say that, under certain circumstances, the head of a female prison may not fitly be of the other sex, yet, ordinarily, we think the contrary plan better; and, at all events, the care-takers who are constantly in close contact with the inmates, should be always of the same sex. This is the dictate of reason and common sense, since woman alone understands woman, and since she alone can enter into her weaknesses, temptations, and difficulties; nay, into the very recesses of her being, and fitly minister thereunto. The principle of progressive classification should have place here the same as in the prisons for men, with all the healthful stimulants to self-denial, self-control, and self-culture, which that system supplies.

#### SECTION TWENTY-FIRST.

*State Prisons for Men.*—Next and last in the series of establishments which make up the preventive, reformatory, and penal system of a state, is the state prison proper—called in England convict prison, and on the Continent central prison—the receptacle for criminals convicted of the gravest offences against society and its laws, punishable by imprisonment. The adoption of the preceding part of the system proposed in this Syllabus will make it easy, as it is every way desirable, to give to the shortest sentence to the state prison a duration of five years; which will afford, with reference to the whole body of prisoners, large scope for the effective action of reformatory processes. Now, however fit, necessary, and useful may be the special agencies employed to this end—the exhortations of the chaplain, the lessons of the school-master, the instruction of the Sunday-school teacher, and the pages of the library-book—they must all, in their power of securing from the convict those sustained exertions which alone will give him back his lost place in virtuous society, prove feeble and inefficacious, in comparison with a fixed, legally established, uniform, ever-present, ever-operative SYSTEM OF AGENCIES, which act upon

him with their silent but living and abiding forces, in his daily and hourly work and thinking, inspiring him with confidence in himself, with faith in his fellow-men, and with hope for the future, which a long course of crime had dulled but not obliterated, obscured but not extinguished.

There exists such a system, conceived in the spirit of the purest benevolence, and based on a profound knowledge of the principles and needs of human nature. It was originally devised by Alexander Maconochie, and was partially, yet with marvelous results, carried into execution in the penal colony of Norfolk Island. It has already been shortly described, but with as much fulness as the nature of this paper will permit. The principle of Maconochie's method underlies, must underlie, every wise system of government. It is the linking of unalterably certain rewards to good conduct, and equally sure punishments to bad. This is God's method of dealing with His rational creatures; and we cannot go far astray in our treatment of criminals, by imitating, however feebly, the method by which the moral universe is held to its moorings. A modification of this system was inaugurated in Ireland by Sir Walter Crofton, a quarter of a century ago, and has been practised there ever since. It has three prisons for as many stages, through which each convict passes. The first is penal, with cellular separation. The second is reformatory, with a division into classes, where each prisoner earns his advances by good marks. The majority earn their maximum of marks and win their promotion from class to class within the minimum time admissible. The third prison is no prison, but an open farm, where there is neither bolt nor bar—the detention being virtually that of moral influence. Yet, in all these years, scarcely a dozen escapes have been made; nor has there been a single complaint from any farmer in the vicinage, though there is neither restraint nor discipline beyond that maintained over ordinary farm laborers, with the sole exception that the prisoners are not permitted to leave the premises, and are at night locked in common dormitories, with a warder sleeping in an adjoining room.

Is not all this a clear proof of the wisdom of appealing to the higher elements of manhood in our dealing even



with the degraded and the vile? Treat the evil-doer as a fellow-man, and it is more than probable that he will respond in that relation; treat him like a dog, and he will behave like a dog. We cannot, therefore, hesitate to recommend the adoption of the Crofton system in all the states of our Union, more especially as it affords common standing ground to the friends of both the cellular and associated systems. The Conference adds an expression of its belief that the third or intermediate testing stage should be made part and parcel of every state prison system, also of the district prison system, and indeed of all prisons for punishing.

#### SECTION TWENTY-SECOND.

*Miscellaneous Points.*—1. It is worth while to inquire whether society has not made a mistake in its warfare against crime. Has it not failed to recognize the fact that habitual criminality is a craft, not carried on solely by individuals, but by a virtual organization, comprehending various grades and divisions of work, and requiring the combined action of capital and labor, just as other crafts do, and, like them, dependent for its continued existence on this union? There are two well-defined classes enlisted in criminal operations, the capitalists and operatives—those who furnish the means, and those who work the machinery; and the former are absolutely essential to the latter. The crime-capitalists include the owners of houses and dens that afford to criminals habitations and places for carousal; the receivers of stolen goods; the pawnbrokers who lend money on such goods; and the makers of instruments needed by burglars and counterfeiters. Now, the crime-capitalists are few; the operative plunderers many. The law now strikes at the many operatives, one by one; would it not be better to strike at the few capitalists, as a class? Let it direct its blows against the nefarious connection between capital and labor—ordinarily a beneficent one, but in this case evil, and only evil—nor forbear its assaults, till it has wholly broken and dissolved the bond. When this baleful union has been pierced in a vital part, it will perish. When the corner-stone of the leprous fabric shall be removed, the whole building will

tumble into ruins. A member of this Conference once asked a professional thief, what most helped him in his business of stealing. His prompt reply was: "To know all the 'fences' within a circuit of thirty miles"—"fence" being the cant name given by thieves to the receivers of stolen goods.

2. A large number of persons are every year arrested and committed to prison on suspicion of crime, where they are confined for longer or shorter periods, who, either on their first hearing or their trial, are acquitted and set free as innocent. Yet they receive no indemnity for their loss of time, whether it has been for a day or a year. On this state of things, the question arises whether personal liberty is not a right as respectable as the right of property? If this question is answered in the affirmative, a second instantly arises, viz., Is it not the duty of society to indemnify the citizen whom it has wrongfully imprisoned, as it indemnifies the citizen from whom it takes his house or his field for some public use? This principle is applied every day in other cases. The witness and the jurymen receive each a piece of money for the loss of time thus incurred. To one of them, who makes perhaps his thousands a year, it is but a symbol of justice; to another, it is the daily bread of himself and his family. Can any reason be assigned why the same principle should not be applied in the case of the man whom the judicial authority itself, speaking from the seat of justice, has declared to have been imprisoned and "held in durance vile" without adequate cause? Two incidental advantages, of no inconsiderable moment, might be expected to that of meeting a demand of justice, might be expected from the introduction of this principle into the administration of criminal law, viz., greater caution in making arrests, and more speedy trials after arrest.

3. The identification of prisoners who have been previously convicted, is a matter of grave importance in the administration of penal justice. The first Napoleon—the greatest organizer of modern times—desired that his Minister of Justice should have always at hand "the biography of all criminals;" a most natural wish, since, of all the elements of a judgment as to the moral curability of an offender, the most important is a knowledge of his past. How to attain this knowledge? Much use



is made of photography in England; but the most perfect scheme for securing trustworthy knowledge on this point is the criminal registers (*casiers judiciaires*), devised by M. Bonneville de Marsangy, a French jurist of great eminence, who has lived to see the complete and triumphant success of his invention in his own country, where it has been in use since 1850—having, also, since, been introduced into Italy, Portugal, Denmark, and some other countries. The knowledge afforded by these registers is precisely that desired by Napoleon; they fully meet his demand for a complete criminal biography of every man in France, who has been under the arrests of justice. A careful study of the most effective means of identifying persons previously convicted of crime is worthy of the best minds of our country, and especially of those who are called to make or to execute the criminal laws.

4. A general system of penitentiary statistics for the whole country, a thing utterly lacking among us at the present time, is a great desideratum. Indeed, it may be said to be almost essential to broad and solid progress in this department of social science and of the public service. The laws of social phenomena can be ascertained only through the accumulation of facts. Returns of such facts, carefully gathered from a wide field of observation and skilfully tabulated, are indispensable to enable us to judge of the effect of any law or system of laws, which may have been to put in operation. What we want to know is the facts; but a knowledge of the facts relating to so complex a subject as that of crime and criminal administration, implies a mass of figures collected from all quarters and arranged with reference to some well defined end. The local and the special are to little purpose here. It is the general only that has value; that is to say, returns so numerous, so manifold, and drawn from so wide a field and amid such diversified circumstances, as to give real significance to the results. It is such returns alone that will lay the foundation for inferences of practical value. We want to get an average; but in order to do this, we must have scope and variety enough, both in the range and character of the returns, to be enabled to eliminate from them whatever is local and accidental, and to retain only what is general and permanent. Only on this condition will

our inferences be sound and safe. Only on this condition shall we be able to feel that our conclusions rest, not upon mere incidents of the phenomena, which may be partial, casual, and immaterial, but upon the phenomena themselves, apart from variations which are temporary or adventitious.

5. In order to secure the best results from a reformatory prison discipline, it should be divided into two distinct periods—the periods of punishment and of reformation. Both these processes—the object being reform—are equally benevolent, because both are equally necessary to the end in view. There can as little be true reform without true penitence, as there can be the growth of the man without the birth of the child. But the necessity for each is not, of itself, equally clear to criminals. All criminals would, if possible, escape from restrictions imposed as mere punishment; but many would willingly submit to them, if they were understood to be a necessary antecedent of reformation, and especially of release as conditioned upon reformation; for nothing is counted a hardship which tends to this latter issue. As a fever must be reduced before its ravages can be repaired, and as a wound must be probed and cleansed before it can be properly healed, so, in the moral cure of a criminal, a punishing stage must precede the reformatory stage. To do one thing at a time, and each well, is the rule in all nice operations; and, surely, the recovery of a fellow-man from crime to virtue is worthy of an equally methodical and careful procedure, and is not likely to be accomplished by one less scientific or delicate.

6. Severe suffering, consequent on conviction of crime, by way of example and warning, has not hitherto been very effective in preventing its recurrence; it would be worth while to try the example of necessary reform, or at least of sustained submission and self-command through a period of probation, determined by the results of voluntary exertion, as the sole condition of release. If we are not mistaken, it would be likely to prove more deterrent than severity. It should never be forgotten, but rather strongly insisted on, that the principle of deterrent example and the principle of reformation may and should be made to concur. If the purpose and process of prison discipline were so changed as to make reformation the specific



end, and suffering only a necessary means to that end, there would still be enough of suffering, since it is not simply by the application of fire, but by its proper application, that gold is purified; and it is the same in moral purifications. There may be such an application of fire to gold as will merely scorch and deface the precious metal; in like manner, there may be such an application of suffering to the prisoner as will only deform and harden him the more.

Too much importance is attached to mere force, as an agent in the production of moral effects in prison management. The very nature of that on which our efforts are expended is thus habitually mistaken or ignored. We improve the mechanical appliances of our prisons, their means of coercion, the precision of their movements, and all the clock-work of their arrangements, and we persuade ourselves that this is an improvement in their discipline; whereas, in truth, the more there is of all this, the more is true discipline—the discipline of the mind and will—impeded; for the process which moves, directs, and strengthens these high intellectual and moral powers, is inimitably different from any that makes or guides an automaton.

7. The coercive system of managing men appears to be an essentially vicious one, inasmuch that precisely where most perfect, it will in the end be found, so far as the true aim of prison discipline is concerned, most unsuccessful. Mind can be gained only by appealing to mind. Fettering the body is absolutely opposed to this. It has its immediate and apparent advantages, but they are too dearly purchased. If we will actively employ our prisoners; if we will fill and feed their minds with hope; if by suitable means we cultivate in them the daily practice of the manly and social virtues, they will protect themselves from degrading and ruinous vices much better than we can protect them by walls and bolts. And the moral triumph thus achieved will be as improving and strengthening to them as the physical triumph, even when effected, is humiliating and enfeebling.

8. The discipline in prisons, in this country and in other countries, has been and is far too military in its whole conception and character. The objects of military and of prison discipline are diametrically opposite; yet the latter has been,

and is, very much modeled on the former. The object of military discipline is to train men to act together; that of prison discipline is to prepare them to act each for himself. The purpose of the former is to absorb individuality; of the latter, to bring it out and intensify it. The object of the one is to make each man a fit part of a well-adjusted machine; of the other, to make each prisoner a good citizen, with a distinct and strongly marked personality of his own. The aim of military discipline is to teach all to look to orders, of prison discipline, to train all to look to principles, as the guides and regulators of their actions. Criminals are to be reformed. To compass their reformation, we must quit the intense military type, and seek an arrangement better suited to the end in view.

A military barrack, despite the high sense of honor studiously cultivated in it, for which no substitute can be found in a prison, yet, by the testimony of high military authorities, notoriously demoralizes. Is it possible, then, that a similar organization can reclaim criminals? Instead, we must rather copy the incidents of that frugal, honest, self-denying, laborious poverty, to which we wish to restore our convicts, and for which, therefore, it should be our earnest endeavor to qualify them. No more hot meals, without previous toil to earn them; no more undervaluing of time, nor consequent *stimulus* to skulking or evasion; no more interest in idleness; no more advantages, except such as are won by industry; no more indulgences, save those earned by exertion and self-command; no progress toward liberty, except through diligence in work and the exhibition of all good conduct—all proved by acts, not words; by a strenuous fulfillment of all duty, not by mere lip-submission. It is thus, and thus only, that the stern school of punishment may be made really reformatory; may be made to give back to society citizens instead of spoliators, and honest men in place of criminals.

9. Unsuitable indulgence in prison management is as pernicious as unsuitable severity. As a rule, reform can be attained only through a course of long and rigid training. It is in adversity that all the manly virtues are generated. "Sweet are its uses," therefore, to prisoners as well as to others, though



they, like others, would gladly shun its hard school. All the ends of public punishment will, in this way, be the more surely gained. We reform and deter at the same time, and by the same process. The judicious pursuit of the first object will give us also the second. The true principle, then, is that the man who has incurred punishment should, like one who has fallen into a pit, be required to *struggle* out of it, and not be allowed, as now, to *endure* out of it. In the one case, his more active and better qualities are called into play, and thereby necessarily improved; in the other, they are all put to sleep, or, to change the figure, they are consumed by rust, or replaced by others equally pernicious to himself and to society.

10. Much has been said and written on the classification of prisoners, but there appears to be no little confusion of thought on this subject; and few, comparatively, seem to have grasped any really practical principle of convict classification. Arbitrary classification, by age, crime, similarity of temperament, and the like, is impracticable, and would be useless, if it were practicable. It is "a delusion and a snare." There is no rule by which to regulate it. If by offence, that is the mere accident of conviction; for it often happens that an old and hardened criminal is convicted of some mere misdemeanor. If by age, the youngest criminals, born and cradled in sin, and steeped in it from their birth, are often the most corrupt and corrupting. If by supposed similarity of temper and antecedent character, no one can pronounce on this with certainty, and men are as often, perhaps oftener, improved by associating with their opposites, as with those who resemble them. It is impossible to obtain real benefit by such means. The only rational classification of prisoners, other than that which is effected by graded prisons—the only really useful classification—is one based on character, conduct, and merit, as shown in the daily routine of prison life, and is moral rather than physical.

11. It is a question whether the employment of prisoners as a kind of sub-officers, or monitors, is admissible, and would afford beneficial results. It was an opinion strongly held both by Maconochie and Montesinos, that where a prison discipline is intended to be reformatory, where the object is the moral

amendment of the person subjected to it—the employment of these as under-officers is attended with excellent effects. In this case all the prisoners feel elevated in the elevation of their companion, and the self-respect of the whole body is thus lifted to a higher plan. Those who are thus trusted and honored, serve both as an example and an encouragement to the rest. But when the discipline is arbitrary, coercive, and despotic, nothing can be more injurious than such a practice; for these convict-officers will always exceed and abuse their petty power, so that their fellow-prisoners are then doubly crushed, first under the tyranny of the government official, and then under that of merely another but favored slave. Captain Maconochie attests that he could not have got on at all on Norfolk Island, if he had not largely employed prisoners in his management. But by having a host of *persuaders* (and it was as such that he chiefly sought to use them) distributed constantly among the convict population, he was able to prevent much of the evil previously existing and almost made matter of boasting, and strongly to direct public opinion against what remained of it. He found them like the petty and non-commissioned officers of a ship or a regiment, who are also equally selected from the ranks sought to be controlled.

12. The correspondence of prisoners and the visits to be received by them from outside, with the restrictions to be imposed upon these, are points to be carefully considered; and they are not unattended with difficulty. The uniform answer given by governments, at the Congress of London, to the question put to them on these points, was that, under due limitations, both letters and visits were found to exert a beneficial moral influence upon the prisoners. But the difficulty is to find these due limitations. It goes without saying, that the correspondence must be inspected both ways—that which goes out and that which comes in; and that the visits must be restricted to persons whose character is properly authenticated, and chiefly to members of the prisoner's own family. The point of difficulty is the frequency of both. At present, the usage varies in the several states and prisons, ranging from one month (possibly in some prisons less) to three months, which latter period is not uncommon. These long intervals are injurious



to the convict, often impairing and sometimes nearly obliterating whatever of good feeling still survives. A wife, a mother, a sister, a child, ought not to be debarred from communicating, as often as they wish, by letter or visit, their griefs and distresses to the author of them, nor from thus directing to him whatever monitions, counsels, or exhortations may to them seem fitting and necessary. Can it be true wisdom, can it be to the interest of society, to screen prisoners from the knowledge in detail of the shame, the sorrow, and the suffering, into which their crimes have plunged those dearest to them, or to weaken, if not to sever, those ties which, if maintained, would most facilitate their return to society, and most stimulate their exertions when restored to it?

The regulation is intended as an aggravation to suffering, but, in most cases, it operates rather as a relief; and, not unfrequently, it punishes the visitor much more than it does the prisoner. The privilege of writing letters might be converted into a wholesome agent of discipline, if it were made conditional upon good conduct, and especially if uniform good conduct gave the right as often as it might be desired. Under Maconochie's plan, where the sentence is given in marks and the marks are used as money, the whole matter might be easily and most beneficially arranged, by imposing a charge on every prisoner receiving a letter or visit, the reception or non-reception of either being entirely in his own choice. Writing himself, he would have to pay for paper and stamps; but beyond these checks, there should be none, except the exaction of a proper guaranty for the fitness of the letter to be sent or received, and a proper authentication of the character and relationship of the visitor.

13. The degree of supervision or watching to be maintained over the prisoners is another point which merits serious attention. It is at least to be considered whether the constant and rigid surveillance, so much insisted on, however plausibly it may be defended, does not generate and foster that habit of eye-service which so unfits a prisoner for the task of self-guidance after his release? Whether the minute supervision and regulation maintained in our larger and more important prisons, might not be beneficially replaced

by a considerable measure of self-guidance, reinforced by a strong motive to give it a right direction? Whether, in strictness, such argus-eyed watching is not rather unfavorable than favorable to the reform of prisoners? Whether in giving perhaps the desire of amendment, it may not, in some degree, take away the power? Whether, in short, its tendency is not to enfeeble character, to make it too dependent on direction, and to deliver it up bound, as it were, hand and foot, to subsequent temptation?

14. There is a class of endless "revolvers," committed to the minor prisons as "drunk and disorderly," over and over and over again, usually on an alternative sentence of "ten days or a fine of ten dollars," till, as one of them said, "the times of commitment are uncountable." It is a very serious question how to deal with these persons. That the present mode is worse than useless, is beyond dispute. It is often productive of great evil to the families of the victims of this vice, while it tends neither to suppress intemperance nor to reform the drunkard. These persons, though slaves to a degrading vice, are not criminals in the ordinary meaning of that term; and their confinement in prisons, with thieves, burglars, and other hardened criminals, seems to us impolitic as well as unnecessary, since its result is, almost always, to destroy the prisoner's self-respect, and take from him all hope of future amendment. The law should clearly define what a habitual drunkard is; and the persons falling under that designation should, in our judgment, be confined only in asylums or reformatories, and kept there, under mild but efficient treatment, until there is a reasonable assurance that permanent reformation has been effected. Intemperate of different sexes should be confined in different establishments.

#### SECTION TWENTY-THIRD.

*Criminal Law Reform.*—We have not introduced this heading in the present Syllabus for the purpose of laying down any propositions in regard to it, further than to express the conviction that there is urgent need of action in this direction, and to suggest whether it may not be practicable to



create a commission of learned criminal jurists, to be composed of one member from every state that is willing to come into the measure, which commission shall be charged with the duty of drawing up the project of an improved penal code, to be recommended to the adoption of all the states, with such modifications, if any, as each may see fit to make with a view to adapt it to any special circumstances or exigencies that may therein be thought to require such change. A considerable degree of similarity, if not an absolute uniformity, in the penal codes of the different states, appears to us highly desirable, to the end that the criminal may know that he will have to suffer substantially the same penalty, in one state as in another, for any offence he may commit.

#### SECTION TWENTY-FOURTH.

With penitentiary systems based on the principles and worked by the methods outlined in the foregoing Syllabus, with penal codes framed in the same spirit, with our prisons removed from the domain of party politics, and a character of absolute stability and permanence impressed on their administration, and with prison officers trained to their work and secure in their places as long as they show themselves competent and faithful, it is the belief of this Conference that there is no point to which the improvement of prison discipline may not be carried, but that which is imposed by the imperfection of human virtue, the fallibility of human wisdom, and the limitations of human power.

#### NOTICE RESPECTING THE INTERNATIONAL PENITENTIARY CONGRESS OF STOCKHOLM.

Action of the American Social Science Association and of the Conference of the Boards of State Charities, at their respective meetings in Saratoga, September 4th-7th, 1877.

SOCIAL SCIENCE ASSOCIATION,  
*In Session at Saratoga, N. Y., Sept. 7th, 1877.*

The Secretary, Mr. Sanborn, read a communication from Dr. E. C. Wines, on "The International Prison Congress," whereupon the following preamble and resolutions were unanimously adopted, the same having been, on the previous day, in like manner, unanimously adopted by the Conference on Public Charities:

*Whereas*, The Government of Sweden and Norway has addressed an official invitation to all foreign Governments to take part in the International Prison Congress at Stockholm, during the second half of August, in the year 1878, in compliance with which invitation, Dr. Wines, President of the International Penitentiary Commission and U. S. Commissioner to the Congress, proposes that each of the several States should contribute information and send delegates to the Stockholm Congress; therefore

*Resolved*, That the Social Science Association, now in session at Saratoga, N. Y., hear with satisfaction of the steps taken by the Swedish Government, and by the British Government, through its Secretary of State for the Colonies, the Right Honorable, the Earl of Carnarvon, to promote the usefulness and success of the International Prison Congress in 1878; and that this Association desires to do its part toward the collection and transmission of information concerning Prisons, Reformatories, etc., in the United States.

*Resolved*, That this Association declares its earnest hope that the Governors of the several States will take effective measures to secure for the Congress, through competent persons, information on the prison question within their several States, similar to that collected by the British Colonies in their respective jurisdictions, and that they will also take measures to have their States duly represented in the Congress.

*Resolved*, That we have learned with much pleasure that Dr. Wines is preparing a work on "The State of Prisons and Prison Discipline and Reform throughout the Civilized World," to be completed and printed before the Congress meets, believing that such a work will be of great interest to the friends of this cause, and also greatly helpful to the cause itself.



*[Faint, illegible text, likely bleed-through from the reverse side of the page.]*





