

Penology

— THE —

One Hundred Thousand Children

OF THE

UNITED STATES,

WHOSE

FATHERS ARE IN PRISON.

ADDRESS BY

HON. JAMES M. BROWN,

President of the Toledo Humane Society,

DELIVERED

Before the Humane Congress of the World's
Columbian Exposition.

MEMORIAL ART PALACE, CHICAGO,

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THE AUTHOR

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THE HUMANE CONGRESS

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OF

THE WORLD'S COLUMBIAN EXPOSITION,

OCTOBER 11TH, 12TH AND 13TH, 1893.

JOHN G. SHORTALL,
Chairman Men's Committee, W. C. A.

MRS. JAMES M. FLOWER,
Chairman Woman's Committee, W. C. A.

Programme of the Humane Congress.

WEDNESDAY FORENOON.

Invocation - - - - - REV. FLOYD TOMKINS, Chicago.
 Opening Address, - - - - - HON. CHARLES C. BONNEY, Chicago.
 Address of Welcome, - - - - - PRESIDENT JOHN G. SHORTALL, Chicago.
 Remarks, - - - - - HON. THOMAS W. PALMER, Detroit, Mich.
 The Cause of Humanity, - - - - - PROF. DAVID SWING, Chicago.

WEDNESDAY AFTERNOON.

The Hindus: Their Respect and Regard for Animals,
 REV. B. B. NAGARKAR, Bombay, India.
 The Treatment of Cattle on Western Plains, GAYLORD H. THOMSON, Denver.
 Cruelty to Animals at Sea, - - - WILLIAM HOSEA BALLOU, New York City.

THURSDAY FORENOON.

Experimental Research vs. Altruism, MRS. MARY F. LOVELL, Bryn Mawr, Pa.
 An Ethical Basis for Humane Action toward Animals,
 ALBERT LEFFINGWELL, M. D. Rochester, N. Y.
 Vivisection: What is it? Can it be Justified?
 DR. MATTHEW WOODS, Philadelphia, Pa.

THURSDAY AFTERNOON.

The Teaching of Hinduism regarding the treatment of Animals,
 MR. NARASIMKA, Madras, India.
 Humane Education, - - - - - THOMAS E. HILL, Chicago.
 Humane Societies in Small Cities, - - - CHARLES R. FRAZER, Canton, Ohio.
 Horses at Chicago, - - - - - MRS. HELEN E. STARRETT, Chicago.
 A Few Words from Italy, - - - - - MISS HARRIET G. HOSMER, Rome.

FRIDAY FORENOON.

Remarks on Vivisection, - - - PRESIDENT JOHN G. SHORTALL, Chicago.
 La Protection en Generale dans ses Effets Humanitaires,
 M. LEON PLARR, France.
 (*Secretary General Paris Society for Protection of Animals.*)
 The Turk and Armenian in their Respect for Animal Life,
 HERANT M. KIRETCHJIAN, Constantinople, Turkey.
 The One Hundred Thousand Children of the United States whose Fathers are
 in Prison, - - - - - HON. JAMES M. BROWN, Toledo, O.
 What should be the Relation between the Humane Society and Child-Caring
 Organizations, - - - - - HOMER FOLKS, New York City.

FRIDAY AFTERNOON.

The Slaughter of the Innocents, - - - REV. JENKIN LLOYD JONES, Chicago.
 Ontario's Law for Protection of Children, - - - J. J. KELSO, Toronto, Ont.
 Young Italy and the Humane Idea,
 CONTESSA D. DI BRAZZA SAVORGNA, Rome.
 The same subject, by SIGNORA FANNY ZAMPINI SALAZAR, Naples, Italy.
 Dumb Beasts and their Gods, - - - - - REV. THOMAS C. HALL, Chicago.

THE American Humane Association held its annual convention at the same time in the same place, taking up its sessions immediately upon the adjournment of the several sessions of the Congress, and adjourned finally on Friday evening, October 13th, having transacted much important business; re-electing the officers of the preceding year.

Among the valuable papers presented to the Congress, was one by the Hon. James M. Brown, President of the Toledo Humane Society, entitled "The One Hundred Thousand Children in the United States whose Fathers are in Prison." The paper commanded the closest attention and was received with great applause. The paper was as follows, viz :

MR. PRESIDENT, LADIES AND GENTLEMEN :

The number of delinquent, defective and dependent persons wholly or partially maintained at public expense in the State of Ohio last year was over 150,000; or about one person in every twenty-five of the population. The aggregate expenditure for this purpose for the year was \$3,959,704.39. A like ratio throughout the United States would give a population maintained at the public expense of 2,600,000, at an annual cost of \$68,640,000. An estimate made by the Board of Charities of the State of Ohio shows that this stream of humanity is increasing at a ratio greatly in excess of that of the population. The twenty years preceding the year 1892, showed an aggregate increase of population of 38 per cent. and the increase in number of persons maintained at public expense to be 400 per cent. This large increase is doubtless attributable, in part, to an enlarged spirit of benevolence, and more thorough methods in looking after these classes of persons.

I will not undertake at this time, to point out all the sources from whence come the polluted waters which make up this mighty stream. I will content myself by pointing out one, and showing that society itself is, if not wholly, in a large degree, responsible for its corrupting power.

At the time of taking the census of 1890, there were confined in the penitentiaries and prisons of the several States of the Union, over 82,000 persons. Of that number about 40 per cent. were heads of families. This, by the ordinary rule of estimating populations, namely, three children to a family, would give a little short of 100,000 children whose fathers were in prison. As the number increases rather than diminishes, we may conclude that there is to-day, more than that number of children in this country whose fathers are undergoing compulsory confinement.

The sentence which commits the father to prison, not only casts the shadow of disgrace and shame over his wife and children, substantially ostracising them from society and its consideration, but at the same time, without mercy, cuts off the family support. He whom nature has charged with the sacred duty of maintaining them, and seeing that they are developed into self-supporting, independ-

ent and honorable citizens, by his own act has deprived himself of liberty. The mother, already burdened with the care of her family, is forced for the first time, to meet the additional problem of their support. In her disgrace she looks out into a friendless world and sees nothing that offers her assurance that her children will not come to want. She says: "If I find employment who will take care of these helpless children while I go to earn their daily bread? Shall I lock them in, and take the chances of their destruction, or shall I open the door to the streets?" While thus she considers and grieves over her inability to properly care for her household, a kindly neighbor calls and says: "Madame, over the way is the Infirmary office; send your children and the officer will give you bread." She answers: "Give me bread? Has it come to this? He who eats bread that he has not earned commits a sin against society, himself and his God." But the neighbor answers: "It is for such as you that the State has provided this help." She says in reply: "The State has deprived me and my helpless children of support; support which God gave us; that which, if it were but restored, would enable me to feed, clothe, educate and make of them good citizens; and now, in lieu thereof, the State proposes to make paupers of us all." The neighbor, as he departs, says: "You are quite right, good woman; but this is a friendless world, and you had better avail yourself of my suggestion." Soon the extremity is upon her; the rent is due, the children hungry, and she sees no other way than to appeal to the Infirmary. She calls her eldest children, a bright boy and girl, and sends them with a basket and a note asking for bread. Soon they return with bright faces and happy hearts, and tell her how kind that officer was. "He not only gave us bread, but meat, also; and what was better than all, he said we could have them without pay; that he would help you pay the rent, and when these provisions are gone, we shall come again." The mother buries her head in the consciousness that that day, by that act, the door is opened to her children that leads to lives of pauperism, and through pauperism to crime.

Go with me to the door of the prison cell of the father of these children. The hard work of the day is over; a dim light burns within by which he reads a letter from his wife. We need not disclose its contents. Between broken sobs, as he sits upon his cot with his head between his hands, we hear him say: "The world knows nothing of the terrors of this prison life. I know it is my fault. In an unguarded moment I brought it all upon myself and them. I forfeited my right to liberty, and under the law I was justly condemned for life to these gloomy walls. I am content to suffer and to work, but oh, the thought that I cannot help the innocent and helpless ones at home; that they are covered with shame and forced to beg—it is more than I can bear! It will drive me mad! Is society not satisfied with my imprisonment, my hard labor, and the hardships of prison life? Will it, in addition, make paupers of my wife and children? Must every aspiration and every hope that I have had for them be crushed, and must I regard my government as my unrelenting enemy?"

A year later we go again to this cell. The lines upon the face of the prisoner have grown deeper and harder, and his eyes have lost their lustre, and morose, he sits in silence. We say: "Prisoner, we have good news for you! It is not liberty, nor freedom from toil. The prison laws have been so amended that for every ten hours of work you shall be credited and paid \$1.25, of which 25 cents shall be paid to the state for your maintenance, and the \$1.00 shall be sent to

your wife for her support, and the education and care of your children!" Dazed with the announcement, yet rapidly comprehending its import, he springs to his feet as a man infused with new life. Hope fills his heart, lights up his eyes, and joy drives away the deep lines from his face. He thanks God for this beneficent provision, and declares that henceforth the gloom of the prison will give way to radiant sunlight; that labor will now be a pleasure; that if ten hours of toil will meet such a reward, he will gladly double the time, if thereby he may increase his contribution to the comfort and welfare of those he loves.

Need I take you to his stricken household when the first monthly payment of \$26 is handed over by the state, and it is realized that poverty, its consequent suffering and entailments, are banished from the door; that the children shall henceforth be fed, clothed, educated and developed into lives of independence and thrift, by the uninterrupted care of the mother, and the earnings of the father?

Will legislation which leads to such results improve or injure the condition of that family? Will it improve or injure the moral qualities of that prisoner in his cell?

The wisdom of a law is determined by its results. If it rescues, improves and lifts up those for whose benefit it is enacted, it must be wise.

I might here stop for a moment, to argue the abstract right of the state to appropriate the results of this man's labor to the injury of his family. I do not believe such right exists. In the formation of governments, only those rights are surrendered which are necessary to the proper performance of its functions; every other right is reserved. The right of children to the father's support is a natural right. It existed before governments were formed, and has never been surrendered. It is true, if a man becomes dangerous to society, he may be restrained; but if the state has regard to that principle which requires it to exercise its guardianship, so as to promote, rather than retard the interests of the citizen, it is bound to so restrain or confine him, that if possible he may still discharge his obligations to his family. The principle that a man's first duty is to his household, and that it shall not become a public charge is recognized everywhere. Our homestead and exemption laws are monuments of this principle. It matters not how honest the debt, or how urgent the demand, if it must be satisfied at the sacrifice of the support of one's wife and children, the law says it shall not be satisfied! Upon what principle, then, is it, that the state imprisons the head of the family, in such manner as to deprive that family of its only means of support? While the right of imprisonment is undoubted, the duty of keeping that prisoner employed, and of seeing that the results of his employment are devoted to the support of his family is just as manifest. But it is said the state, through its poor laws, has provided an equivalent for this. I answer, No! The state is bound to exercise its power, so as to promote not only its own welfare, but likewise, the best interests of its citizens. Support of the family by the father is natural and honorable, and conduces to the thrift and independence of his household. To take that support away, and compel its members to live at the public expense, and stamp upon them the habits and characteristics of paupers, dishonors, demoralizes and degrades them, and undermines the state.

But I hear some one say: "This will prove an expensive business! These sentences are not all for life; the average is comparatively short, and the time these children are compelled to go to the Infirmary for help will be limited." This argument is fully met by a quotation from the report of the honorable presi-

dent of the Provident Association, of St. Louis, for the year 1892. He wisely and truthfully says:

"It is hard to have asked alms and maintain self-respect. When once the line of dependence is crossed, there is natural and inevitable tendency to rapid descent from even unavoidable and honest poverty, to shameless and chronic pauperism." This sentiment is but the crystallization of the experiences of civilization throughout all ages. The consular reports upon the subject of "vagrancy and public charity in foreign countries," just issued by the State Department of our country, bears testimony on almost every one of its six hundred pages, as it traces the line of vagrancy around the earth, that the work of reforming and restoring vagrants to lives of thrift and independence is the hardest, most vexatious and profitless work undertaken in the whole field of charities.

The taxable duplicate of the state of Ohio for 1892 was seventeen hundred and thirty millions of dollars. If the state paid to each of the 1,000 prisoners in penitentiaries and workhouses, who are heads of families, one dollar for each day of labor, and nothing was realized from that labor, the deficiency of \$326,000 on that account would be more than restored by a levy of two-tenths of a mill on the dollar of the duplicate. But as we know she requires these convicts to work, and work hard, and that she does receive benefits from their toil, we also know the amount to be raised for this humane purpose would be even less than one-tenth of a mill on the dollar. What is said upon this subject as to Ohio, is applicable in a degree to every state in the Union.

A state like Ohio, which adds to its revenue on account of the sale of intoxicants, over \$2,500,000 per year, an amount equal to 14 mills on the dollar of its taxable duplicate, can well afford to assess on that duplicate two-tenths of a mill on the dollar for this laudable purpose.

The society over which, for the past ten years, I have had the honor to preside has repeatedly presented this subject to the legislature of the state, and asked that the penal laws be so amended that the earnings of prisoners, who are heads of families, after deducting sufficient to maintain such prisoners, might be devoted to the support of such families.

The proposition has been generally regarded as wise and humane; but because of the eagerness of the leading political parties to make as good financial showing as possible for the penal institutions of the state, it has not been adopted. We however succeeded in having the principle embodied in the law governing the workhouse of our own city, whereby the earnings of the heads of families, convicted of cruelty to, or abandonment of, their children, to the extent of 40 cents a day, is appropriated to the support of such children. While there has been no fair test of the workings of this law, because of the limited resources of the work-house board, and a consequent disposition to parole all prisoners whose families are entitled to such earnings, yet I believe the principle incorporated in that act will eventually be engrafted upon the penal laws of every state of the Union.

When this is done, it may be well said that the states in their sovereign capacity, and by the best methods, have not only stooped to lift up and succor the helpless, but have also visited and administered to those who are in prison.

At the conclusion of the reading, Mr. Brown presented two resolutions, and gave notice that he would formally offer them at the next session of the American Humane Society, for its action. But the Congress was not content with any delay, and upon motion, and by unanimous vote, adopted both resolutions. They were as follows, viz:

1. WHEREAS, the modes of punishing prisoners who are heads of families, now prevailing throughout the United States, in almost all cases necessarily deprives such families of all means of support, and compels them during such period to live upon public charity—to beg from door to door—thus teaching them lessons of idleness and vagrancy, which lead to habits of permanent pauperism and crime, and consequent demoralization of society, therefore,

RESOLVED; That the American Humane Association hereby urges upon its membership and the friends of humanity, everywhere, the importance of seeing that the penal laws of the respective state be so amended, that heads of families confined in prisons shall, during such confinement, be furnished with work, and that a fair equivalent for such work be by the state devoted to the *support of such families*.

2. WHEREAS, The abandonment of helpless children by their parents, constitutes a growing evil and one of the principal causes of pauperism now existing in the land; and, whereas, certain states have passed laws defining and punishing the crime of abandonment, while others have not; and, whereas, from states where such law exists, persons contemplating such abandonment can and do easily flee to the states where no such law exists, thus escaping their duty to support their own children, and also the penalty therefor, to the great injury and demoralization of society; therefore,

RESOLVED; That the American Humane Association urges upon its members throughout the United States the duty of seeing that laws punishing abandonment are passed in all the states, and that provision be made whereby a fugitive from justice for such offence may be returned for trial and punishment upon the requisition of the Governor therefor.

In accordance with the spirit of the resolutions, the subjects

set forth in both are earnestly commended to the friends of humanity everywhere.

Mr. Brown has furnished forms which are appended hereto and which may be used as guides in procuring the desired legislation.

JOHN G. SHORTALL,
Pres't Humane Congress and Am. Humane Society.

M. V. B. DAVIS,
Secretary.

CHICAGO, *October* 30th, 1893.

(FORM SUGGESTED FOR A BILL UNDER THE FIRST RESOLUTION.)

A BILL
TO ENABLE CONVICTS TO ASSIST IN THE SUPPORT OF
THEIR WIVES AND CHILDREN.

SECTION 1.—Be it enacted by the General Assembly of the State of Ohio, that whenever any person shall be convicted of a crime or offense in any of the courts of this State, any part of the punishment whereof shall be hard labor in any prison or workhouse in this State, it shall be the duty of the court in which such person shall be convicted, to make enquiry, summoning witnesses, if necessary, and make finding of the fact as to whether said person so convicted has a wife and child or children, or either, said children being under eighteen years of age, resident of this State, dependent for support in whole or part upon the labor of said person so convicted and, if so, the name, residence and postoffice address of each, and the age of such child or children, and said finding shall be made a part of the record in said case, and a copy thereof under the seal of said court shall by the clerk thereof, with the mittimus, be transmitted to the warden or superintendent of the prison or workhouse to which said person shall be sentenced, and also to the auditor of the county in which said person so convicted, at the time of his arrest, shall have a legal residence.

SEC. 2.—If it shall appear from said finding that such person so convicted has such wife and child or children, or either, such child or children being under eighteen years of age, residents of this State, who are dependent in whole or in part upon the labor of such convict for support, it shall be the duty of such warden or superintendent of the prison or workhouse to which said person shall be sentenced and received, to credit said person so convicted, sentenced and received upon the books of said prison or workhouse, as the case may be, with the sum of \$1.00 for each and every working day during his detention in said prison or workhouse under said sentence, which sum shall be paid monthly out of the treasury of the county where such conviction shall have taken place, provided said convict shall have a legal residence therein, otherwise out of the treasury of the county where said convict shall have a legal residence at the time of his arrest and conviction, upon the order of said warden or superintendent, as the case may be, upon the auditor of the county where such convict at the time of his arrest and conviction had a legal residence, and said auditor shall thereupon draw his warrant upon the treasurer of such county in favor, first; of the wife of said person so convicted, if it appear by said certified record that he has a wife in this state; and, second, if it appear by said record that he has no wife in this state, then in favor of the guardian of said child or children, to be appointed by the Probate Court of the county in which they or any of them shall reside, which guardian shall be appointed to serve only during the time said person so convicted shall be imprisoned under said sentence. And it shall be the duty of said Probate Court appointing such guardian to certify his name and postoffice address to the said warden or superintendent, as the case may be, and to the auditor of the county in which said person so convicted shall, at the time of his arrest have a legal residence, and the time that said person so convicted shall have been in the county where convicted, from the time of his arrest until his conviction, shall not be counted in fixing his legal residence therein.

SEC. 3.—For the purpose of carrying out the provisions of this act, the county commissioners of each county in the state are authorized and directed to provide by levy therefor, and for the year 1890 shall levy not less than fifteen one-hundredths of a mill on the dollar of the general tax duplicate of said county.

SEC. 4.—This act shall take effect on its passage.

(SECOND RESOLUTION)

The desertion, abandonment or wilful neglect to support children under sixteen years of age, by father or mother, should be declared a felony, punishable by imprisonment and hard labor, and the earnings of such prisoner should be devoted to the support of such children, and the extradition laws should be made to conform to the offense, in case the grade is less than felony. Art. 4, Sec. 2 of the Constitution of the United States, provides that, "A person charged in any State with treason, felony or *other crime*, who should flee from justice and be found in another State, * * * shall be delivered up." State laws should be made to cover the offense defined, so that persons abandoning their children and fleeing to another State, may be returned for trial and punishment. Said laws will greatly reduce the increasing pauperism of the land.

