

matters, that no witness before the present Commission proposed this step."

Mr. Synnott discusses this proposal in the March number of the *New Ireland Review*. He says:—"Another objection to the abolition of Income Tax under Schedule D, or any other Schedule, is that with the existing high rates of exemption and abatement, a disproportionate amount of taxation would, in the first instance, at any rate, fall on the poor, and not on the rich."

Landlords, professional men, and traders would no doubt benefit; it is also possible that industrial enterprise would be encouraged, and additional capital be invested in commercial undertakings, but the poorer classes would not benefit, except indirectly. Therefore, it is also proposed to make such alterations in indirect taxation as would relieve the Irish consumer, e.g., a reduction of the tea duty, and an increase of duties on commodities which would fall more upon the English consumer, e.g., the duty on beer, foreign wines, etc. It would require a separate paper to discuss such a re-arrangement of our indirect taxes, and the interesting general question lately discussed in the *Times* articles on the Revenue, namely, whether we have not gone too far in increasing direct taxation and in reducing indirect taxation, and left ourselves no margin for emergencies. It seems extraordinary that the Income Tax should remain at 8d. in a time of peace. The *Times* points out that the payers of Income Tax are the persons who accumulate, and that they are entitled to consideration for the duration of the high rate of duty. It suggests the reduction to 6d. as soon as the exigencies of the Revenue prevail, and that, if the Tax was so lowered, abstracts would be abolished or reduced. The effect of raising the limit of abatements has been (it says) that one penny only produces £2,150,000 as against £1,900,000 twenty years ago.

VII.—Prisons and Prisoners. Suggestions as to Treatment and Classification of Criminals.

By HERCULES MACDONELL, M.D., Dundalk.

[Read Tuesday, April 18th, 1899.]

THE English Prison Commissioners in their Report for 1897 say:—"It is, perhaps, obvious, and, at the same time, it cannot too often be impressed on the public mind, that, under the law of the land, imprisonment in a local prison follows as a penalty, with or without hard labour, in default of a fine for offences which vary enormously in their degree of criminality.

In some of these indeed, the element of criminality may almost be said to be absent. Thus is created the great and difficult problem of prison administration, by the fact that by deprivation of the liberty of the individual, by means of imprisonment, which theoretically, should only be had recourse to when the interests of society would suffer from the offender being at large, has, in the course of time, come to be made use of as an ordinary mechanical punishment for every new offence created by the legislature."

When a commission, entrusted with the administration of penal legislation, places on record such opinions, it is evident the official mind is seriously disturbed and, that prompt measures are necessary to meet the evils therein disclosed. It is a plain and honourable admission that the present system has broken down. My object this evening is to bring under your notice some points in which I conceive our system to be defective, and the direction in which reforms should be sought.

Society has two duties to discharge with regard to criminals, firstly, to protect itself against them; and secondly, to protect criminals against themselves, hence all imprisonment ought to have a punitive and a reforming object. In so far as these can be combined with satisfactory results, an ideal system might be obtained, but inherent difficulties present themselves which hitherto remain unsolved.

Where large numbers are congregated under the same roof, differing in age and sex, and varying in degree and kind of criminality, even theorists fail to form a plan for classification, how much more difficult must be the task in practice? Though statistics would seem to point to a general diminution of crime, this conclusion must be received with caution. If we could feel sure that no large amount of crime went undetected or unpunished, the statistical results would afford matter for congratulation; there are, however, other elements to be taken into consideration, such as the working of the "First Offenders Act," the extension of the fines system and such analogous subjects, which materially modify any deduction we may draw from them. There is no uniform basis adopted on which penological statistics are formed, so that it is impossible to compare the returns from the various countries; and, as each country boasts that its own system is preferable to that of its neighbour, results are too often arranged with the object of proving this official axiom.

In 1886 I had the honour to read a paper before this Society on Continental Prisons, which contained *inter alia* full details of the dietary systems adopted abroad and contrasted it with our own. I will not detain you this evening by further references to this important subject, except to mention, and I do so with regret, that no ameliorative changes have been effected in our

Irish prisons. As a prison official, I am debarred from entering into criticism; but twenty-two years' connection with the department and daily contact with prisoners has shown me how little advance has been attempted on lines likely to prove successful in the struggle with crime.

Before entering on the question of adult criminals, I desire to make a few remarks regarding juvenile offenders. The introduction, in 1887, of the "Probation of First Offenders Act," together with the increase of reformatories and industrial schools, has marked a distinct advance in the right direction. I would amplify the dictum, that the worst use you can put a man to is to hang him, by adding, that the worst use you can put a child to is to send him to prison. Why should it be allowable to consign a child of tender years to prison, before despatching him to a reformatory, when it is not considered necessary to attach this stigma to him, when he is being sent to an industrial school? That the law permits it in one case and not in the other, only proves the necessity for legislation to remove this iniquitous anomaly. Parliament has recognised the injustice inflicted by modifying the 31st and 32nd of Vic. which compelled magistrates to sentence juvenile offenders to a term of imprisonment before sending them to a reformatory. Under the 2nd sec. of the Reformatory Schools Act, 1893, magistrates are now given power to remand children for fourteen days to a place not a prison, provided the occupier is willing to receive the offender and be responsible for his safe custody till he be either discharged or sent to a reformatory. So far as it goes, this Act is an improvement, but the section is not freely availed of, and ought to be further amended, so as to compel the parent or guardian to become responsible for the safe custody of the offender under stringent penalties till he is finally dealt with, either by discharge or being sent to the reformatory. Even a few days' detention in prison of such young children is demoralizing in the extreme. In 90 per cent. of cases the fault is due to lax parental authority or example, which a good birching and a regular attendance at school would eventually correct.

In the case of somewhat hardened young incorrigibles they boast of their imprisonment, but in reclaimable children it has an equally bad, though different effect, rendering them callous or indifferent to their fate, and giving them an impetus to fight against a social system which has degraded and marked them as outcasts.

Somewhat allied to the question of juvenile offenders is that of the individual responsibility for crime. While neither you nor I will fully subscribe to Lombroso's Theories, I think we shall all agree that environment and example are two large factors in its production. It is a truism that prevention is

better than cure, and that it is easier to dam a river at its source, than when it has become a swollen torrent. Till the State, by means of its County and Urban Councils, provides sanitary dwellings, sanitary surroundings, and efficient education, in its true sense, the lower stratum of society, from which in the main the criminal class is recruited, cannot be satisfactorily dealt with. By education I mean not merely book learning, but the inculcating of habits of obedience, sobriety, cleanliness and industry. As long as society neglects this primary duty, it must blame itself for the resultant evils. Pauperism cannot be abolished by Act of Parliament, but overcrowding and deficient sanitation can be remedied, and one prime factor in the equation of crime solved. A more efficient school inspection, and, if necessary, the provision of a meal as well as healthful recreation, can be carried out. Money spent on these objects will repay the State in the prevention of crime, and the decrease in her prison population. Eradicate or attenuate juvenile delinquency, and a large source of crime, not only present, but future, is sapped at its foundation.

Do what we may, even after what we ought, there must remain a criminal class, and as I began by stating, society must protect itself against this class, and in doing so, strive to effect its reformation. As you are aware all adult, and even some juvenile offenders, are cast into a common prison—whether the offence be drunkenness, theft, or crimes of violence, the same roof shelters all, they receive the same dietary, exercise in the same yards, are attended to by the same warders and receive equal treatment. With the exception of first-class misdemeanants, all are on the same footing. No unfair advantage is taken of the man who receives one month for kicking his wife into fragments, over the child who may have been sentenced to two months for stealing a loaf of bread to stave off starvation. Our law is no respecter of persons, neither is it of the nature of the criminal. Hitherto no classification of prisoners has been attempted on anything approaching to a scientific moral basis. No consideration is taken of the nature of the crime, the age of the criminal, the length of sentence, the educational state and other minor details. Classification is based on the "mark" system, whereby prisoners who work steadily and earn a certain number of "marks" daily can emerge from a lower to a higher class. The system entirely ignores the moral faculties of the individual or their capability of reformation, it is, therefore, devoid of the prime essential for a scientific classification. Till some more enlightened classification can be introduced, it is hopeless to expect any thorough reformation. The question is one of the first importance, and till it is solved no improvement can take

place. Public opinion should be educated on this point, with a view to having a Royal Commission appointed to enquire into and report on the subject. If a satisfactory solution can be arrived at, our entire penal treatment will be revolutionized, with incalculable benefit to the individual and the State. A large amount of expert evidence is available; Prison Congresses are held quinquennially; many prison officials are eminently well qualified to give evidence on the subject, only the opportunity is wanting to formulate ideas and bring order out of chaos.

The end of the eighteenth century witnessed the effect of John Howard's efforts on behalf of our gaol population. Is it too much to expect that the end of the nineteenth century may witness the culmination of his philanthropic labours, by establishing a fundamental principle in scientific classification.

The action of the Prisons Board in abolishing a large number of our local prisons, and collecting the prisoners in central gaols has had a most beneficial effect on discipline, health, and in other ways. To obtain any further advantage, it will be necessary, in my opinion, to divide all prisoners into three classes—(1) Convicts, whose sentences extend over two years; (2) sentences from six months to two years; and (3) sentences up to six months. The full benefit cannot be obtained unless a comparatively large number of prisoners are collected together for classification purposes.

There are three different systems adopted in prison arrangement, viz.:—The silent, the solitary, and the separate or cellular. We need not take cognisance of the congregate system, in which prisoners are in association with each other by day or by night, or both, as it is now universally condemned.

The silent system is incapable of being rigidly enforced, it leads to frequent punishments, and is not seldom followed by mental breakdown. The solitary system likewise, has inherent defects. In its nature it is harsh, revengeful, followed even more frequently by mental breakdown, and is entirely devoid of any humanizing element if rigidly enforced. There remains only the separate system to be considered. By this we mean that prisoners are kept separate from each other, each having his own cell in which to eat, sleep, and work. As Mr. Jallack, the well-known secretary of the Howard Association, remarks: "Separation is at once more successful and more severe than association. It is preferred by the better class of prisoners, and hated by the vilest."

In the separate system, prisoners are visited by the warders, schoolmaster, chaplain, and have both industrial and educational pursuits. If certain ameliorations, which I shall allude to later on, were introduced, so as to combine association under restriction and other advantages, this system, or rather its

development, would contain all the essentials for safe detention and reformation.

It would not be possible within the limit of time assigned to me, nor without trespassing unduly on your patience, to notice even cursorily the types of criminality. It is a large subject and even experts are not agreed as to its divisions and sub-divisions—we may assume, however, that criminals are either curable or incurable, and further that the majority of incurable criminals have a large taint of heredity. They are recidivists, that is, habitual offenders, hopelessly irreclaimable; the only penal treatment for this class is cumulative sentences, careful enforcement of discipline when under detention, and strict police supervision in what might be termed their lucid intervals. Society can only look to its own protection from this class, and if they can be made partially self-supporting when incarcerated, and their physique maintained, while moral and religious influences are not neglected, the State will have done all that can be reasonably expected.

The curable criminals may be roughly divided into two classes, viz.:—(1) Occasional criminals, and (2) habitual criminals. To reform these two classes ought to be the main object during their imprisonment, and it is with special reference to them I plead so earnestly for the discovery of some rational system of classification.

In the case of "occasional criminals," the "First Offenders Act" should be more frequently put into force, and when they are juveniles, the parents' responsibility be insisted on; reports as to good conduct called for at stated intervals from clergymen, schoolmaster, and employers, and imprisonment inflicted only as a last resource. If this should become necessary, strict isolation should be enforced during their detention, and every possible regulation enforced to prevent contamination. In Germany sentences of "deferred punishment" are pronounced, somewhat analogous to our system of "binding over in bail," while in other European countries various modes of conditional liberation are being increasingly adopted, with the best results. Statistics show that only 25 per cent. of first incarcerations return, while 50 per cent. of those imprisoned twice return, and 75 per cent. of those imprisoned three times return for a fourth period or oftener; these percentages would lead us to conclude that the deterrent or punitive effect of imprisonment rapidly loses its strength. The rigour or discipline cannot be extended further without inflicting grave physical injury, the solution therefore lies in the direction of levelling up the intelligence of the offender, and by careful and discriminating treatment of the individual to endeavour to wean him from his former habits.

Under existing rules every prisoner is classed by the chaplain

on admission, for educational purposes, either as an illiterate, partially literate, and literate. The illiterates are given instruction in association, and receive two lessons weekly, of half-an-hours' duration. The partially literate get two hours' instruction daily, in their separate cells, in reading, writing, and arithmetic. The literates, that is, those who can read and write well, receive no instruction, but can obtain a book from the prison library if he is a good conduct prisoner; this book may be changed at the discretion of the Governor. As an educational aid to reformation, the instruction is of little benefit—a couple of hours' teaching each week, given by a warder in the prison uniform is, if anything, detrimental. The instructor should, as it were, bring into the cell a whiff of the outer world, the prisoner's mind should be diverted from his present state towards a better and happier one; even the garb of the instructor is worthy of consideration; it is only by attention to such apparent trivialities that effective reclamation can be attained. I need not add that the entire system of education requires to be thoroughly re-cast.

The attendance of prisoners at church or chapel is compulsory, and the chaplains attend to the religious instruction. In our Irish prisons these duties are faithfully and diligently carried out, but time is not afforded for extending more widely this beneficent influence, which is so largely availed of in other countries, notably in Belgium.

Next in importance to religion and secular education, comes the question of labour. Owing to a variety of causes, the nature and extent of labour is injuriously curtailed. Roughly speaking, prisoners are mainly employed at stone breaking, oakum picking, wood cutting, labouring, cooking, washing, and mat making; in a few prisons also at tailoring and shoe making. None of these employments are elevating, or likely to engender a frame of mind tending towards reclamation. I think I am correct in assuming that, the members of our Prisons Board are not answerable for the limitation imposed on trades, and would welcome this much needed extension. If an intelligent interest was aroused in the work carried on, and trades were taught, likely to prove remunerative at the expiration of a sentence, a prisoner would leave gaol equipped for earning an honest livelihood. If education, even of an elementary character, were added, whereby his moral strength was strengthened, and Prisoners' Aid Societies were established in large centres to which he could apply with the certainty of not having to wait long to obtain work, much would be done to combat the evils of idleness and intemperance, two of the chief sources of crime.

The adoption of the "Sloyd" system of handicraft training has proved most beneficial where it has been fully and fairly

tried; the expense is not great, and it possesses the advantage of being capable of being carried out either in association or under the "separate" system—all prisoners should, in the first instance, undergo a certain term at penal labour, and be enabled by good conduct to emerge from this stage to the higher industrial grades—a period will thus elapse in which their fitness and capacity can be accurately gauged and suitable employment provided.

Many prisons abroad are conducted on what is known as the "Contract System." It is largely adopted in the North American States. The labour of prisoners is placed at the disposal of a contractor, who apportions their time and task. Discipline is injuriously affected, and not sufficient care is bestowed on the sick and weakly. The stronger and more dexterous prisoners are favoured, though they may be morally worse, than the weaker or less skilful ones.

There is a modification of this system, known as the "Limited Contract Arrangement," which has been found to work extremely well in Germany, and in some of the American prisons. Very strict conditions are enforced on the contractor as regards labour or interference with discipline. It permits of much more highly skilled training, and prisoners are enabled to learn trades requiring practical instruction.

Some may question the right of prisoners to instruction, which is denied to the wage-earning class, who are well conducted. The only answer is, that if by teaching a trade or occupation, the recipient can be reformed and turned into a wage-earner, instead of a wage-consumer, the wage-earning taxpayers directly benefit. Work of this character has a three-fold object: to render him partially self-supporting in prison, wholly self-supporting outside, and to effect moral reclamation, our main objective in all imprisonment.

While I am averse to establishing in our prisons the "Limited Contract System," I think, if it is found necessary, civilian instructors might be engaged to teach certain classes of work, to certain classes of prisoners. This need entail no cost to the department, as the instruction would be afforded at the expense of the contractor, who would be recouped by the sale of the work so furnished. By the adoption of this system, individual prisoners who showed special merit could be taught handicrafts, at present quite outside the range of practicability, with immense benefit to themselves at the time and after their release.

It may be argued that prison labour unduly interferes with the labour market, but under proper conditions, this cannot occur.

The majority of prisoners are withdrawn from the labour market temporarily; on what principle are they to be kept idle? At the expiration of their sentence, they return to their

former work. Free labour can always compete with prison labour advantageously, inasmuch as the output varies from 25 to 40 per cent. in favour of free labour. If the prison labour be distributed over a number of industries, the effect must be inappreciable. I have taken the figures of convicted prisoners, male and female, in custody on the 31st of March, 1890, and find them to be 713, undergoing sentences of three months and upwards. If we assume the population of Ireland to be $4\frac{1}{2}$ millions, this gives one prisoner to 6,311 of the population. If we deduct sick, unskilled, and females, we shall arrive at about one in 12,000 or 15,000 of the community; distribute these over various centres producing various articles, and who will venture to assert that any undue interference can result. If labour is to be used as a reforming agent, it is manifest that machinery must not be employed; brain occupation, not mere mechanical routine, is the object desired. Eliminate machinery from any trade, and competition vanishes. In some of the large prisons in America prisoners are taught to produce articles finished throughout by themselves, by this means interest is maintained, and the exercise of intelligence secured. Sub-division of work is necessary to obtain good prices, but it converts the worker into a mere machine, and would defeat the object aimed at in prison labour. There are many other considerations which could be brought forward to prove the fallacy underlying the argument against partially remunerative prison labour; I have mentioned the foregoing to show that the subject has not escaped notice, and that it can be viewed from various standpoints.

It cannot be too often repeated, that it is to the future all our endeavours should be directed, and that any system stands condemned which merely concerns itself with safe custody and neglects the economical question of how to reduce the floating prison population. Nations can only be judged by this standard, and they are likely to succeed in proportion as they keep this object in constant view and practice.

The conditions under which prisoners work are crude and often insanitary. Well lighted, well warmed, and well ventilated workshops are necessary. These can be constructed on the separate system, so as to partition off prisoners from one another, and yet be under efficient supervision. I am not sure if the Factory Acts were put in operation, whether our prisons, as now constructed, would not be condemned. The question of remuneration to prisoners for work executed also requires consideration. Under present conditions the amount capable of being earned is very small. If more remunerative work was procured, a larger margin would result which prisoners ought to be allowed to remit to their families from time to time, or have by them when they are released. The entire

sum thus earned ought not to be given them when leaving prison, but deferred payments made, and even a certain proportion deducted in case they were re-committed within a stated period. Incentives to good conduct should not cease when they leave prison. Every inducement should be held out while undergoing detention, to work well and improve their mental condition, even to the extent of earning a partial remission of their sentence; the result of their treatment can only be seen and judged by their conduct afterwards; no means should be neglected to endeavour to keep them "straight" and not the least likely to be successful is the possible forfeiture of pounds, shillings and pence.

In a former paper which I read before this Society, I drew attention to the establishment in prisons abroad of a canteen, at which prisoners of good conduct, could purchase, out of their earnings, certain additions to their dietary, and the excellent effect this had on discipline and good conduct. I also noticed the appointment of a Superioress and Staff of Sisters in Religion, to whom the care of female prisoners was confided with such beneficial results. From further enquiries and information I can re-affirm most strongly the advantages to be gained by the introduction of some such additions to our penal system. Punishments are thus reduced to a minimum and reformations are largely effected. Industry and thrift are encouraged, and the number of re-commitments diminished. In Belgium, the chaplain is permitted to suggest to the Ministers of Justice, the remission of part of the sentence, and a Commission enquires specially into such cases. This power invests the authority of the chaplain with a value unknown to our system. In numerous other instances our system is deficient and inelastic. The human element is overlooked, the bureaucratic too stereotyped. No account is taken of individual character, the causes which led to crime, nor are means devised to meet the necessities of each class of offenders. No improvement can be effected on the present lines, a fresh departure must take place and a system of classification devised whereby prisoners can be grouped together for educational and industrial purposes, not merely because their sentences are somewhat co-equal in length, but that these groups are suitable for similar treatment.

I cannot conclude without alluding to the subject of recreation—walking in a string round an exercising ring is undoubtedly of use for purposes of health, where prisoners are obliged to eat, work and sleep in a small cell; with the construction of suitable workshops, this routine can be shortened and the time thus set free, more usefully employed with equal advantage to their body and mind. It is becoming at length generally recognised, that the good influence of

visitors from outside is often of more benefit than the instruction and ministrations of officials. The Visiting Committees of prisons might be enlarged, so as to include both ladies and gentlemen, anxious to assist in the work of reclamation; these would be of much assistance to the Prisoners' Aid Societies and keep in touch with prisoners after their release—a helping hand extended to those in need, especially to occasional criminals, would save many a relapse. Communication, both verbal and written, with the prisoner's family could be advantageously extended, and especially towards the close of the sentence. Prisoners should leave gaol with the feeling that they have received a just sentence, that their improvement had been sought after and effected, that they left their prison better than they had entered it, and that if they had undergone stern discipline, it was entirely free from vindictiveness. Emerging to the outer world with such feelings, they would have hope and courage to face whatever fate might hold in store for them.

Since writing this paper, a remarkable leading article has appeared in the *Times* of the 20th of March. It deals with sentences on criminals and prison treatment. I venture to bring under your notice the following extracts from that article, as they bear out very fully the opinions I have expressed this evening.

It commences by referring to a pronouncement by Mr. Justice Darling to the Grand Jury of Chester, regarding their duty as to finding true bills in certain cases of murder. It continues, "Mr. Justice Darling's remarks are but one of many signs that there is need of a breath of good sense and humanity being diffused through many parts of our criminal law, from the first stage of all, the committal of the prisoner, to the hour of his release. In the utterances of the ablest judges, police magistrates, the most intelligent of the 'unpaid,' and those best acquainted with our prisons, there may be detected a feeling that the system satisfies no one. . . . Children or young people, whose first offences were accidents, are sent to prison instead of a reformatory or school. In the prisons, notwithstanding the many improvements in recent years, no complete separation of the habitual offender and the novice is kept up; and, in fact, the latter often acquires a complete technical education in crime, and makes acquaintances who will take care, when he goes out, that he puts his knowledge to use. . . ."

"The old way of meting out punishment was to have regard to the gravity of the offence; the modern and wiser way, is to study the individual offender, his age, character, environment, and the temptations to which he has been exposed. . . . To study carefully the individual case, its needs and peculiari-

ties, to make the punishment fit, not the crime, but the criminal, is the modern policy, and it is the right one.

"In America the same trend of opinion, as with us, is observable. There, too, the groundwork of the old theory of punishment has been eaten away, and an attempt is made to study the individual case. In more than one State of the Union, the 'indeterminate sentence'—a sentence varying with the behaviour of the prisoner, and, subject to a certain *maximum*, ending then and not before, the prisoner is deemed fit to be released, has been accepted as the solution of the difficulty with which Judges and the Home Office are earnestly, but so far, vainly contending in this country. Mr. Round, the well-known exponent of the merits of this system, cites figures, more eloquent than his arguments, as to its success. Making allowances for the imperfections of statistics relating to reclamation of prisoners, it would seem to have something to gain from the experience of the United States in this matter. The first essential to success, open mindedness, readiness to learn—exists. . . . Never did the problem of the continued existence of a professional criminal class seem more manageable than it now appears. We have made advances in the treatment of the insane. Perhaps the time is at hand when we may be equally fortunate in the treatment of criminals, often first cousins to the insane."

The writer of the article, from which the foregoing are extracts, does not lay sufficient stress on the treatment of prisoners while undergoing imprisonment, and that it is during this period alone we can effect improvement and reclamation. While he hints at the evils of aggregation, he does not deal specifically with the all important point of segregation and classification. As I have remarked, no improvement of a substantial nature can be effected till a solution is arrived at dealing with the question of classification. Therein lies the key of the position. Prisoners may be better fed, better clothed, have better ventilated cells provided, and their physical condition better attended to, both individually and collectively, but till their individual characteristics are studied, and the mental factor taken into account, no permanent diminution of crime can be hoped for. I trust the members of this important Society will lend their aid towards justifying the hope expressed in the *Times*, that, as we have made advances in the treatment of the insane, perhaps the time may be at hand when we may be equally fortunate in the treatment of criminals.