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CRIMINALS AND CRIME:

SOME FACTS AND
SUGGESTIONS

BY
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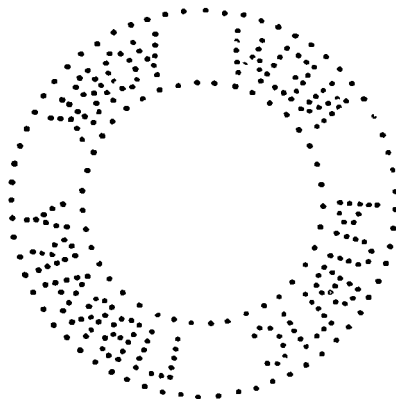
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PREFACE

THAT this book has taken shape as a popular treatise is a departure from my original plan and purpose. But I do not regret the change. For apart from the main reason for it, explained in these pages, it has been urged upon me by "men of light and leading" that what is now needed is to convince the general public that the reforms here advocated are both important and practicable.

Some of the most influential Judges of the High Court have spoken to me in this sense. On the last occasion on which I had the privilege of discussing the matter with Mr. Justice Wills—it was before his retirement—he renewed his assurances of sympathy, but raised the objection that the public were not ready to sanction the indefinitely prolonged imprisonment of offenders. I urged in reply that the public would fall into line, if the Judges would adopt Sir James Fitz-James Stephen's proposal that a criminal's fate should be determined only after a formal public trial on the issue of his being a "professional."

An interruption brought our conversation abruptly to a close, and Sir Alfred said he would consider the matter and write to me. A letter received a few weeks afterwards authorised me to express his approval of the scheme; and this has been confirmed by a letter with which I have been favoured while these pages have been passing through the press.

It is to the public therefore that this volume is addressed. For if the public became alive to the fact that all the principal offences against property are the work of small bands of professional criminals, and that the professional criminal is the creature of our punishment-of-crime system, we should soon have a popular outcry in favour of the reforms here advocated.

A "good burglar," for example (to use a phrase by which the Police designate the sort of criminal who achieves success in that branch of the profession), must be a man of nerve and skill and resource. And his appreciation of a life of adventure and luxurious idleness far outweighs his fear of an occasional term of penal seclusion. For he counts upon having "a good run" during each period of misused liberty; and as a matter of fact he will probably have a great many cases to his credit before he is caught. But burglars of this type are not numerous; and it is due to

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our releasing them in relays, under the punishment-of-crime system, that the business is still kept going.

The knowledge of facts such as these cannot fail to create a healthy public opinion that may serve to counteract the agitation so persistently maintained by the professional humanitarians on behalf of the professional criminals.

It is with the cordial assent of my friend Sir James Knowles that, in writing this book, I have made use of my *Nineteenth Century* articles on crime.

R. A.



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CRIMINALS AND CRIME

CHAPTER I

WE justly deplore the barbarity with which past generations treated their criminals. The elaborate folly of our present methods will excite the wonder of generations yet to come. Barbarous the old system certainly was, but there was a practical efficacy about it which none could ignore. In those rough days a convicted criminal, if denied "a place of repentance," was also denied the opportunity of committing further crimes. And when transportation superseded the gallows the same result was in great measure assured; for the cases were few where criminals once shipped to our penal colonies ever reappeared in their old haunts. So far as this country was concerned, their deportation practically closed their career.

In referring to these discarded methods for disposing of criminals my purpose is merely to emphasise the fact that their abolition deprived

the community of an effectual means for dealing with men who make crime their profession. For a time, no doubt, penal servitude afforded a reasonably adequate alternative. But at the present day, so far as crimes against property are concerned, prolonged terms of penal servitude are as obsolete as transportation and the gallows. We are thus face to face with a difficulty which has hitherto escaped attention, albeit it claims the most earnest and careful consideration.

It is idle to attempt to burke this discussion by an appeal to the gratifying fact that crimes and criminals are decreasing in number. That such is indeed the fact need not be asserted, for everybody acknowledges it, and the judicial statistics afford indisputable proof of its truth. But it is no less a fact, although most people ignore it, that while crime in general is diminishing, *professional crime* is on the increase. And this is precisely the kind of crime which is the most serious danger to the community, and the severest tax upon police administration. Great crimes are seldom "undetected"; but of course it is one thing to discover the author of a crime, and a different matter altogether to obtain legal evidence of his guilt. And in this country the evidence must be available when an accused person is placed under arrest. Not so in countries

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where the police are armed with large despotic powers which enable them to seize a criminal without any evidence at all, and to build up the case against him at leisure, extracting the needed proofs, it may be, from his own unwilling lips.

The peril to the community caused by common crimes, as distinguished from crimes of the first magnitude, will be obvious to the thoughtful. For example, a man who murders his own wife is not necessarily a terror to the wives of other men. A man who kills his personal enemy excites no dread in the breast of strangers. Or again, take a notorious case of a different kind, "the Whitechapel murders" of the autumn of 1888. At that time the sensation-mongers of the newspaper press fostered the belief that life in London was no longer safe, and that no woman ought to venture abroad in the streets after nightfall. And one enterprising journalist went so far as to impersonate the cause of all this terror as "Jack the Ripper," a name by which he will probably go down to history. But no amount of silly hysterics could alter the fact that these crimes were a cause of danger only to a particular section of a small and definite class of women, in a limited district of the East End; and that the inhabitants of the metropolis generally were just

as secure during the weeks the fiend was on the prowl, as they were before the mania seized him, or after he had been safely caged in an asylum.

In contrast with this, take the case of a commonplace burglary. Never a night passes that some crime of this kind is not committed in the metropolis. No one can be certain, as he shuts his door and lies down to sleep, that the sanctity of his home will not be thus outraged before morning. And in every instance there is a real element of danger to the occupants, for the burglar is generally ready to resort to violence if disturbed in the commission of his crime.

But this is a digression. What concerns us here is the startling fact, that while in recent years there has been a marked decrease in crime, crimes of the kind which every expert knows to be the work of professionals have steadily increased. But is the fact as stated? The criminal statistics of the metropolis afford the best and safest test by which to settle the question. The "judicial statistics" would be less suitable for the purpose, because they deal with the country as a whole, whereas professional crime is unknown save in urban populations. Let us then appeal to the statistics.

First, then, as to the extent to which crimes against property have decreased. Let us, for example, compare the statistics for 1905, the last year for which the tables have been published, with those for 1868, the year after that in which transportation was abandoned. In 1868 the felonies relating to property numbered 22,083, whereas in 1905 the felonies of the same class were only 18,515. And yet during these thirty-six years the population of the metropolis was more than doubled.¹ In 1868 the proportion of such crimes to each 1000 of the population was 6.295, whereas in 1905 it was only 2.613.

Professional crime has several phases, but the burglar is essentially a professional, and his crimes always appeal to the popular imagination; and the distinction between the crime of burglary and that of housebreaking or breaking into a shop is somewhat technical, and in fact they are regarded by the police as falling within the same category. For our present purpose, therefore, these offences may be grouped together; and the following table gives at a glance.

I. The average annual number of such crimes committed in the metropolis in each of the seven quinquennial periods from 1869 to 1903; and

¹ The estimated population of the metropolitan police district was 3,507,828 in 1868, and in 1905 it was 7,086,638.

II. The average annual proportion of felonies relating to property to each 1000 of the population in the same periods.

Period	I.	II.
1869-1873	528.8	5.018
1874-1878	982.4	4.493
1879-1883	1,702.1	4.866
1884-1888	2,096	3.823
1889-1893	2,410	3.249
1894-1898	2,532.8	2.755
1899-1903	2,898.2	2.561

These figures should put an end to any silly dreams about the disappearance of the professional burglar. In the year 1869 the number of felonies relating to property was 21,529, and the recorded offences in the three categories above specified was 559. The corresponding figures for 1905 were 18,515 and 3055. If the offences against property had increased in the same ratio as the population of the metropolis, the number of felonies relating to property in 1905 would have been 42,817 instead of 18,515; and if the burglaries, &c., had decreased in the same ratio as other felonies relating to property, there would in 1905 have been 242 instead of 3055.

A further analysis of the statistics would establish that what is true in respect of offences of the burglary class is equally true as regards the other kinds of professional crime. The fact then is clear, as every expert is aware, that while

ordinary crimes against property are decreasing, those crimes which are the work of professionals are as definitely on the increase. The professional criminal is developing and becoming a serious public danger. And my next point is that, while crime in general is an ineffaceable blot upon our civilisation, professional crime is preventable, and might be suppressed. This is not the dream of a visionary, but the intelligent belief of those who have practical knowledge of the problem involved.

Professional criminals are of two classes. There are those who are so utterly weak or so hopelessly wicked that they cannot abstain from crime, and there are others who pursue a career of crime deliberately, with full appreciation of its risks. In the case of both classes our present methods are singularly unintelligent; and as regards the former class, they are not only unintelligent but harsh. Harsh, I say, because so many of these men are just what society has made them. We permit hereditary criminals, men who are criminals both by nature and by habit, to beget children to follow in their steps. We allow such children to be reared in the midst of surroundings that would be morally fatal even to the offspring of the worthiest and best of men. And when we reap what we have sown, and these wretched creatures bring themselves within the criminal law, we pride

ourselves upon having an efficient police to trap them, and well-ordered gaols in which to cage them; and any unexhausted reserve of our Pecksniffian philosophy expends itself in the compilation of judicial statistics of their crimes.

And in the case of those who are criminals by deliberate choice our present methods are still more indefensible. The true professional is an advanced disciple of Hobbes. He is not embarrassed by either twinges of conscience or a sense of shame. And for such a man a criminal career is a life of adventure, such as will compare favourably with most other kinds of sport. A friend of mine, the minister of a West End chapel in London, tells how, in his last visit to America, he preached in one of the larger gaols, and after the service visited some of the prisoners in their cells. One case interested him especially, a man of good education and address, and seemingly of abilities fitted to command success in the world. My friend gave vent to his sincere distress at finding such a man in such a position, and was going on to "improve the occasion," when the prisoner cut in with the remark that he believed in England we were fond of fox-hunting. My friend, regarding it as a broad hint to change the subject, assented. "And may I ask," said his companion, "when a man gets a fall does he give

up hunting?" And on getting the only possible answer to such a question, he added, "I have had a bad fall, and no mistake, but I count on better luck another time."

This case is thoroughly typical. The true professional is not a weak creature who yields to uncontrollable impulse. Living a life of adventure, and having a soul above working for his living, he pursues a life of crime with a full appreciation of its risks. Change those risks to certainties, and you at once supply a motive adequate to influence his course. If every fox-hunter ended by breaking his neck, fox-hunting would be shunned, save by a few desperate men; and the same would be true of professional crime of this character if it always ended in disaster.

Here the humanity-mongers will raise an outcry at once. The humanity-mongers are so lavish of their pity for the criminals that they have none left for their victims; none for outraged society; none for honest and peaceful citizens impoverished by their crimes; none for the children they beget and rear to follow in their evil ways. "But," they will exclaim, "you can't make men moral by Act of Parliament." This must mean either that outward restraints will not change men's hearts, or else that they avail nothing to control their actions. In the one view it is a mere platitude;

in the other it is a transparent fallacy. Where is the man who is governed altogether and only by principle? No one is uninfluenced by those restraints and incentives which serve to shape and guide the course of common men. "Lead us not into temptation" is a prayer that none may safely ignore: "Morality by Act of Parliament" is a great principle which enters into the very highest religious teaching, and it is supreme in the practical ethics of ordinary life. The whole criminal law bears testimony to its truth.

But, we shall be told again, this assumes that severity in punishment will avail to check crime, whereas experience shows that crime has decreased in the very period during which leniency in punishment has prevailed. Now, first, there is a fallacy in this. *Post hoc propter hoc* is bad logic. It is because we have fewer criminals that lighter sentences have become possible. And the diminution in the number of criminals has been due to causes that are not far to seek. If we go back a single generation, our prisons were so administered that a term of imprisonment was an adequate training for a criminal career; and the prisoner on his discharge, finding no one to give him a helping hand, was all too likely to turn to crime. But to-day prisons are no longer nurseries of crime; and the develop-

ment of practical philanthropy makes it possible for every offender, on leaving prison, to return to honest labour. More than this, a generation ago the mass of the lower classes were entirely illiterate, and their surroundings were so squalid and wretched that a lapse towards crime was easy. To-day this is true only of the lowest strata of the population. It is to reforms of this kind, which have improved the condition and raised the tone of the humbler classes of the community, that the decrease in crime is due, and not to greater leniency in punishment.

The objection, moreover, is not merely fallacious; it is irrelevant. For my purpose is not at all to advocate an unreasoning return to severity of punishment. All I wish to plead for is the introduction into our methods of dealing with criminals of a little present-day intelligence and common sense, now singularly lacking. Major Arthur Griffiths, one of our best authorities in such matters, has declared that our prison population may be classed in two grand divisions, those offenders who ought never to have been sent to prison at all, and those who ought never to be released. Deduct from this statement even more than the usual discount needed to reduce any epigram of the kind to the level of fact,

and there remains a truth which claims the most earnest consideration.

Why do we imprison our criminals? Those whose breath is not quite taken away by a question they will deem so extraordinary will promptly give the stock reply: first to punish, secondly to deter, thirdly to reform. This third point may here be dismissed with the remark that if the State is really responsible to reform its criminals its methods are singularly ill-adapted to the purpose. And the State is no more bound to *punish* criminals than to reform them. Every mitigation of the criminal law, as, for example, in the case of first offenders, is a revolt against the ignorance of the past in this respect. The sentence of a criminal court is not intended to anticipate the judgment of the Great Assize. Sir John Bridge once said to me—and there were few more enlightened criminal judges even on the bench of the High Court—“I have nothing to do with punishing crime; that rests with a higher Power. My business is to protect the community.” Punishment is merely a means to an end, namely the safeguarding the interests of the community; and therefore, if those interests can be best served by letting an offender go unpunished, as *ex. gr.* in the case of youthful offenders, no sentence is imposed.

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But, it will be said, it is necessary to punish criminals in order to deter the lawless and the weak from crime. True, and I seize upon the threefold admission this implies : first, that punishment is only a means to an end, namely the protection of society ; second, that it does in fact deter, and therefore the "morality by Act of Parliament" argument is given up ; and third, that if the punishment imposed be inadequate to deter, it fails of its main purpose. But here the theoretical and the practical views of the question are utterly at variance. The doctrinaire penologist rises from the study of the statistics jubilant at the wisdom and success of our present methods : those who have practical knowledge of criminals, while recognising to the full all that is admirable in these methods, are distressed and amazed at their folly.

Let us test them as applied to a new community, formed, let us suppose, by a "Pilgrim Fathers' exodus" or a "Boer trek." Confidence reigns in the new society. Every man leaves his door upon the latch, for no one dreams of disturbing his neighbour. But in course of time, when hundreds have increased to thousands, and the village has become a town, these good people are startled by the discovery that they have thieves in their midst. Their first care is to watch for

the offenders, and trap them. Their next thought is only to reclaim them, and no effort is spared to attain that end. But as years go by the fact becomes patent that there are certain black sheep in the flock, men who have deliberately chosen a life of crime. The community is being preyed upon by a gang of habitual criminals. The members of the gang are known of course; for habitual criminals are always known. But the question is, what is to be done with them?

Unsophisticated people might suggest that getting rid of the criminals would be the obvious solution of the difficulty. But the authorities are much too "enlightened" to adopt such a measure. Statistics are prepared which prove conclusively that the criminals are but a small proportion of the inhabitants, and that the property lost by their crimes bears but a small proportion to the wealth of the community. What could be more satisfactory? The next step is to organise a high-class Detective Police Force, whose duty it is to investigate every crime as it occurs, and to discover by which of the criminals on the list it has been committed. And each time a member of the gang is convicted, he is shut up for a limited term; and then, having of course been duly photographed and measured, he is turned out again to commit fresh crimes.

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Meanwhile no citizen's property is safe. Doors can no longer be left on the latch. Not even a window can be left unbarred. The whole community is thus kept in a stage of siege.

Let no one turn away impatiently as though such folly would be impossible outside Earlswood or Bedlam. My parable describes the system on which our criminals are dealt with here in England to-day.

CHAPTER II

To illustrate our present method of dealing with criminals, I will cite a case, taken at random from the newspapers.

“At the Clerkenwell Sessions yesterday some interesting references were made to the history of a desperate burglar, a man named Henry Marchant, aged forty-eight. The prisoner, under several *aliases*, has had a remarkably criminal career. In 1869 he had four months' imprisonment for theft; in 1872, two months'; in 1874, twelve months' for housebreaking; and in 1879, seven years' penal servitude for larceny. Soon after his release on ticket-of-leave he was captured in the act of breaking into a house in Canning Town, when he tried to use a revolver on his captor. Liberated on heavy bail, he absconded, and when re-arrested at Manchester he was in possession of a revolver, a complete burglar's outfit, numberless skeleton keys, and articles of jewellery, the proceeds of robberies in Manchester and Liverpool. He was tried at the Old Bailey, and sentenced to ten years' penal servitude. By

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good conduct in gaol he again obtained a remission of sentence, and in 1896 he was caught housebreaking at Bow, for which offence he was ordered twelve months' hard labour and sent back to complete his former sentence. When released again Scotland Yard circulated him as a determined and dangerous burglar, and observation was kept on his movements. He obtained employment and worked regularly for the greater part of the week, but carried out marauding expeditions on Saturday and Sunday evenings. On the evening of the 11th of February the police watched his house. His daughter was the first to arrive, and under her cloak some stolen property was found, but she only carried the goods by her father's directions. Marchant came along shortly after, when the officers closed on him and took him to the station. In his pocket he had a powerful jemmy and some skeleton keys, and in his room were found jewellery and other property stolen from the houses he was charged with having broken into."

One of the most eminent criminal Judges of our time has described the principle on which he dealt with a case of this kind. He first fixed upon a sentence adequate to the particular crime proved against the prisoner, and then he took account of any previous convictions, and made a

proportionate addition to the sentence. And the following quotation from *A History of the Criminal Law of England* will suffice to indicate that the principle above described is generally followed and acted on. In defending Judges from the charge of capriciousness in fixing sentences, Sir James Fitzjames Stephen says, "A person in the habit of being present at trials would, unless I am mistaken, soon discover that he could foretell pretty accurately the sentence which would be passed in any case which he had watched." Let us then apply the principle to Marchant's case. As the crime of which he was actually convicted was not a heinous one, twelve months' imprisonment would nowadays be considered an exemplary sentence. And if this term were increased fivefold on account of the previous convictions proved against the prisoner, every fair man would admit that the Judge exercised an admirable discretion under the system of punishments now in vogue. And in fact the sentence imposed upon him was five years' penal servitude; the Judge remarking that he was "a most dangerous man from whom the public must be protected."

My words here must not be taken as a veiled reflection upon the Judges. I recognise that the sentences they impose are in accordance with pre-

cedent, and with the system which now prevails. But in the case of a new community the folly of that system would appear almost inconceivable; and in a society like our own, its folly, though perhaps not so apparent, is still more gross. And Sir James Stephen's approval of it must not be inferred from his words above quoted. Those words have reference merely to the popular outcry about inequality of sentences. So far from approving of our present methods, that eminent jurist and judge advocated a return to the death penalty, not only for men who commit crimes of brutal violence, but also for offenders of another kind. Here are his words:—

“I would punish with death offences against property, only upon great deliberation, and when it was made to appear, by a formal public inquiry held after a conviction for an isolated offence, that the criminal really was an habitual, hardened, practically irreclaimable offender. . . . I suspect that a small number of executions . . . would do more to check crime than twenty times as many sentences of penal servitude.”¹

My purpose in quoting this passage is merely to appeal to a witness of the highest authority in support of my indictment against our present methods of dealing with criminals of the class I

¹ Vol. i. p. 479.

have indicated. As a citizen I appeal to my fellow-citizens to bring their intelligence and common sense to bear upon the subject. Here is a man who has outlawed himself by deliberately and systematically following a criminal career. Sentences of imprisonment, varying in duration from two months to ten years, have had no effect whatever upon him. And now, when once again brought to justice, he is to be shut up for a few years more, and then again released to resume once more the practice of his profession. And this is not the decision of the inmates of a lunatic asylum; it represents the mature wisdom of the wisest race in the world!

The grounds of this decision are about as reasonable as the decision itself. They are, first, the statistics which prove that crime is decreasing, and secondly, regard for the criminal's sacred right to liberty. When this Empire of ours does go down, statistics and liberty will figure in its epitaph among the causes of its fall. I have already proved that while crime in general is decreasing, professional crime is seriously on the increase. And this increase is due mainly to the fact that, owing to the decrease in ordinary crime, sentences are now so lenient that they have ceased to be a terror to the professional. Could an intelligent public but see behind the

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scenes, the prevailing sentiment against severe sentences would give place to a crusade against short sentences. If an Act were passed fixing twelve months' imprisonment as a minimum sentence, and consigning the worst sort of professional criminals to the gallows, it would, I believe, though ill advised, be better, and (I have no hesitation in adding) more humane, than our present methods. Very many offenders who are now committed to gaol would be dealt with in some other way; very many crimes into which criminals are betrayed by the present system would be avoided; and that most powerful incentive to crime, the teaching and example of the successful professionals, would be checked. And before the end of a single decade our prison population would be sensibly reduced. Lest any should dismiss this as a mere rhetorical flourish, I will quote one more extract from Sir James Fitzjames Stephen:—

“If [he says] society could make up its mind to the destruction of really bad offenders, they might, in a very few years, be made as rare as wolves; and that probably at the expense of a smaller sacrifice of life than is caused by many a shipwreck or colliery explosion.”

“Really bad offenders might in a few years be made as rare as wolves.” These are the calm,

deliberate words of one whose competency to speak on the subject no one will dispute. "But," the writer immediately adds, "for this purpose a change of public sentiment would be necessary, of which there are at present no signs." In a word, the proposed reform is impracticable. And as regards crimes against property, which alone I am dealing with here, I believe the desired results may be obtained without any such heroic measures as those above indicated. I do not desire to advocate any drastic changes which would distress the public conscience. On the contrary, I wish merely to give expression to the views of ordinary men; that is to say, of the bulk of the community. For in all matters of this kind we are coerced by minorities—aggressively active and tyrannical minorities. Just as, in the past, the political teetotallers have hindered reasonable reforms upon the drink question, so is it with the humanity-mongers in the sphere of penology. They are comparatively few in number, but their success as agitators is abnormal. Let any one propose, for example, that a "hooligan" shall receive the sort of punishment which at a public school would be meted out to the son of a duke for gross misconduct, and they will raise such an outcry as will stifle legislation to that end. Another minority, equally small in numbers,

will always protest against any amelioration of the prisoner's lot. And thus the pendulum is kept swinging, while an easy-going public remains perplexed and passive. To that public my appeal is addressed.

Sir James Stephen's scheme is based on the criminal's dread of the gallows; mine upon his love of liberty. My first point, then, is that in setting themselves to punish crime our criminal courts are pursuing a wrong system, a system unworthy of the age, a system begotten of mediæval superstition and ignorance. In former times the doctor set himself to cure disease. The result to the patient mattered little. Even if he died in the process, medical science scored a success; for, as the Irishman expressed it, "he died cured." In our day it is not the disease the physician considers so much as the patient. He carefully studies his constitution and medical history, and regulates his treatment accordingly. It is highly discreditable to the age that a like change of method has not yet been introduced in penology. By all means let a prisoner be tried only upon a definite charge, and without reference to his antecedents. But once he is convicted, let us have done with this stupid and ignorant system of measuring his sentence by his latest offence. If a man traps a fox in his "fowl-run" he does

not let it go again because, when caught, it had only killed a chicken or two. So here, the question should be, not what the prisoner did on the date specified in the indictment, but *what he is*.

Let there be a full and open inquiry as to his character and antecedents. The first question should be, Is he a citizen or an outlaw? If he be a citizen who has been betrayed into the commission of a crime by the pressure of circumstances, or some sudden temptation, then let "mercy rejoice against judgment," and let no effort be spared to bring about his restoration and reform. Under our present system men are sometimes sent to penal servitude, as habitual criminals, who might fitly be handed over to the care of some experienced philanthropist. If the convicted prisoner be a poor wretch who, begotten and born and bred in crime, has not the moral stamina to resist when opportunity for theft presents itself, then, instead of the brutality which now obtains of treating such an offender as a deliberate professional criminal of the other type, let him be sent to an asylum prison, where his life can be spent in useful labour, with every reasonable alleviation of his lot. But if it can be established that the offender is a criminal in the sense in which some men are artists or archi-

pects—in other words, that he is a criminal by profession, and habitually uses his liberty to prey upon the community—let him be deprived of the liberty he thus abuses.

True it is that our best Judges do at present, before sentencing a prisoner, investigate his antecedents. But under the system they administer the inquiry is necessarily perfunctory and inadequate, and often unfair to the accused; and, moreover, the result is used merely to guide them in apportioning the sentence to the crime charged in the indictment. Instead of springing a verbal statement upon a prisoner, at a time when he has but a poor chance of being able to refute it, his *dossier* in proper form should be officially supplied to the court, and a copy of it served upon himself. That *dossier* should then be made the basis, to quote Sir James Stephen's words, of "a formal public inquiry"; and by the result the fate of the prisoner should be decided.

This would involve radical changes in prison administration. For even where the law authorises penal servitude for life, the Judges will not impose, and public opinion will not tolerate, such sentences for ordinary crimes against property. But my proposal assumes that we shall cease to regard the *punishment* of the offender as a matter of primary importance. Let him suffer his term

of punishment as at present enforced, but let him afterwards pass under a discipline of a different character, and be allowed, conditionally of course upon good conduct and industry, every relaxation which may be found consistent with order in the prison and the safe custody of the prisoner.

It is a matter of opinion, no doubt, whether the fear of such a fate would avail to deter such men from crime. But it is a matter of fact and not of opinion, that if the foxes are trapped the hen-roosts will be safe. Under such a system the mass of the comparatively small band of known criminals who are responsible for almost all the more serious crimes against property would in a few years be either turned from their evil ways or safely caged in gaol.

And one more proposal alone is necessary to make such crimes as rare in our great centres of population as they are happily rare in rural districts. If we could abolish the market for stolen property, we should go far to put an end to stealing, and any change which makes the disposal of stolen property more difficult operates to check the commission of crime. To attain this happy result little is needed save to insist upon restitution in every case. And this can be achieved by means which, in principle at least, nine-tenths of the community would unreservedly approve. Let

the prisoner be required to disclose what he has done with his booty. And if he refuses, or fails to satisfy the court that it is out of his power to do so, let there be but one sentence—imprisonment for life.

Some people might think that a suitable punishment for an impenitent thief would be to crucify him. But torture can never be used without injury to the society which has recourse to it. Were it otherwise, no one who can gauge the bitter distress and misery which, day by day, these miscreants cause by their crimes, would hesitate to compel restitution, even by means of thumb-screws or the rack. The parable of the widow's mite may receive a new reading here. When the rich lose of their abundance, there is plenty of noise about it, albeit their cheque-books are at hand to make good their loss. But every day that passes humble folk are ruthlessly, heartlessly, robbed of all their little treasures, and no one seems to care. In a primitive state of society the thief would risk being hanged on the nearest tree. But civilisation teaches us to trust the State to do the hanging. And such is the manner in which the State discharges the duty that it is often easier to get the thief into the dock than to get his victim into the witness-box. The person who receives least consideration in

a criminal court is the unfortunate citizen who is aggrieved by the prisoner's crime.

I have said nothing here about the *élite* of the criminal profession. Such men live well. They can name their favourite wine, and they know a good cigar. A trip to Brighton is an ordinary incident in their easy lives; and a winter visit to Monte Carlo is nothing out of the way. They are responsible for the elaborate frauds, the great forgeries, and jewel larcenies, and bank robberies which now and then startle the public. All I have urged applies to them, of course, with special emphasis. But I have purposely based my argument upon ordinary types, and cases such as are of daily occurrence.

Nor have I embarrassed my arguments by discussing the vexed question of the inequality of sentences. In recent years there have been men in judicial positions who have openly repudiated the Prevention of Crimes Act, and the code of which it is a part; thus vying with the criminals they have sentenced in their contempt for the laws of their country. And from time to time public indignation is aroused by seeming lenity in the penalties imposed upon bad offenders. But these are mere eccentricities and blots upon our system of punishing crime; and my object has been to attack the system itself. I impugn

it as being false in principle and mischievous in practice.

The distinguished jurist I have quoted lays stress upon the importance of fostering public indignation against heinous crimes; but all such wholesome sentiment is now discouraged by the action of our criminal courts. The law is daily brought into contempt with those to whom it ought to be a terror; and the community is taught to look on the criminal as an object, not of reprobation, but only of pity. In the case of some offenders who, under our present methods, are consigned to prison, the pity is well bestowed; but in the case of not a few, an agitation to lynch the convict would betoken a healthier state of public opinion.

I am not alluding to crimes in which the thief resorts to acts of violence. Of course my remark applies to such. But here I am dealing only with offences against property. And I venture the opinion that when it can be proved that men, acting under no pressure of want, or excitement of passion, calmly, deliberately, and with great premeditation, plan and perpetrate crimes of this character, the gallows should be deprived of its legitimate prey only because more merciful methods would be adequate to deal with them. That such criminals should escape with penalties

which affect them so little that they fail even to produce a statutory repentance, tends both to deprave the public conscience and to encourage incipient offenders to enter upon a criminal career.

Until a very recent period every outbreak of epidemic disease led to panic and prayer-meetings : epidemic crime still leads to panic, but abuse of the police takes the place of the prayer-meetings. The abuse is less intelligent even than the panic. When an outbreak of fever occurs, we do not abuse the doctors. We know, what our fathers did not know, that it is due to causes which are definite and preventable ; and we take the means which science and common sense suggest to check the spread of the disease, and to prevent a recurrence of it. But in this matter of crime neither science nor common sense is allowed a hearing. When, after repeated warnings, a man has proved himself to be a moral leper, an outlaw, a criminal in character and habitual practice, to set him at liberty is quite as stupid and as wicked as it would be to allow a smallpox patient to go at large in the community.

Crime of a certain type, I again repeat, is an ineradicable evil. And even that blot upon our complex civilisation, though it cannot be effaced, might be considerably lessened. Nothing is more certain than that men can be made *immoral*

by Act of Parliament; and bad laws, such for example, as the Drink code, are responsible for a large share of the crime of the country. And yet no one who has opportunities of studying day by day the criminal returns from the metropolis can fail to feel wonder and admiration at the proof they give of the peaceableness and honesty of the mass of the population. But we shall never be rid of the lawless and vicious; and even among the honest and the peaceable, the pressure of poverty and the taint of insanity will always account for a certain amount of crime. The fact remains, however, that systematic, organised crime against property is entirely the creature of our present penal system. A single prison would suffice to hold the entire gang of well-known professional criminals who now keep the community in a state of siege; and a single wing of any one of our gaols would more than suffice to provide for the band of outlaws who may be described as the aristocracy of crime in England. But while we are ready to sacrifice any number of valuable lives on the battlefield, to attain results that are often doubtful and sometimes worthless, "the inalienable right" of these human beasts of prey, not only to life but to liberty, is maintained with all the blind fervour of a religious superstition.

If some small share of the labour and cost successfully expended upon keeping cholera and the plague from our shores, or even in stamping out disease among cattle, or rabies among dogs, were diverted in this direction, organised crime might be abolished in a single decade. The task would be a far easier one than that which sanitary science has accomplished. For while the germs of disease are subtle and secret, the criminals are known and easily detected. And there can be no crimes without criminals; no really bad offences without really bad offenders; and "really bad offenders might in a very few years be made as rare as wolves."

CHAPTER III

THE preceding chapters are the substance of an article which appeared in the *Nineteenth Century* of February 1901. And my reason for thus reproducing that article is that it supplies the framework for the most important pronouncement of recent years on the subject of the present volume. I allude to Mr. Justice Wills' letter to the *Times* of 21st February 1901. The significance of that letter cannot of course be appreciated apart from the statements upon which it is based; and therefore I have quoted this review article almost *in extenso*,¹ though at some cost to the order and method of my book.

Here is the text of Sir Alfred Wills' letter:—

“HABITUAL CRIME AND ITS TREATMENT

To the Editor of the 'Times.'

“SIR,—I have read with the greatest interest Dr. Anderson's article in the *Nineteenth Century and After* and the leading article in the *Times*, both relating to the important subject of habitual

¹ It will of course be noticed that on pp. 5 and 6 I have brought the statistics down to the year 1895.

crime and its proper treatment. I am not at all sorry that the two writers represent widely differing views. There are few questions of any serious moment as to which much good is got by listening to one side only, and what is of the greatest consequence at the present moment is that public attention should be effectively drawn to the questions dealt with by Dr. Anderson and his critic, and the views of those by whom the difficult problem how to deal with habitual and professional crime has been long and seriously considered should be elicited and brought to a focus.

“Before touching upon the subject myself I should like to make it very clear what I understand by professional or habitual crime. There are very many persons who come before the criminal courts who have a formidable list of offences to their debit, who are yet in no sense professional or habitual criminals, and whom it is a cruel mistake to treat as such. [There are many people of low *moral*, very poor, not very intelligent or well equipped either physically or mentally, who, under pressure of poverty, loss of employment, severe weather, sickness at home, or other unfavourable circumstances, cannot or do not resist the temptation to pilfer, and get convicted even many times, who yet do not

belong to the criminal class of which I am speaking. They prefer to work when they can get work; they are habitually fairly honest, and only steal or obtain food or clothing or small sums of money by false pretences when better things fail. They do more harm generally to themselves than to other people; they constitute no serious danger to society, and very often, indeed, deserve as much pity as punishment. There are others who come nearer to the professional criminal. They have been punished even severely and perhaps more than once, have made serious and honest attempts to live by fair means, but have fallen into bad company and been tempted back to crime, but yet do not live by it. Such persons, again, are often greatly to be pitied as well as blamed, and are not hopeless, and should not be treated as hopeless. But there are others who follow crime as the business of their lives, who take it as a profession, who calculate and accept its risks, who have entirely ceased to work, if they ever did work, and never mean to do so. Such men are really hopeless. No punishment will alter them, and the moment they are released they begin to practise crime again. They are teachers of crime both by precept and example, and their exploits often throw a kind of halo of romance over crime,

which does infinite mischief. The worst burglars, many of the blackmailers, most of the coiners and passers of bad coin belong to this class.

“What is to be done with them? For my own part I emphatically agree with Dr. Anderson when he says that the primary object of punishment is the protection of society, and that the reformation of the offender, though most important if it can be effected, is still only secondary to the primary object.

*‘Jura inventa metu injusti fœtare necesse est,
Tempora si fastosque valis evolvere mundi’*

is the maxim of that wise old philosopher, Horace, and it seems to me to indicate the true justification for penal legislation. This, however, is mere theory, and however much thoughtful men may differ as to the foundation of the right to punish, practically most are agreed that the reformation of the offender, a due warning to others, the avoidance of everything that shall shock the public conscience and tend to set the sympathies of unprejudiced people against the law or its administration, are objects to be borne in mind and duly considered whether in legislation or in the apportionment of sentences.

“In my opinion, however—and here again I find myself in complete agreement with Dr. Anderson—in dealing with the really professional

criminal, the protection of society requires stern measures; and such measures are really merciful if they can be made effectual towards the stamping out of habitual crime. Sometimes even severity may be of use, despite the objection many well-meaning people have to it. No crimes have been punished with more uniform severity than coining and blackmailing. There has been a great diminution in both. There can be no doubt that in respect to habitual crime heredity plays a large part, and it would be of great consequence could we prevent such criminals from becoming the parents of children who both from heredity and from parental influence and teaching, should they be exposed to it, are certain to become criminals in their generation. The real difficulty in the way of dealing effectually with such persons is twofold. The public in general, I am sure, do not fully appreciate what a source and centre of mischief the habitual criminal is. The means of ascertaining whether a man belongs to that class or not are imperfect and not always trustworthy, and it rests with the Judge whether an offender is to be treated as belonging to it or not. What appears to be a severe sentence, when nothing is considered but the individual case or cases for which a man is indicted, is apt to raise on behalf of the offender a false and un-

wholesome sympathy which would never be extended to him (except in so far as every instance of wickedness deserves in a general sense pity as well as condemnation) if the true character of his life were known.

“A second difficulty, and a very great one, is the continuous and (with modifications scarcely worth noting) the unrelaxing severity of penal servitude—the only punishment the law allows for any period beyond two years. Dr. Anderson pleads for something more sensible and less rigorous, but which should be capable of great prolongation. I am entirely with him. Over and over again I have been compelled to make a sentence far shorter than in my opinion the safety of society has demanded, and with a full conviction that the moment the prisoner should be released he would be at his old evil work again, because the long-continued application of such great severity is in itself almost too much punishment for any crime, and would be certain to cause something of a revolt against it, which is a great evil in itself. Surely here are matters deserving of serious and searching inquiry; and surely, if all the knowledge which must be accumulated and all the thought which must be bestowed upon the subject before anything is done is brought to bear upon it, there is reasonable hope

of arriving at some useful result. I can imagine nothing more unfortunate than hasty legislation on such a matter. It might throw back the cause of reform for generations and do infinite mischief. What would appear at first sight a reasonable treatment of the professional criminal would be a fair amount of real punishment, such as is afforded by penal servitude, for a period greater or less, according to circumstances, followed by detention, whether for life or only for a very long period, under conditions which, without being attractive, might yet involve very considerable relaxations of the discipline of penal servitude.

“A subject well worth consideration in connection with any such inquiry as I am advocating would be whether the fact that an accused person did belong to the class of habitual criminals should be ascertained by the verdict of a jury and upon what sort of evidence. To myself certainly such a means of determining the question would be far more satisfactory than the present method. There are places in which I from time to time administer justice where I know from experience that the information given by the police is absolutely reliable, and where, if anything can be said in favour of a prisoner—such as that he works when he can get work, or that

since his last imprisonment he has worked for such a time, but has fallen into bad company again, and the like—it is certain to be found in the report laid before the Judge, but there are others where I have not the same confidence. Such information, too, is generally confined to the large centres of population. It is rarely, if ever, obtainable from the county police, and even when it is obtainable it does not seem to me that, in respect of such a serious matter as shutting a man up for life or for twenty years, the mere report of the police authorities would be the right way of getting at the material facts.

“We have the means of effectual inquiry to our hands. For example, Dr. Anderson’s experience is very great indeed. He is undoubtedly fearless, and *pace* his critic in your columns, in my opinion, a merciful and fair-minded man. I doubt if any one would more cordially echo the warning I have ventured to give against confounding with the habitual criminal the man who is a good deal like him at first sight, but is not he, than Dr. Anderson himself. I should like very much to know Mr. Ruggles-Brise’s opinion on the matter I have been dealing with. I have had no communication with him on the matter, and it is quite possible he might take another view. But he is sure to have an opinion upon it, and,

whatever it is, it is certain to be well considered and extremely well worth having. He cannot speak, however, without some form of official inquiry. We have amongst our governors of gaols some men—many, I dare say, but I myself know some—whose opinions also would be entitled to great weight. I have been much indebted to many of them for information as to the habits and ways of thought of the criminal classes, which has been of great use to me in my work. Many of them have an enlightened sympathy with the prisoners, which would make their views more useful. ‘I have a positive respect for some of the men I see here, and I never despair of a man who will work,’ wrote to me some years ago a friend who was attached to one of our very important penal establishments. The chief constables of some of the great cities and counties must surely be able to contribute important information. There will be those who, like your contributor, have great faith in statistics and think we are doing well enough as we are. By all means let them be heard. What I want to plead for is not the acceptance of Dr. Anderson’s views, or my own, or any one else’s, but prompt and effective inquiry, and, if the outcome of such inquiry should be that substantial improvements can be effected in our methods of ascertaining

who are habitual criminals and of dealing with them when they are ascertained to be such, then, and then only, for legislation.

“I have the honour to be, Sir, your faithful servant,

“ALFRED WILLS.”

“ROYAL COURTS OF JUSTICE,
Feb. 15.”

It was this letter which brought the reforms here advocated within the sphere of practical politics. My 1901 article was but a repetition of what I had published ten years before; but though in 1891 my scheme was taken up very cordially by the press, and especially by the *Times*, nothing came of it; and it was soon forgotten. But in 1901 Sir Alfred Wills followed up his letter to the *Times* in a practical way.

Referring to the punishment of old offenders, Mr. Justice Phillimore used the following words in his charge to the Grand Jury at the Maidstone Summer Assizes, 1902:—

“The calendar was remarkable for the number of charges of burglary and robbery with violence which it contained. It would perhaps be found, when the cases came to be examined, that the persons charged with burglary were old offenders. How such persons should be punished was a question which had recently attracted consider-

able attention. Sir Robert Anderson had written several interesting articles on the subject since his retirement, and the matter had been brought before the judges of the King's Bench Division by one of the oldest, the most experienced, and the most humane of their number. The result had been that communications had passed between the Home Office and the judges with the view of ascertaining whether it would not be possible to devise some new form of detention more or less permanent, but slighter in its incidence, than penal servitude, by which old offenders might be restrained from preying upon the public. It was constantly necessary for judges to pass sentence upon prisoners as to whom it was certain that when their term of imprisonment was over they would renew their old dishonest life. Such unhappy people were the despair of the judges, the police, and all reforming agencies. It would be well if, in the interests of the public, some scheme such as that which he had indicated could be elaborated without undue cruelty."

The matter was taken up also by the Commissioners of Prisons, as appears from the following extracts from their 1902 report to the Secretary of State:—

"There yet remain classes of prisoners for the treatment of whom no special machinery has yet

been devised, but whose case must in the near future engage the attention of Parliament, as it has been exciting much public opinion throughout the past year. We refer to the case of the 'professional' and the youthful criminal—the criminal at the end and at the beginning of his career. . . .

“With regard to 'professional' crime, we have submitted a scheme for the consideration of the Secretary of State, providing for the detention under special conditions of persons guilty of grave and habitual crime. . . .

“We use the word 'professional' in a technical sense, as men whose penal records show that they have lived systematically by thieving and robbery. . . .

“We believe that the time has now come when a special form of detention should be devised under which prisoners, shown by their records to belong to this 'professional' class, might be segregated by order of the Court for long periods of time, say, for the legal maximum for their last particular offence, subject only to conditional liberation by the Secretary of State, when he is satisfied, on the report of the prison authority, that there is reasonable ground to believe that the prisoner can be released without danger to society. . . .”

The pressure thus brought to bear upon the Home Office resulted in the Penal Servitude Bill of 1903. Since then, however, the nation has taken to politics—a lapse akin to that of the individual who takes to drink—and so the question is now shelved once more. Such prison reforms, indeed, as can be effected without legislation are being pressed forward by Sir Evelyn Ruggles-Brise and his colleagues in the Prison Department. But legislation is essential to bring about the radical changes necessary in our system of dealing with crime and criminals.

The main hindrances to such legislation are threefold: the *vis inertiae* of officialism, the apathy of the public, and the baneful activity of the “humanity-mongers.” It was with kindly intentions that I coined this unlovely phrase; for I wished to avoid giving offence to the “Humanitarian League.” But my considerate reserve was thrown away upon the officials of that body. For the moment my first article appeared in the *Nineteenth Century* they proclaimed upon the house-tops that they were the “humanity-mongers.” They themselves have decided that the cap fits them. Their society did some useful work for a time; but, as the American humorist said of his pet tiger after it had eaten his mother-in-law, “it has outlived its usefulness.”

These men are the friends of all who are criminals by choice and calling, but the worst enemies of that large class of persons who, being betrayed into the commission of offences, become the victims of our present system of "punishing crime." But these agitators have influence. In a small community the faddist is ignored; or if he degenerates into a nuisance he is suppressed. But when hundreds become thousands and the faddists are numbered by tens they become a coterie. In a population of millions they become numerous enough to form organisations with Press organs and representatives in Parliament. And just as in the sphere of company-promoting, honest men blindly lend their names to rogues, so in this sphere men of eminence and wisdom thoughtlessly allow their names to be paraded by the faddists. But while the vast majority of men are content to give an undemonstrative assent to what they approve, the agitators are active and noisy. When, for example, some miscreant receives his deserts, ninety-nine people out of every hundred are pleased, though they do not express their feelings by holding mass meetings or signing petitions to the Home Office. But a petty minority of dissentients will do all this and more; and it is nobody's business to expose them as mischievous "cranks." Mischievous, I say, because their in-

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fluence is positively harmful to the cause they profess to champion. For their practice of raising an hysterical protest whenever a scoundrel is treated with something like adequate severity, reacts to the prejudice of the occasional victims of cruel sentences. And I must add that never a year passes in which the much-maligned police do not give more help to weak and deserving criminals than this sort of society has rendered during all its history.

CHAPTER IV

IN the opening sentences of the preceding chapter I have explained how and why it is that this book has been cast in a popular form. And pursuing the same method, or want of method, I would again and again emphasise that its aim and purpose are not to urge that crime should be punished with increased severity, but that, abandoning the "punishment of crime" system altogether, we should treat our criminals on intelligible and common-sense principles.

I am no visionary. I cherish no wild dreams of making England a Utopia in which crime will be unknown. But my practical knowledge of the crime problem has led me to the conclusion that, so far as crimes against property are concerned, most of the crimes recorded in our criminal statistics are preventable, and indeed that they are the direct and natural result of the system I condemn. For example, "the short-sentence craze," which is one phase of the system, operates in two ways to promote crime. It leads to undue levity in committing chance offenders to gaol,

and it fails to protect the community against the depredations of the habitual. The law ought to be "a terror to evil-doers"; but we teach them to hold the law in contempt. The *Vicar of Wakefield* says truly and well, "The work of eradicating crime is not by making punishments familiar but formidable."

But some will tell us that we should trust for the diminution of crime to the effects of better education, improved sanitation, and other general influences of a similar kind. In his *Shifting Scenes*, Sir Edward Malet records a lesson once taught him by a housemaid in an Italian hotel. On his return to the house after a walk, the woman followed him to his room and reproached him for leaving his money lying on the table. I will let him tell the story:

"She sank upon a chair and burst into tears. 'Think of me, Signore, I am very poor, I have six children to keep, and a husband who can do no work. This money would make me rich, and you leave it on the table—the golden pieces—all loose, to dazzle my eyes, and to put the devil into my heart. Through your thoughtlessness I might go to gaol, my children starve, and my husband die. Ah, Signore mio, never do it again. Think of the poor; be merciful to us. Do not put temptation in our way.'"

A philosopher would of course be above listening to such an appeal. He would tell us to rely on education and other kindred influences to raise the moral tone of housemaids, and thus place them above the temptation level. The wisdom and efficacy of such views and methods will, I have no doubt, be triumphantly established in the millennium. But in the meanwhile practical men will take a practical view of the matter, and applaud the decision arrived at by the distinguished ambassador I have quoted. For he goes on to say that he profited by the lesson and never forgot it.

I must say I am amazed at the blindness and inconsistency of those who maintain that influences of a general kind, such, *ex. gr.*, as education, will certainly make their mark upon the criminal statistics, while they refuse to admit that other influences which operate more immediately in the same direction will produce similar results more rapidly and in a greater degree. Those who refuse to sanction reforms aimed directly at the diminishing of crime, or the mitigation of the evils of drunkenness, ought to persist in exposing their valuables to the weakness and cupidity of servants. But fortunately men's selfish interests sometimes supply a useful check upon the mischievous effects of false theories.

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To return to Sir Edward Malet's story, let us change the venue from Milan to London, and suppose that the servant has yielded to the temptation thrown in her way, and stands convicted of the theft. The question arises, What shall be done with her? "Crime must be punished" is the answer some will give. I am reminded of the French Judge's reply to a prisoner who excused his crime on the plea that "a man must live." "Pardon me," was the cynical rejoinder, "but I don't see the necessity." I give the same answer here. A court that sentences a criminal on the ground of an obligation to punish is guilty of the sin of Korah: the act is the usurpation of a Divine function. But it will be said, the necessity is of a practical kind; for the criminal must be punished in order to deter others from crime. If so, we should bring back the gallows, for an execution is a public event, and every one comes to know the details of the crime which leads to it. But the housemaid's case would be known to no one—not even to the servants next door; for she of course would be anxious to conceal her fall, and it would be nobody's business to publish it.

When a crime is committed, society has an absolute right to punish the criminal with whatever measure of severity its interests may require;

but there exists no abstract obligation to exercise that right. In the case under consideration the circumstances make it clear that no public good would result from imprisoning the woman. And so she is discharged from the dock, and in due course another situation is found for her. This is in accordance with recent legislation and present practice.

Now let me add a second chapter to the story. The woman is tempted again, and once again she yields. Owing to the "previous conviction" she is sent for trial; and now, being convicted on indictment, she becomes an "habitual criminal." Were the venue in France the Court would take cognisance of the whole story of her life. But the only *dossier* of which English law takes notice contains nothing but the record of a prisoner's crimes. If the accused have means and be well defended, everything that can be urged in mitigation of punishment will of course be brought before the Court. But what chance has the friendless housemaid, crushed and silent as she thinks of the husband and children whose needs tempted her to commit the crime which must now bring ruin upon them as well as upon herself? If all the facts and circumstances were known, a "strong" Judge might give her another chance, "habitual criminal" though she be. But neither

the law nor the procedure of our criminal courts makes any provision for such an inquiry.

But this is a hypothetical case. Let me cite a real one. And none will suit my purpose better than a crime of which, some years ago, I myself was the victim. The thieves were three in number. The first was my cook. She had lived in my service for years and was thoroughly trusted. No. 2 was also well known to me. I had got for him a berth in one of the Government departments, and for years he had borne an excellent character. But under the influence of No. 3 he had fallen into bad ways. For No. 3 was an old thief of the most dangerous type. He had already suffered two long terms of imprisonment for felony; and, though earning his living as an auctioneer's porter, he used his business as a cloak for thieving. At his instigation No. 2 had already become involved in a small larceny, for which he was summarily convicted; and he now induced the man to join him in robbing me. Together they plied my servant with drink and then drew her into the plot. All three were brought to trial and convicted, and the question is, What ought to have been done with them?

First, as to the woman. If crime must be punished, and punishment is to be apportioned according to the moral guilt of offenders, no

sentence could well be too severe in her case. But the very elements which made her crime so specially heinous are regarded nowadays as affording ground for leniency. And yet her conduct upon arrest was bad; for, with the idea of screening her guilty lover, the No. 2 in the plot, she refused all information both to myself and to the police. But notwithstanding this it seemed to me that, in all the circumstances, the interests of society did not require her imprisonment. And I was able to lead the Court to take this kindly view of her case and to hand her over to the care of a "Home."

I put in a similar plea for No. 2, but without success. The man was honestly penitent, and had done everything in his power to make reparation for his crime. He was weak rather than wicked; and if the scoundrel who had traded upon his weakness to draw him into crime were out of the way, he might redeem his character and return to an honest life. For No. 3, of course, I asked for an exemplary sentence. There was nothing to be said in his favour. He was not only a thief by deliberate purpose, but a trainer of thieves, a corrupter of the innocent. But in the eye of the law both men stood on the same level as "habitual criminals." So the one was sentenced to the maximum term of im-

prisonment with hard labour, and the other to the minimum term of penal servitude then allowed by statute. I do not dispute the propriety of these sentences as judged by our present system. But I believe there is not a Judge upon the Bench who, if all the facts and circumstances known to me and to the police were placed fully before him, would not agree with me in thinking that both sentences were indefensible and wrong; that society profited nothing by the prolonged imprisonment of the one man, and that it was not adequately protected by the sentence imposed upon the other. Cases sometimes occur in which a Judge puts back a prisoner and holds a patient and searching inquiry into the story of his life and the circumstances of his crime. But such cases are rare. The usual practice is for the Court to call upon the subordinate police officer in charge of the case to state what he knows of the antecedents of the prisoner, and upon that statement the sentence is awarded. The proceeding is seldom satisfactory; and if the result be unfavourable to the accused it is scarcely in keeping with English notions of justice and fair-play, for no adequate opportunity is afforded him of answering what is urged to his prejudice.

But here I am traversing ground already covered in a previous chapter. I will only

repeat my demand that a conviction for a crime shall be followed—to quote Sir James Stephen's words once again—by a “formal public inquiry” into the career and circumstances of the criminal; and that instead of apportioning punishment to the specific offence charged, the offender's fate shall be decided by the result of that inquiry.

This would be entirely in the spirit of modern legislation, and it would be the death-knell of “our absurd system of punishing crime,” a system which, in spite of modern legislation and more enlightened procedure, still continues as a survival of the days when the convicted felon went to the gallows. The sentence has been changed, but the principle on which the sentence is awarded remains practically the same.

If the interests of society clearly demand the imprisonment of the offender, the question remains, With what definite object is the imprisonment to be imposed? A person committed to gaol for safe custody pending his trial is treated differently from a prisoner under sentence: is it unreasonable to suggest that an offender committed with a view to his moral education shall be subjected to a discipline specially designed and fitted to reform him? But this is one of several incidental problems which

I cannot discuss here. I come to the crux of the matter—the treatment of the professional criminal.

Criminals differ from one another as much as do the members of any other class of the community; but for my present purpose I will deal with two types which I may loosely describe as the utterly weak and the utterly wicked. At present, under our cast-iron system of “punishing crime,” no distinction is made between them. But is this right? The weak may be quite as mischievous as the wicked, but have they not a claim for special consideration and pity? The progeny perhaps of the sort of criminals that are the pets of the sham philanthropists, they are the product of a system for which the community is largely responsible. Born and bred in a criminal environment, they have no power to resist temptation. They take to crime as a drunkard takes to drink, though in their better moments they deplore their weakness. Not infrequently persons of this class commit offences with the avowed object of getting back to prison in order to escape the demon which enslaves them. But at present we have to make choice between the farce of shutting them up for a while and then turning them out again to prey upon the community, and the barbarity of

consigning them to penal servitude for a prolonged term.

I plead, therefore, for the establishment of what I call asylum prisons, in which those who give proof that they cannot be trusted with liberty shall find a suitable home. Discipline should, of course, be enforced, and industry too, for a prison ought to be self-supporting; but any reasonable indulgence consistent with industry and discipline should be permitted. That this scheme is feasible experienced prison governors will testify. One serious practical difficulty besets it, but it is of such a nature that a discussion of it would be unsuitable here. Suffice it to say that I am not the only person who has considered it and who is ready for its discussion.

But in dealing with this great problem of crime we must keep, as the Americans phrase it, a level head. While refusing a hearing to the advocates of unreasoning severity on the one hand, we must also decline to be influenced by the fads and follies of the humanity-mongers and doctrinaire philanthropists on the other. If I plead for consideration and pity for certain classes of criminals, it is not because I yield to the maudlin sentiment that warps the judgment of many in all that relates to crime. Crime is heinous and hateful, and the criminal is the enemy of society. And

any influence which denies or conceals this tends to deprave the public conscience. But I remember the sacred words, "Of some have compassion, making a difference." So much for the "utterly weak." Now I turn to the "utterly wicked."

When I was appointed on the Prison Commission twenty-four years ago shot-drill was practised in some of our gaols. It consisted in carrying cannon-balls from one spot to another in the prison yard, and then carrying them back again. It was a pitiful waste of muscular power. Shot-drill has now been abolished in prisons; but the energies of the most highly-trained police in Europe are being expended in ways to which shot-drill bears a striking resemblance. A crime of a certain sort is reported. An oil painting, for example, has been stolen in the night from a public gallery. "Sherlock Holmes" would sit down with a wet towel round his head and think out the problem of finding the thief. "Sherlock Holmes" himself was no doubt a genius, but people who follow his methods are apt to fasten suspicion upon several different persons, not one of whom perhaps had anything to do with the crime. Scotland Yard sometimes arrives at the desired result by a process akin to that by which experts of another kind can tell us who painted the stolen picture.

Of course, if a man leaves his doors and windows unfastened, any other man, though as great a fool as himself, can break in and steal. But the crime we are dealing with was evidently the work of a trained and accomplished burglar. The men competent to plan and execute it are limited in number and definitely known. Some of these, however, are in seclusion at present, "doing time" for several offences in the past. They will be back at work in a year or two; but for the present we may ignore them. Then, again, A, B, and C are known to be out of London in the course of their business, and D, E, and F are proved to have been at their registered addresses on the night of the crime. The list thus becomes reduced to working dimensions, and it is not difficult to go on eliminating one name after another till the thief is discovered. If evidence is forthcoming he is arrested and brought to justice. Previous convictions are proved; sentence, five years' penal servitude. In less than four years he is back at the practice of his profession. After another good run, in which he commits some ten, twenty, fifty crimes, enjoying what schoolboys term "a high old time," he is caught again, and the same farce is again re-enacted. This is the shot-drill of the Criminal Investigation Department. Well, the

police are paid for their work ; the criminals are delighted with the system ; and, if the public are satisfied, who has a right to complain ?

Who has a right to complain ? The victims of the crimes of these miscreants have a right to complain. If it be recognised that criminals are entitled to live at the expense of the community, the community should be taxed to provide an income for them, or, at all events, to compensate the sufferers. The time was when kings could pounce upon individual citizens and arbitrarily seize upon their property. It is only professional criminals who are allowed to do this to-day. What would raise a revolution if attempted by the king, is practised by the burglar at his pleasure. And if the aggrieved householder cries out for relief or demands justice, the criminal statistics will prove him to be unreasonable, and the humanity-mongers will denounce him as vindictive and cruel. Here I am repeating myself ; but there are some things that need to be repeated again and again. When a man feloniously seizes his neighbour's property no means which a civilised society may use should be spared to enforce restitution. If for this purpose we refuse to have recourse to thumb-screws and the rack, it is consideration for the community and not for the thief which restrains us.

Who has a right to complain? Is there to be no pity for the unfortunate relatives and associates whom these "human beasts of prey"—I repeat the words with emphasis—seek to drag down to the level of their own degradation? None for the wretched children whom they are allowed to beget and to train up to walk in their ways? "The tender mercies of the wicked are cruel:" no less cruel are the tender mercies of the doctrinaire philanthropists.

In all that I have written I have been dealing only with crimes against property. And in treating of habitual offenders I have made but a very brief reference to the *elite* of the criminal profession. Of these I have a good deal to say; but here and now I will only remark that in England the men who are competent not only to finance, but to organise crimes are so few that the room in which I am writing would suffice to seat them comfortably. But we have always a section of them at large to keep the business going; it would collapse if all were shut up at once. Crime there will ever be; organised, systematic crime is the creature of our present methods. With the doctrinaires these men are units in the statistics of the criminal classes. With the police—the victims of the shot-drill I have described—they are real

living persons. Indeed, they are as well known as our Cabinet Ministers; nor is this wonderful, for possibly they are not more numerous. And to those who know these men and their habits and histories, our treatment of them seems to savour of lunacy.

But the doctrinaires will tell us that crime cannot be suppressed by punishment. I dislike this term "doctrinaire," but I use it to describe those who act upon theories without reference to facts, and for the word in this sense I can find no Saxon equivalent. "Fool" is quite too general—it represents an entire species—and, moreover, it is not polite. I am not surprised that those who propound such a dictum are unable either to understand the strength of my position or to appreciate the inconsistency of their own. If criminals are dead to the influences which control the actions of ordinary men, if neither the fear of punishment nor the infliction of it can avail to restrain them, then all punishment is barbarous and law-breakers should be treated like lunatics. But though we do not *punish* lunatics, we do deprive them of their liberty; and, if the doctrinaires are right, the criminals should be shut up for life. All who have practical knowledge of criminals recognise that *some* of them are within the category. And

my suggestion is that such should be treated accordingly, but that those whom punishment will deter should have enough of it to make it efficacious.

But what is our present system? The medicine is good for some of the patients; for others it is wholly unsuitable. But, as we do not diagnose their cases separately and have only one treatment for all alike, we limit the dose, lest those who ought to get none should be harmed by it. And the result is that those whom the physic suits do not get enough of it to benefit them. This is the short-sentence, punishment-of-crime system reduced to a formula!

We should seek to check committals to prison; but we should seek, also, to make imprisonment answer its purpose, whatever that purpose may be. Some offenders need punishment, others reformation, and others, again, are committed mainly to protect the community against their misdeeds. But all are treated alike; for prison discipline, like death, levels all distinctions. In his *Fifty Years of Public Service*, Major Griffiths tells the story of a gunboat which the Admiralty sent to the East with a medicine chest on board, but no medical officer, the captain being ordered to use his discretion in doctoring the ship's company. But the captain knew nothing of medicine, so

he had all the bottles emptied into a pail, and any man that went sick got a dose of the mixture ; for, as he explained, there was bound to be something in it to suit him ! The story further illustrates the system on which we deal with our criminals.¹

¹ In saying this I am neither unmindful nor unappreciative of the praiseworthy efforts of my friend Sir Evelyn Ruggles-Brise and his colleagues to introduce reforms, especially in the case of the young ; nor is it any fault of theirs that in these respects they resemble the criminals whose struggles to mend their ways are hindered by want of help and inability to break with the past.

CHAPTER V

MOST of those who have practical acquaintance with the subject, and are best fitted to speak upon it, testify that the great mass of ordinary crime could be reduced within narrow limits by the operation of reforms of a reasonable and practical kind. Reforms, I mean, such as are calculated to raise the tone of life generally among the masses of the population, and to protect them from temptations and dangers which at present engulf unnumbered victims. Some of our ablest and most experienced Judges, indeed, have publicly declared their conviction that most of the crimes which come before the criminal courts may be traced directly or indirectly to the one vice of drunkenness. I have before me, for example, a report of a speech of one of the greatest Judges of this generation—I mean Lord Cairns—in which he used these words: “I believe it is scarcely possible to exaggerate the blessings which would come down upon the country from the practice of temperance. *It would empty our gaols.*”

But it would seem that no legislation upon this

question may be looked for at present; and for the simple reason that any radical reform of the drink code would, if successful, involve the abandonment of our present fiscal policy, and that policy commands the almost fanatical support of the great majority of the temperance party. It is not my purpose to enter on a discussion of the merits or demerits of what is called Free Trade. But I wish to point out that it operates to keep His Majesty's Treasury "in the same boat" with the public-house interest. For the Treasury largely depends for its revenue on the drinking propensities of the population.¹

The temperance party believe that the legislation they advocate would reduce the consumption of intoxicants by one half. But this would involve a loss to the revenue of more than £14,000,000 in Excise duties alone. And can any one imagine that the Government would deliberately bring about such a deficit, while even a peace budget requires a shilling income-tax, and high Customs duties on the food of the poorest of the people?

Any reform, therefore, sufficiently thorough to

¹ The contribution to the general taxes paid by an ordinary working man with a family to support amounts to not more than a halfpenny a day; but his contribution to the Excise in paying for his daily drinks averages at a low computation not less than five-pence a day. That is to say, a man who drinks pays some ten times more to the public chest than the teetotaller.

put an end to the drink curse would leave the Treasury bankrupt, and before it can be introduced "Free Trade" must go.

And this will take time. People are slow to perceive that whatever the merits of real Free Trade—and I am expressing no opinion upon it here—the system called "Free Trade" in England is an imposture and a sham. If a man's life depended on his explaining on Free Trade principles why tea and coffee should be taxed on entering the country, while, *e.g.*, watches and boots come in free, that man's life would not be insurable. An import duty on alcohol or tobacco can be explained on special grounds; but the only possible explanation of a similar duty on tea and coffee is that everybody needs them, and everybody should be made to contribute to the taxation of the country. And, this being so, there is no reason whatever why watches and boots should not be treated in the same way. Indeed, there are strong reasons for levying a duty on articles of this kind which do not apply to tea and coffee; for if the tax should limit the importation, our working classes at home would be benefited.

If, therefore, the drink curse be a principal cause of the ordinary crime of the nation, and if the cure of the drink curse awaits a reversal

of a fiscal policy which is popularly regarded with a reverence that is almost superstitious, it is idle to hope for any speedy reform in this direction. And, moreover, the operation of reforms of that character is generally gradual and slow. It is my aim, therefore, to direct attention to changes of another kind, the introduction of which, moreover, would produce immediate results.

The crime of the country is generally regarded, not only without distress and shame, but with ignorant and stupid complacency, because, forsooth, it is diminishing. Such complacency springs from contrasting what is with what has been, instead of comparing it with what might be. When the Prison Act, 1877, came into force, one of the first acts of the new Prison Board was to close half the prisons of England. But people forget that those prisons were provided at a time when the masses of the population were steeped in utter ignorance and sunk in abject poverty such as this generation has happily no conception of. The effect of the removal or modification of these fruitful causes of crime should be accepted as proof that crime is preventable; and, further, that in the altered circumstances of the population the crime of to-day is more disgraceful to the community than was the much greater volume of crime in the dark days now past.

A few years ago any one who proposed to prevent an outbreak of cholera or the plague would have been scouted as a dreamer, or possibly denounced as an Atheist. And yet our present immunity from these scourges is regarded so much as a matter of course that no thought is given to the patient labour and unsleeping vigilance of those by whom these results are attained. And if the reforms which have availed to check the spread of infectious diseases had not taken the public by storm, they would have been opposed far more vigorously than the changes are resisted which I advocate in regard to crime. It would have been urged, first, that to require the authorities to take notice of every case of infectious disease would be utterly impracticable; and secondly, that the measures necessary to enforce this, and to give effect to it, would be a flagrant outrage upon the liberty of the subject and a violation of the British Constitution. And as we mark the success of these measures we wonder at the apathy and ignorance which prevailed until a few years ago in dealing with disease, and the next generation may possibly wonder at the blindness and stupidity which characterise our own day in dealing with crime. But while the former apathy respecting disease was due entirely to ignorance, our attitude towards crime is largely

due to the controlling influence of a false principle.

With most men the obligation to punish crime still ranks with the eternal verities, and in days not long passed away it was universally unquestioned. The fate of a convicted felon was never in doubt. The commission of the crime was not infrequently followed by an arrest, and the arrest by a conviction. The person convicted, who it may be hoped was generally the actual criminal, went to the gallows as a matter of course. He might be a useful member of the community, or he might be a dangerous outlaw, but considerations of this kind had no bearing on the issue. Crime had to be punished, and the legal punishment for felony was death. But as civilisation advanced, and varying terms of transportation, or of penal servitude or imprisonment, took the place of hanging, it became necessary to apportion the sentence to the crime.

In some cases the infliction of any punishment at all was a loss to the community; in other cases the legal limit of the sentence precluded a court from giving adequate protection to the public. But in every case the question was what punishment was fitted to the *crime*, and not to the *criminal*. An immense advance was made when the legislature

enacted that in sentencing a convicted prisoner the Court might take cognisance of previous crimes recorded against him, and impose a heavier sentence on account of them. This was the first departure from the cast-iron operation of the "punishment-of-crime" system. But the law by implication required that some measure of punishment should be imposed in every case. This requirement, however, the Judges not infrequently ignored, unless where a statute denied them a discretion by fixing a minimum sentence. These minimum-sentence enactments have now been repealed, and the last step we have reached is the legalising the discharge of first offenders.

But in spite of all these changes the *punishment of crime* still remains the governing principle of our penology, and my aim is to show that that principle is theoretically unsound and practically mischievous. Nor is this discussion one of merely academic interest. I contend that if our criminal courts dealt with the criminal instead of with the crime, all crimes against property would be sensibly reduced, and professional crime might be altogether suppressed. Some Judges endeavour to do this very thing. Not content with a prisoner's official *dossier*, they seek to investigate his character and antecedents in a larger sense, and they apportion his sentence according to the result

of that inquiry. But the law gives no sanction to this ; and, of course, it makes no provision for holding such an inquiry openly, and with fairness to the accused.

And this system of informal inquiries is responsible for some share of the popular outcry against inequality of sentences. In too many instances that outcry is abundantly justified. Indeed, it may be doubted whether any decided improvement has taken place in this respect since Lord Herschell called attention to the subject in Parliament some seventeen years ago. He cited a case where two prisoners, convicted of similar crimes, and equally guilty, were sentenced, the one to a long term of penal servitude, and the other to two months' imprisonment. Many cases of this kind occur which admit of no satisfactory explanation. But equality of sentences is not infrequently advocated on grounds which are wholly ignorant and wrong. Some crimes which, in the cold light of the legal evidence, appear in all respects equal, differ so widely that the one may deserve the severest punishment, and the other no punishment at all. Let me illustrate this. A. B. is convicted of stealing five shillings, and is sentenced to a long term of penal servitude ; C. D. is convicted on a precisely similar charge, and he is released from the dock. But the explanation is

simple. The one crime is regarded as a last and crowning proof that the offender is a hopeless criminal, an irreclaimable outlaw; whereas the circumstances in which the other crime was committed excite compassion for the offender.

It must be acknowledged, however, that on the punishment-of-crime principle both these decisions are unjust, and any one who takes that view may plead that he has the law on his side. He may fairly argue thus: "In former times both men would have been sent to the gallows. No considerations about the character or circumstances of the felons would have affected their fate. Nowadays, it is true, the punishment is different, but the principle of law on which the punishment is ordained remains unchanged. The Court ought to consider the crime, and not the criminal. Therefore to send a man to penal servitude for stealing a few shillings is monstrous; and to let a thief go entirely unpunished is a miscarriage of justice. 'Justice is blind,' and these new-fangled methods and ways are an outrage upon justice."

Now I admit the fairness of the argument. I recognise that the punishment-of-crime principle underlies our criminal law, and that upon that principle both decisions in the case I have supposed are indefensible. But my object is to

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arraign the law itself, and to challenge the whole position on which this argument is based. "Justice is blind!" It was blind justice that in other days filled our gaols to overflowing and provided the gallows with victims by the score. But, happily, justice is no longer blind in England.

But, it may be urged, all this is matter of opinion, and opinions differ. I come back, therefore, to deal with a definite practical question in a practical way. In previous pages I have shown that if statistics can prove anything they prove unmistakably that ordinary crimes against property are diminishing, but that crimes of the kind which the police know to be the work of professional criminals are increasing. And those who challenge this statement have misread both the facts and the statistics; and, further, these conclusions are really based, not on the study of statistics at all—for statistics may err and mislead—but on the facts as known to those who have to deal with criminals in a practical way.

As day by day, and year by year, I used to study the "morning reports" of crime at Scotland Yard—and every crime of Greater London, with its 6,000,000 inhabitants, was reported to me—I found abundant proof, first, that the great mass of the people are honest and law-abiding, and secondly, that professional crime is a clearly de-

finest element in the general crime of the metropolis, and that if it were eliminated property would be as safe in the suburbs of London as it is in rural England. Sometimes I had *nil* returns from the whole of the West End. Occasionally I had *nil* returns from upwards of half of the Metropolitan Police District, and I may add that days on which there were not *nil* returns from some at least of the principal divisions of the metropolis were exceedingly rare. Every one knows that in rural England there are numberless districts, and populous districts too, where crimes against property are almost unknown; but most people will hear with surprise that this is also true of many places within fifteen miles of Charing Cross.

If crimes against property were to be accounted for, as the philosophers suppose, by "the criminal impulse" or the pressure of poverty, a foggy night would bring a crop of them, and a prolonged frost would be a time of public danger. But as a matter of fact a fog causes no anxiety to the Criminal Investigation Department, and a burglary epidemic, like a fever epidemic, flourishes in mild weather, and a drop of twenty degrees Fahrenheit will check it. And the reason is plain: professional crime is organised crime, and all organising involves time; and professional men, burglars included, do not care to be abroad

at night when the thermometer is getting down to zero.

And this brings into prominence the difference already noticed between the way in which the public regard an outbreak of crime and the way in which it is treated by an intelligent police force. With the public it is a question of statistics, whereas with the police it is a question of *persons*. Let me once again explain that I am here dealing only with crimes against property. No one is a murderer in the sense in which many men are burglars. At least "the Whitechapel murderer" of 1888 is the only exception to this in recent years. And that case, by the way, will serve to indicate the difference I wish to enforce. In my first chapter I alluded to the fact of that fiend's detention in an asylum. Now the inquiry which leads to the discovery of a criminal of that type is different from the inquiry, for example, by which a burglar may often be detected. If a ground-floor dining-room window is left open at night, and the spoons and forks are missed next morning, there is no mystery about the crime, and no use in "searching albums" to find the criminal. But if a house which is properly secured is broken and entered, the case claims careful investigation. I mention burglaries only because the public "catch on" about crimes of this character. My

remarks apply still more forcibly to other branches of professional crime. A man who commits a burglary is a burglar in the same sense in which a man who commits a murder is a murderer. But burglaries are usually committed by men who are burglars in the sense in which other men are doctors, lawyers, architects, &c. The only difference, indeed, is that in the burglar's trade success gives proof of greater proficiency than seems necessary in other lines.

I never realised what an amount of determination and nerve it needs to break into a dwelling-house at night until I discovered my own deficiencies in these respects. I learned the lesson while living with Charles Reade long ago in the house at Albert Gate which he afterwards christened "Naboth's Vineyard"—the house, by the way, in which Mr. Rolfe received his visitors in *A Terrible Temptation*. On arriving at home late one night I found I had forgotten my latch-key, and being unable to rouse the inmates I decided to enter burglariously. My experience of criminal courts had given me a theoretical knowledge of the business, and it was with a light heart that I dropped into the area and attacked the kitchen window. Of course I had no fear of the police. Neither had I any cause to dread a pistol shot in entering the house. And

yet such was the effect on my nerves of spending twenty minutes in that area that the sound of a constable's tread in the garden made me retreat into the coal-cellar. I felt then that my case was desperate. As there were no steps to the area, escape was impracticable, and a new bolt on the window baffled me. So at last I was driven to break the glass. It is extraordinary what a noise it makes to smash a pane of glass when one does it deliberately; and the passers-by were attracted by the sound. But they had no bull's-eye lantern to flash into the area, and as I had again taken refuge in the cellar they could see nothing to account for the noise. As soon as they were gone, it was an easy task to shoot the bolt, open the window, and scramble into the house.

As I have digressed to narrate this story I may as well finish it. The police were sent for next morning, and detectives investigated the crime. The broken glass and the marks both inside and outside gave proof of a felonious entry; but, *mirabile dictu*, nothing was disturbed, nothing was stolen. The case was most mysterious, and it passed into the statistics as an undetected burglary. And those who knew Charles Reade will believe me when I add that when I afterwards told him the facts his delight was unbounded.

And now for the moral of my story. I want to

break down the popular idea that serious crimes against property are, like many serious crimes of violence, the result of accidental circumstances or sudden passion. Such crimes are deliberately planned and executed by expert criminals. Any bricklayer's labourer can build a "lean-to" shed, but it needs an architect to build a dwelling-house. And any tramp can enter a house through a window or door left unfastened, but it needs a trained burglar to get through doors or windows that are securely bolted and barred. And when it comes to such special feats as safe-breaking, for example, the men competent for the task are so few that some police-officers could possibly write down the names of them all from memory. When a crime of a certain sort occurs a "Sherlock Holmes" inquiry is as unnecessary as it would be futile. The practical problem is to discover what members of certain definitely known gangs of thieves were engaged in it.

It is to this habit of dealing with criminals instead of with crimes that the phenomenal success of the Criminal Investigation Department is largely due. I have no reserve in praising a department of which I was recently the chief, and for the excellent reason that no one knows better than I to whom the praise for that success is due. With a chief who did not enjoy the

fullest confidence and respect of his subordinates success would be impossible; but the best of chiefs can do little more than stand behind the working staff—a body of officers that, *as a body*, when judged by the double test of efficiency and character, are unequalled in the world. Character I include with emphasis because it is often overlooked when judging of the relative merits of different forces.

When I speak of efficiency some people will exclaim, “But what about all the undetected crimes?” I may say here that in London at least the undetected crimes are few. But English law does not permit of an arrest save on legal evidence of guilt, and legal evidence is often wholly wanting where moral proof is complete and convincing. Were I to unfold the secrets of Scotland Yard about crimes respecting which the police have been disparaged and abused in recent years, the result would be a revelation to the public. But this is not my subject here.

To illustrate the importance of dealing with criminals instead of with crimes, I may cite an instance that is of interest to the public. When I went to Scotland Yard I found that a gang of pickpockets had been living in luxury for years by the practice of their trade on the Channel boats of the South-Eastern and the London, Chatham,

and Dover Railway Companies. Owing to the cleverness of the thieves, the protection afforded them by our criminal law, and the conflict of jurisdiction between English and French police forces and courts, to obtain a conviction proved impracticable. But it was possible to deal with the thieves. *That* involved merely taking some liberties with Blackstone, and the "British Constitution" generally. The gang was broken up. Their nefarious trade was brought to an end. And nowadays the theft of a traveller's pocket-book is almost unknown, whereas formerly there were often several cases of the kind in a single day.

But, it may be said, I am thus supplying an answer to all I have already written on this subject. If crime can be so easily prevented what excuse can there be for arraigning our present methods of dealing with it? The answer is simple. These special crimes were the work of a few high-class thieves; and when the gang was exposed the hope of their gains was gone. It is easy, moreover, by police action to make property secure in any particular place. And this might be done for the entire metropolis by increasing the police force fivefold. That is an alternative proposal to mine. But is it a practical one? It would add some £6,000,000 a year to the cost of

the Metropolitan Police. And even if the cost did not veto it, would it be a rational one?

The problem here relates to professional criminals, that is to those (as Sir Alfred Wills expressed it in his *Times* letter) "who follow crime as the business of their lives, who take it as a profession, who calculate and accept its risks, who have entirely ceased to work, if they ever did work, and who never mean to do so." Now there are two alternative ways of dealing with this problem. The one is the present punishment-of-crime system, under which each of these professional criminals, when he happens to be caught, is put away for a term that is deemed an adequate punishment for the particular crime proved against him (consideration being given, of course, to previous convictions legally proved), and then he is set free again to resume the practice of his profession. The other system, which I advocate, is that when a criminal gives proof that he has deliberately chosen a life of crime the community should be protected by depriving him of the liberty he thus abuses. As he has by his own choice and conduct outlawed himself, let him be treated as an outlaw.

I do not advocate a death sentence in such cases, and for the simple reason that no such drastic measure is needed. I am not theorising

about statistics. I have in view the men who constitute the class I refer to—men who are thoroughly well known to the officers of the Criminal Investigation Department, and upon whom the entire organisation of crime against property in England depends—and I say deliberately and with confidence that if the system I have described were announced to take effect on the 1st of January next the immediate change with respect to crime would be equal to the results achieved in the sphere of sanitation in recent years. I go further and maintain that the practical difficulties in checking an epidemic of typhoid, or in preventing an epidemic of cholera—difficulties which have been successfully overcome—are enormously greater than would be the difficulty of putting an end to crime of the kind here in question. The system which has availed to check or prevent disease is a triumph of which we may well be proud; the system which accounts for the prevalence of professional crime is a disgrace to the country and the age. Some people may be surprised at the vigour of my language in denouncing that system. But if I were writing only for those who, knowing me, know that I am in the habit of weighing my words, I would use far stronger language to describe our present methods. The public, how-

