ROUTLEDGE REVIVALS

The Lawbreaker

A Critical Study of the Modern Treatment of Crime

E. Roy Calvert and
Theodora Calvert

Routledge Revivals

The Lawbreaker

The early 21st century saw better prison conditions and a lower imprisonment rate however public worry over supposed increasing violent crime as perpetuated by the media in the 1930's led to a return to harsher sentences and fuller prisons. Originally published in 1933, *The Lawbreaker* analyses British penal methods of the time and of the past to discover the most effective ways to treat prisoners and reduce crime as well as identifying where more research is needed to obtain a balance between punishment and rehabilitation. This title will be of interest to students of Criminology and Sociology.

This page intentionally left blank

The Lawbreaker

A Critical Study of the Modern Treatment of Crime

E. Roy Calvert and Theodora Calvert

Routledge
Taylor & Francis Group

First published in 1933
by George Routledge & Sons, Ltd

This edition first published in 2016 by Routledge
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN
and by Routledge
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 1933 George Routledge & Sons, Ltd

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

Publisher's Note
The publisher has gone to great lengths to ensure the quality of this reprint but points out that some imperfections in the original copies may be apparent.

Disclaimer
The publisher has made every effort to trace copyright holders and welcomes correspondence from those they have been unable to contact.

A Library of Congress record exists under LC control number: 33011979

ISBN 13: 978-1-138-99984-8 (hbk)
ISBN 13: 978-1-315-65802-5 (ebk)

THE LAWBREAKER

A CRITICAL STUDY OF THE MODERN TREATMENT OF CRIME

By

E. ROY CALVERT

Author of "Capital Punishment in the Twentieth Century"

and

THEODORA CALVERT

Barrister-at-Law, Inner Temple

LONDON:

GEORGE ROUTLEDGE & SONS, LTD.

BROADWAY HOUSE: 68–74 CARTER LANE, E.C.

FIRST PUBLISHED 1933
SECOND EDITION 1945

PRINTED IN GREAT BRITAIN BY
LUND HUMPHRIES
LONDON · BRADFORD

TO

BARROW AND GERALDINE S. CADBURY

This page intentionally left blank

CONTENTS

CHAP.		PAGE
	Introductory	ix
	Preface to the Second Edition	xv
1.	Why do we Punish?	1
2.	Present-day Crime and its Causes	24
3.	The Machinery of Justice	62
4.	Prison, Yesterday and To-day	92
5.	What is Wrong with our Prisons?	123
6.	Probation, Fines, and Restitution	164
7.	Young Offenders	191
8.	Women Offenders	221
9.	Corporal Punishment	234
10.	The Death Penalty	259
	Conclusion	282
	Appendix	285
	Notes to the Second Edition, 1945	292
	Bibliography	295
	Index	299

This page intentionally left blank

INTRODUCTORY

Several recent events have combined to focus public attention upon the problem of crime and its treatment. The riot at Dartmoor Prison in January, 1932, though less serious than it might have been, was serious enough to show that all was not well with our prisons. The *Criminal Statistics* for 1930, published last April, revealed a serious increase in certain types of crime, and there is every reason for believing that when the figures for 1931 and 1932 are published they will show further increases. To these facts must be added the growing sensationalism of the popular Press, in which a criminal is now a "gangster", a shopbreaker a "smash and grab raider" and a robber a "motor bandit", which has created in the public mind an impression that present-day crime is worse than it is and has assumed alarming proportions.

It is common knowledge that the last twenty-five years have seen considerable changes in the treatment of crime. Fewer persons have been sent to prison than formerly, sentences have been shorter, and prison conditions less degrading. Many offenders who formerly would have been sent to prison are now released with supervision under the Probation Act, and, for young offenders, probation and Borstal are fast superseding prison as a penal method.

The superficial observer has not unnaturally seen an apparent correlation between these changes in our penal methods on the one hand and the reported increase in crime on the other, and even some of those who have welcomed the reforms of the past few years are beginning to ask whether reform has not gone too far. Prison reform, the probation system, and the shorter sentence have all been accorded their share of blame, and the view has been widely expressed that, in our zeal for reform, our treatment of crime has lost its deterrent effect and that a return to the greater severity of former days has become an urgent necessity. Already the Courts, always sensitive to changes in public sentiment, have begun to reverse the engines, to send more people to prison and to pass longer sentences. Our prisons which had begun to empty are becoming full again. Our closed prisons are being opened.

But before our modern penal methods can be saddled with responsibility for this state of affairs, some investigation not only into the causes of modern crime and the effectiveness of our present methods, but also into the facts of the actual situation is desirable. The growing irresponsibility of the Press, the increasing attention paid to dogmatic opinions expressed by men and women with a deserved reputation in one field of knowledge upon matters outside their experience, and the inaccurate statements of others who ought to know better, have all combined to create an erroneous idea of the facts. In the absence of accurate information the

country is in serious danger of being stampeded into measures which will only aggravate the evils which they are designed to remedy.

In recent months alarmist stories have frequently appeared in the popular newspapers of motorists having been held up by motor bandits. As a result many people have hesitated to give assistance to motorists on the road or to make journeys at night. Yet on 18th November, 1932, the Automobile Association announced that

> " not a single case of motor banditry has been reported by patrols of the A.A. although these men are daily covering practically every road of any importance in the British Isles. . . . The A.A. with its membership of nearly half a million has no record of a complaint from any one of its members." [1]

Sir Henry Dickens, K.C., on retiring from his position as Common Sergeant, recently contributed a long article to *The Times* in which he said that

> " The state of crime in this country is most alarming . . . first because its principal characteristic is violence," [2]

and a bishop, presiding at a meeting of a Discharged Prisoners' Aid Society, stated that recent statistics showed " a considerable increase, particularly in crimes of violence ".[3]

The average newspaper reader not unnaturally assumes from such statements, that there has been an enormous increase in murderous assaults, whereas

[1] *The Times*, 21st November, 1932.
[2] *The Times*, 19th October, 1932.
[3] *Hampshire Herald*, 13th March, 1931.

in fact violent crimes against the person such as murder, attempted murder, robbery with violence, wounding and the like, are not more numerous than before the war, and in the case of most such offences are considerably less so. The principal increase in crime in recent years has been in house-breaking and shopbreaking, which, because violence may be used in "breaking in", are officially classified as crimes *against property with violence.* That this increase is a serious matter which demands earnest attention is not questioned. But the creation of a general impression that an increase in house-breaking is an increase in violent assaults is only to confuse the issue.

Moreover, some understanding of the present-day incidence of crime and of the relative success or failure of our modern mèthods compared with those they have superseded is important to an understanding of the problem. Thus it is not without significance that the principal increase in crimes against property has been in the North, where the industrial depression is greatest, and in the densely populated urban districts outside large cities. It remains to be seen whether the recent increase in crime is due to changes in our methods or to new social factors which may have adversely affected the situation. The more severe penal methods of the past were abandoned not out of sentiment, but chiefly because they had proved ineffective. Again, the Dartmoor outbreak occurred in the one prison in the country which, owing to its isolated situation, had been largely outside the

scope of recent reforms. Far from being a failure, some of the modern experiments in the treatment of crime have proved in the event surprisingly successful. These and other matters must claim our attention. Besides, if, on the whole, our new penal methods are more successful than the old, that is no reason to infer that these methods leave nothing to be desired, or that they are as successful as they should be. There is urgent need for further study and constructive thought in regard to the whole treatment of crime, which in many ways remains illogical, ineffective and unscientific.

It is proposed in the following pages to make a critical examination of our modern penal methods in the light of past experience and with a view to future reform. The right treatment of crime is no simple matter, but a problem of the greatest possible complexity. The confidence of those who put forward simple solutions for our crime problems usually varies in inverse ratio to the knowledge and experience of those who propound them. No one has yet been able to work out a completely satisfactory penal system. But an increasing knowledge of the science of human behaviour, the experiments which have already been made, and the experience in our own and other countries of past and present penal methods, should enable us to see a little further along the road. There are gaps in our knowledge which only further study and courageous experiment can fill. But enough is known to show the direction in which a final solution should be sought. It is as

a contribution to a clearer understanding of this difficult problem that this book has been written.

The subject of crime and its treatment is so vast that it is manifestly impossible to deal in any detail with each aspect of it within the limits of this volume. For more exhaustive study the reader is referred to the books quoted in the text or included in the bibliography. In order that each chapter may be reasonably complete it has been necessary in a few instances to repeat information already contained in another chapter.

To the many friends who have helped us with suggestions and constructive criticism we would express our grateful thanks.

E. R. C.
T. C.

January, 1933.

PREFACE TO THE SECOND EDITION

A new edition of this book has been called for at short notice to meet the need of the Army Education Department of the War Office for a short textbook on penal administration. In the time at my disposal it has not been possible to revise the whole text as I could have wished, but I have added some notes at the end of the book where important changes have occurred since 1933 when it was first published.

I have also added as an Appendix a summary by Miss W. A. Elkin of the Criminal Justice Bill which had nearly reached the Statute Book in 1939, when the outbreak of war put a stop to controversial legislation. This Bill was the fruit of years of careful thought, inquiry, and experience and, it may be added, of informed agitation by the Howard League for Penal Reform and others. It would have gone far to meet some of the criticisms of our penal system in these pages.

It is to be hoped that with the return of peace we shall have a new and bolder Criminal Justice Bill which will carry us a long step forward in the evolution of a humane and enlightened penal system.

T. C.

February, 1945.

This page intentionally left blank

THE LAWBREAKER

CHAPTER I

WHY DO WE PUNISH?

The problems associated with present-day crime and its treatment cannot be understood without some knowledge of the precise nature of crime and the purpose of the State in combating it.

The essence of crime is its anti-social character. An act is made a crime because the State considers it to be anti-social, so that what is called our penal system is the sum total of all those measures of punishment [1] taken by the State to protect itself against anti-social behaviour. "According to the most generally accepted writers—as, for instance, Beccaria, Blackstone, Romilly, Paley, Feuerbach—this hope of preventing the repetition of the offence is not only a main object, but the sole permissible object, of inflicting a criminal punishment." [2]

In fact, of course, this aim has never been, and is not to-day, the single purpose of our treatment of crime, and though an inquiry into the history of punishment would carry us farther afield than is

[1] The word "punishment" will be used throughout this book to include all those methods by which the State treats its lawbreakers and will not be given that more restricted meaning which would confine it to some retributive pain or penalty.

[2] Kenny, *Outlines of Criminal Law*, 1918, p. 30.

desirable in this volume, some understanding of the origin of our punishments is necessary.

Origins of Punishment

Much punishment can be traced directly to primitive instincts and had its genesis in the earliest days of community life.

Crime was regarded in one of two ways, either as a wrong done to some individual or his family, or as an offence to some deity. In the first event it was met by a payment by way of compensation or fine, but in the second it could only be met by a sacrifice of some kind, extending in serious cases to the offender's life or limb. The sociologist may trace these twin ideas underlying the development of punishment and running through its history,[1] and it is at all times well to remember that even in these days the conception of sacrifice is not absent from many current ideas about punishment, especially capital and corporal punishment.

In early times punishment was unlimited in degree and carried out, not by the community, but by the person wronged or by his relatives. The *lex talionis* of the Mosaic law, an eye for an eye and a tooth for a tooth, generally regarded to-day as vindictive and barbarous, was in reality an advance on previous practice, since it decreed that the retribution should have some relation to the offence committed. It should be "an eye for an eye", and not a life for an eye. As primitive

[1] See Hans von Hentig's excellent book, *Die Strafe*, Stuttgart, 1932.

communities developed, the right to punish was taken out of the hands of individuals because experience showed that privately inflicted retribution made the maintenance of ordered social life difficult. It is not without interest that in all probability the community first assumed the right to punish to protect itself, not against the law-breaker, but against the anti-social consequences of privately inflicted revenge.

In these early days there was little distinction between crime and sin. "The notion of an offence against the State is of entirely modern growth, and the theory that punishment is imposed for the sake of reforming the criminal and deterring others from following his example is even still more modern."[1] The reasons and theories which men have put forward belong to a much later period when the need was felt for explaining conduct which began as purely instinctive reactions. Instinct and theological concept have had far more to do with the evolution of our penal methods than logical thought about social necessity. Many punishments with a primitive and instinctive origin have been defended as necessary for the protection of Society long after their retention has in fact ceased to be in the best interests of the community. Take, for example, the principle of *retribution*, which has done so much to shape our penal system and is still used in justification of some of our penalties. Retribution is only another word for revenge, and

[1] Lord Justice Cherry, *Growth of Criminal Law in Ancient Communities*, 1890, p. 3.

is a primitive instinct rationalized by religious thought. It has nothing to do with the interests of the community except in so far as it may be advocated, on deterrent grounds, as the most effective method of protecting Society, in which case it ceases, of course, to be an aim, and becomes a method, justified not for its own sake but on grounds of expediency to achieve some other end. But in early times it was an end in itself, and was extended to animals and even things. Thus Xerxes scourged the Hellespont with 300 lashes because a storm wrecked his bridge.[1] In 1386, at Falaise, a sow was " sentenced to be mangled and maimed in the head and forelegs and then hanged for having torn the face and arms of a child, and thus caused its death ".[2] The church bell at La Rochelle was whipped and buried in the earth in 1685, for having assisted heretics, but was subsequently rebaptized and restored.[3] Even to-day the same idea persists in much contemporary thought about punishment. When a lawbreaker is severely punished for some offence which has aroused public abhorrence, people say instinctively, " he has got his deserts ", or " it serves him right ".

Another idea of punishment closely associated with retribution is the *satisfaction of justice*. This also is primitive in origin and closely connected with the idea of sacrifice. It is conceived that an

[1] Herodotus, vii, 33–5.

[2] *The Criminal Prosecution and Capital Punishment of Animals*, E. P. Evans (1906), p. 140. The sentence, which was a strict application of the *lex talionis*, was carried out in public.

[3] Ives, *A History of Penal Methods*, p. 252.

abstract thing called justice has been outraged by an immoral act. The scales of justice have been upset. This can only be set right by meting out an equivalent amount of punishment to restore the balance. Such punishment may actually be against the real interests of the community measured in terms of protection and security, but it is considered essential to satisfy justice. And this view persists to-day. Recall the expression when an offender is put on probation instead of being sent to prison, "he got off." "The principle," says Professor Sidgwick, in a discussion of this subject,

> "that punishment should be merely deterrent and reformatory, is, I think, too purely utilitarian for current opinion. That opinion seems still to incline to the view that a man who has done wrong ought to suffer pain in return, even if no benefit result to him or to others from the pain." [1]

It is necessary to realize that such a conception is associated with moral judgments and not with the protection of Society from anti-social behaviour. No sound theory therefore about crime and punishment is possible unless it is based upon a clear understanding of the distinction between *crime* and *sin*.

Crime and Sin

Crime is not synonymous with sin, which is a violation of the moral law. Most crimes are necessarily immoral and many sins therefore are

[1] *Methods of Ethics*, p. 280.

crimes. But equally many sins, including some of the most serious, are not crimes. When the individual, faced with two courses of thought or action, one of which he recognizes to be on a higher plane than the other, chooses the lower he violates the moral law and sins. Sin is the conscious choosing of the lower of two moral alternatives. And many sins, such as avarice or heartless selfishness, may be practised with impunity outside the criminal law, a fact which is of importance when we come to consider the moral basis of punishment.

Though crime is anti-social, not all anti-social acts are criminal. Knowingly to convey infectious disease is an anti-social act, but, at any rate in this country, it is rarely criminal.[1] An anti-social act only becomes a crime when the law makes it so. But law is codified public opinion as registered by the majority, and majorities are sometimes apathetic and often wrong. Many acts not now regarded as anti-social were made into crimes by majorities in the past, and history is full of instances where men who went to prison were good citizens, not sinners but saints. There is also a curious "time lag" about the recognition of some anti-social acts. For example, theft is still considered more serious than dangerous driving, which actually is a much graver social menace. All this is of importance because it shows that the standard of judgment determining whether an act be criminal or not is by no means final. When a man sins he knows that he sins ; if he is unaware

[1] The communication of venereal disease is a criminal offence in Denmark.

of the immorality of his act, it is no sin. A man may commit a crime without realizing it, though ignorance is no defence. Again, his anti-social act may be the outcome of circumstances beyond his control and not the result of conscious choice, though this too is seldom any defence. Moreover, Society may punish as crimes to-day acts which to-morrow may be regarded quite differently and not be considered anti-social.[1]

But though many sins are not crimes it remains true that most crimes are sins, and crime carries with it therefore an element of moral condemnation. This fact has occasioned much confusion in regard to our treatment of crime. Our penal methods have been associated in men's minds for many centuries with theories as to the divine punishment of sin. In punishing the lawbreaker men have regarded the State as God's instrument for punishing the sinner.

When it is realized that many of the most grievous sins are not crimes, and not therefore punishable at law, it at once becomes apparent that to justify severe penalties for acts because of their immorality when they happen to be crimes, and yet to leave unpunished other acts equally or more immoral because they are not regarded as crimes, is to make a mock of all morality. It cannot be too strongly urged that the State is not primarily concerned with acts which are immoral because of their immorality, but because of their anti-social nature. In punishing crime, the State should be concerned with

[1] e.g. witchcraft in the seventeenth century and blasphemy to-day.

suppressing anti-social behaviour and not with exercising moral judgments.

It is sometimes said that one element in the punishment of crime should be the "satisfaction" of the injured party or his relatives. This is true only in so far as it means that the injured party should be reasonably satisfied that the steps taken record public disapproval of the crime and are likely to prevent its repetition. But in so far as it implies that the State should act as the injured party's agent in inflicting revenge for its own sake, this is based upon a false view of the State's function in punishment. Moreover, as we have seen, it is illogical when applied only to crimes, since retribution by the State, if justified at all, should be imposed for all sins and not only such sins as are also crimes. It is said that the absence of such "satisfaction" would encourage direct action against the offender. This was the difficulty in suppressing duelling, but there is no serious danger that the law and public opinion which successfully stamped out that anti-social practice should fail to subordinate private feeling to public interest in the treatment of crime.

Retribution Unscientific and Unjust

Quite apart from the fact that ideas of punishment associated with *retribution* and the *satisfaction of justice* are primitive or theological conceptions which should have no place in determining the State's attitude to crime, modern science has shown them to be unscientific and far from just. "The fuller,"

says Professor McDougall, " becomes our insight into the springs of human conduct, the more impossible does it become to maintain this antiquated doctrine [of retribution]." [1] The same is true of the idea of vindicating justice. Psychology is showing us that most crimes are greatly influenced either by physical or psychological abnormality or by social factors over which the individual may have comparatively little control. It is merely superficial to speak of justice in the abstract, for justice can only be measured in relation to responsibility.

Modern science is teaching us that responsibility is relative, and that we are all in some measure what our heredity and environment have made us. Moral judgments must be relative too. A man is " good " or " bad ", not as he attains proximity to some absolute moral standard, but in the degree to which, within the limited area of freedom which he possesses, he gains mastery or loses control over such adverse hereditary and environmental tendencies as seek to influence him. To judge conduct apart from a consideration of such forces as heredity and environment is, in a very real sense, unjust. In some instances true justice would place not the offender but Society in the dock, for denying him decent conditions of life. To realize these facts is not to deny the existence of free will, but to recognize that the individual's degree of responsibility varies in relation to his past inheritance and experience. From these considerations, it follows that retributive and vindictive punishments

[1] *Social Psychology*, p. 14.

are fundamentally unjust and a positive hindrance to right thinking about the problem of crime and punishment.

Protection by Fear

Since men regarded the State as God's agent for the punishment of sin and the criminal law as God's instrument for inflicting it, it is not difficult to understand why retribution has played such a large part in our penal methods. And retribution which began as a principle was retained as a means when the protection of society became recognized as the primary object of the criminal law. The terrible severity of the criminal law in the sixteenth, seventeenth, and eighteenth centuries can only be explained by the fact that retribution was then regarded not as an end in itself, but as a means of deterrence. The ferocious penalties of that period bore no relation to the offences for which they were inflicted, and went much further than retribution as a principle could support. The death sentence on a child for a small offence against property was not the application of the Mosaic Law. It was extreme severity for the sake of deterrence.

Our old penal methods demonstrate the working of attempts to protect Society by fear, for though our methods have varied with the centuries that aim until very recently remained constant. Whether we executed the lawbreaker for offences great or small, whether we transported him over the seas to face disease and death in the terrible convict settlements of the Antipodes, whether we confined

men in hulks on the Thames or shut them up for long periods of solitary confinement in prisons under degrading conditions of penal labour, the aim was the same—to make the consequences of wrongdoing so terrible that the offender would thereby be deterred from a repetition of his offence and others from any imitation of it. Protection by fear was the principle, sometimes ruthlessly applied, sometimes tempered by executive clemency, but always defended as necessary. Any proposal to mitigate the severity of the law met with the fiercest opposition and aroused the greatest apprehension, lest any such relaxation should endanger the security of Society. Transportation as the penalty for stealing five shillings and upwards from a shop was a terrible enough alternative to death, but when suggested it was thus opposed in the House of Lords in 1810 by Lord Ellenborough, Chief Justice of the King's Bench :—

> "My Lords, the punishment of transportation to Botany Bay is nine times in ten looked upon as no more than a summer's excursion in an easy migration to a happier and a better climate." [1]

In 1813 Sir William Garrow, the Solicitor-General, actually opposed the abolition of drawing and quartering [2] :—

> "Can Government exist without such protection? . . . Are the safeguards, are the ancient landmarks, the bulwarks of the constitution, thus hastily to be removed?"

[1] House of Lords, 30th May, 1810, *Hansard*, vol. 19, Appendix.
[2] *Hansard*, vol. 28, 1814 (Appendix for 5th April, 1813, c. xcv).

In 1832 Sir Robert Peel opposed a Bill to abolish capital punishment for stealing over £5 from a dwelling-house, saying :—

> "He looked upon this as a most dangerous experiment."[1]

Deterrence may or may not have a place in an enlightened penal system, a matter which will be discussed later, but it is beyond dispute that the attempt in the past to protect Society by penal methods in which deterrence was the principal factor was unsuccessful.[2] It failed as it was bound to fail, because men cannot be made good by fear alone. Crime is the outward expression of an anti-social desire. Fear can do little more than curb the outward expression of the desire, which then remains to work itself out in some other way. Even if fear goes further than this, as some have urged, and curbs the desire itself, we now know that psychologically this is equally bad. Anti-social desires need to be, not repressed, but changed or sublimated ; and it is doubtful whether fear ever does this.

In the days of Queen Elizabeth picking pockets was a capital offence. Yet an Act passed at that time sets forth that the pickpocket was busy even at public executions :—

> A certain kind of evil disposed persons, commonly called cut-purses or pick-purses but indeed by the laws of this land very felons and thieves, . . . in Fairs,

[1] *Hansard*, 30th May, 1832.

[2] The failure of severity to diminish crime will be discussed in later chapters.

Markets and other assemblies of the People, yea and at the time of doing of execution of such as been attainted of any murder, felony or other criminal cause, ordained chiefly for terror and example of evil doers, do without respect or regard of any time, place or person or of any fear or dread of God, or any law or punishment, under the cloak of honesty by their outward apparel, countenance, and behaviour, subtilly, privily, craftily and feloniously take the goods of divers good and honest subjects from their persons by cutting and picking their purses and other felonious sleights and devices, to the utter undoing and impoverishing of many." [1]

In 1830, when death was the penalty for forgery, a petition signed by 725 bankers from 214 cities and towns was presented to Parliament praying

"that your Honourable House will not withhold from them that protection to their property which they would derive from a more lenient law ". [2]

In this instance the primary difficulty was that the great severity of the punishment tended to prevent the prosecution and conviction of the offenders, and the protest is interesting as showing that severity of punishment may defeat its own object.

Though the conditions of transportation at Norfolk Island and Port Arthur were such that they were said to have

"carried the vengeance of the law to the utmost limits of human endurance ", [3]

[1] 8 Eliz., cap. 4, section 1.
[2] *Hansard*, 24th May, 1830, c. 998–9.
[3] West, *History of Tasmania*, ii, 244.

the Royal Commission on Transportation reported that offenders were

> " not infrequently transported to those Colonies a second time ".[1]

When transportation was replaced by imprisonment, experience proved that the harsh prison system which was substituted was no more effective in the protection of Society. Sir Evelyn Ruggles Brise, late Chairman of the Prison Commission, says of the recidivism of the period :—

> " It seemed almost a mockery to talk of social progress when in the background was the silent, ceaseless tramp of this multitude of men, women and children, finding no rest but behind prison walls, and only issuing thence to re-enter again." [2]

And even at the beginning of the present century, when solitary confinement was much reduced and the treadmill and the crank had become past history, prison was not reformative. Society was not being protected, for, far from deterring men from crime, prison sent many of them forth to repeat crimes similar to those for which they had been imprisoned.

This failure of our old deterrent penal methods has been increasingly recognized in recent years, and with it has come the realization that we must find other and more constructive ways of protecting Society.

[1] Report on Transportation, 1838, p. xxii.
[2] *The English Prison System*, 1921. Introduction, p. 19.