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CRIME AND PUNISHMENT

BY VOLTAIRINE DE CLEYRE

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Men are of three sorts: the turn backs, the rush-aheads, and the indifferents. The first and the second are comparatively few in number. The really conscientious conservative, eternally looking backward for his models and trying hard to preserve that which is, is almost as scarce an article as the genuine radical, who is eternally attacking that which is and looking forward to some indistinct but glowing vision of a purified social life. Between them lies the vast nitrogenous body of the indifferents, who go through life with no large thoughts or intense feelings of any kind, the best that can be said of them being that they serve to dilute the too fierce activities of the other two. Into the callous ears of these indifferents, nevertheless, the opposing voices of conservative and radical are continually shouting; and for years, for centuries, the conservative wins the day, not because he really touches the consciences of the indifferent so much (though in a measure he does that) as because his way causes his hearer the least mental trouble. It is easier to this lazy, inert mentality to nod its head and approve the continuance of things as they are, than to listen to proposals for change, to consider, to question, to make an innovating decision. These require activity, application—and nothing is so foreign to the hibernating social conscience of your ordinary individual. I say ‘social’ conscience, because I by no means wish to say that these are conscienceless people; they have, for active use, sufficient conscience to go through their daily parts in life, and they think that is all that is required. Of the lives of others, of the effects of their attitude in cursing the existences of thousands whom they do not know, they have no conception; they sleep; and they hear the voices of those who cry aloud about these things, dimly, as in dreams; and they do not wish to awaken. Nevertheless, at the end of the centuries they always awaken. It is the radical who always wins at last. At the end of the centuries institutions are reviewed by this aroused social conscience, are revised, sometimes are utterly rooted out.

Thus it is with the institutions of Crime and Punishment. The conservative holds that these things have been decided from all time; that crime is a thing-in-itself, with no other cause than the viciousness of man; that punishment was decreed from Mt. Sinai, or whatever holy mountain happens to be believed in his country; that society is best served by strictness and severity of judgment and punishment. And he wishes only to make his indifferent brothers keepers of other men’s consciences along these lines. He would have all men be hunters of men, that crime may be tracked down and struck down.

The radical says: All false, all false and wrong. Crime has not been decided from all time: crime, like everything else, has had its evolution according to place, time, and circumstance. ‘The demons of our sires become the saints that we adore,’ –and the saints, the saints and the heroes of our fathers, are criminals according to our very codes. Abraham, David, Solomon—could any respectable member of society admit that he had done the things they did? Crime is not a thing-in-itself, not a plant without roots, not a something proceeding from nothing; and the only true way to deal with it is to seek its causes as earnestly, as painstakingly, as the astronomer

Is it not enough that ‘things are cruel and blind?’ Must we also be cruel and blind? When the whole thing amounts to so little at the most, shall we embitter it more, and crush and stifle what must so soon be crushed and stifled anyhow? Can we not, knowing what remnants of things dead and drowned are floating through us, haunting our brains with specters of old deeds and scenes of violence, can we not learn to pardon our brother to whom the specters are more real, upon whom greater stress was laid? Can we not, recalling all the evil things that we have done, or left undone only because some scarcely perceptible weight struck down the balance, or because some kindly word came to us in the midst of our bitterness and showed that not all was hateful in the world; can we not understand him for whom the balance was not struck down, the kind word unspoken? Believe me, forgiveness is better than wrath—better for the wrong-doer, who will be touched and regenerated by it, and better for you. And you are wrong if you think it is hard: it is easy, far easier than to hate. It may sound like a paradox, but the greater the injury the easier the pardon.

Let us have done with this savage idea of punishment, which is without wisdom. Let us work for the freedom of man from the oppressions which make criminals, and for the enlightened treatment of all the sick. And though we may never see the fruit of it, we may rest assured that the great tide of thought is setting our way, and that

*While the tired wave, vainly breaking,
Seems here no painful inch to gain,
Far back through creeks and inlets making,
Comes silent, flooding in, the main.*

Voltairine de Cleyre (1866-1912) was an anarchist, feminist, theorist, writer, and speaker. Born into poverty in Michigan, her family sent teenaged de Cleyre to a Catholic boarding school. Despite dramatic escape attempts, she graduated with honors and went on to become a luminary in the Free Thought, or atheist, movement. She adopted anarchism, refocusing much of her energy toward this cause, and resettled in Philadelphia, earning money by providing English and music lessons. In 1902, a former pupil suffering from mental illnesses attempted to assassinate her, shooting her three times at point blank range. She forgave her assailant and decried attempts to prosecute him, writing "It would be an outrage against civilization if he were sent to jail for an act which was the product of a diseased brain." She even went so far as to raise funds for his legal defense. The bullets remained lodged in her long-suffering body and she survived another ten years before finally succumbing to lifelong illnesses.

the inquisition to make them reveal that of which they knew nothing. After a year of such suffering as makes the decent human heart sick only to contemplate, with nothing proven against them, some even without trial, they were suddenly released with orders to leave the country within twenty-four hours. They were then in Trafalgar Square, and to the credit of old England be it said, harlot and mother of harlots though she is, for there was not another country among the great nations of the earth to which those twenty-eight innocent people could go. For they were paupers impoverished by that cruel State of Spain in the terrible battle for their freedom; they would not have been admitted to free America. When Francesco Gana, speaking in a language which most of them did not understand, lifted his poor, scarred hands, the faces of those ten thousand people moved together like the leaves of a forest in the wind. They waved to and fro, they rose and fell; the visible moved in the breath of the invisible. It was the revelation of the action of the Unconscious, the fatalistic unity of man.

Sometimes, even now as I look upon you, it is as if the bodies that I see were as transparent bubbles wherethrough the red blood boils and flows, a turbulent stream churning and tossing and leaping, and behind us and our generation, far, far back, endlessly backwards, where all the bubbles are broken and not a ripple remains, the silent pouring of the Great Red River, the unfathomable River—backwards through the unbroken forest and the untilled plain, backwards through the forgotten world of savagery and animal life, back somewhere to its dark sources in deep Sea and old Night, the rushing River of Blood—no fancy—real, tangible blood, the blood that hurries in your veins while I speak, bearing with it the curses and the blessing of the Past. Through what infinite shadows has that river rolled! Through what desolate wastes has it not spread its ooze! Through what desperate passages has it been forced! What strength, what invincible strength is in that hot stream! You are just the bubble on its crest; where will the current fling you ere you die? At what moment will the fierce impurities borne from its somber and tenebrous past be hurled up in you? Shall you then cry out for punishment if they are hurled up in another? If, flung against the merciless rocks of the channel, while you swim easily in the midstream, they fall back and hurt other bubbles?

Can you not feel that

*Men are the heart-beats of Man, the plumes that feather his wings,
Storm-worn since being began with the wind and the thunder of things.
Things are cruel and blind; their strength detains and deforms,
And the wearying wings of the mind still beat up the stream of their storms.
Still, as one swimming up-stream, they strike out blind in the blast,
In thunder of vision and dream, and lightning of future and past.
We are baffled and caught in the current and bruised upon edges of shoals:
As weeds or as reeds in the torrent of things are the wind-shaken souls.
Spirit by spirit goes under, a foam-bell's bubble of breath,
That blows ad opens asunder and blurs not the mirror of Death.*

seeks the causes of the perturbations in the orbit of the planet he is observing, sure that there must be one, or many, somewhere. And Punishment, too, must be studied. The holy mountain theory is a failure. Punishment is a failure. And it is a failure not because men do not hunt down and strike enough, but because they hunt down and strike at all; because in the chase of those who do ill, they do ill themselves; they brutalize their own characters, and so much the more so because they are convinced that this time the brutal act is done in accord with conscience. The murderous deed of the criminal was *against* conscience, the torture or the murder of the criminal by the official is *with* conscience. Thus the conscience is diseased and perverted, and a new class of imbruted men created. We have punished and punished for untold thousands of years, and we have not gotten rid of crime, we have not diminished it. Let us consider then.

The indifferentist shrugs his shoulders and remarks to the conservative: ‘What have I to do with it? I will hunt nobody and I will save nobody. Let every one take care of himself. I pay my taxes; let the judges and the lawyers take care of the criminals. And as for you, Mr. Radical, you weary me. Your talk is too heroic. You want to play Atlas and carry the heavens on your shoulders. Well, do it if you like. But don’t imagine I am going to act the stupid Hercules and transfer your burden to my shoulders. Rave away until you are tired, but let me alone.’

‘I will not let you alone. I am no Atlas. I am not more than a fly; but I will annoy you, I will buzz in your ears; I will not let you sleep. You must think about this.’

That is about the height and power of my voice, or of any individual voice, in the present state of the question. I do not deceive myself. I do not imagine that the question of crime and punishment will be settled till long, long after the memory of me shall be as completely swallowed up by time as last year’s snow is swallowed by the sea. Two thousand years ago a man whose soul revolted at punishment, cried out: ‘Judge not, lest that ye be not judged;’ and yet men and women who have taken his name upon their lips as holy, have for all those two thousands years gone on judging as if their belief in what he said was only lip-belief; and they do it to-day. And judges sit upon benches and send men to their death—even judges who do not themselves believe in capital punishment; and prosecutors exhaust their eloquence and their tricks to get men convicted; and women and men bear witness against sinners; and then they all meet in church and pray, ‘Forgive us our trespasses as we forgive those who trespass against us!’

Do they mean anything at all by it?

And I know that just as the voice of Jesus was not heard, and is not heard, save here and there; just as the voice of Tolstoi is not heard, save here and there; and others great and small are lost in the great echoless desert of indifferentism, having produced little perceptible effect, so my voice also will be lost, and barely a slight ripple of thought will be propagated over that dry and fruitless expanse; even that the next wind of trial will straighten and leave as unimprinted sand.

Nevertheless, by the continued and unintermitting action of forces infinitesimal compared with the human voice, the greatest effects are at length accomplished. A wave-length of light is but the fifty-thousandth part of an inch, yet by the continuous action of waves like these have been produced all the creations of light, the entire world of sight, out of masses irresponsive, dark, colorless. And doubt not that in time this cold and irresponsive mass of indifference will feel and stir and realize the force of the great sympathies which will change the attitude of the human mind as a whole towards Crime and Punishment, and erase both from the world.

Not by lawyers and not by judges shall the final cause of the criminal be tried; but lawyer and judge and criminal together shall be told by the Social Conscience, 'Depart in peace.'

A great ethical teacher once wrote words like unto these: 'I have within me the capacity for every crime.'

Few, reading them, believe that he meant what he said. Most take it as the sententious utterance of one who, in the abandonment of generosity, wished to say something large and leveling. But I think he meant exactly what he said. I think that with all his purity Emerson had within him the turbid stream of passion and desire; for all his hard-cut granite features he knew the instincts of the weakling and the slave; and for all the sweetness, the tenderness, and the nobility of his nature, he had the tiger and the jackal in his soul. I think that within every bit of human flesh and spirit that has ever crossed the enigma bridge of life, from the prehistoric racial morning until now, all crime and all virtue were germinal. Out of one great soul-stuff are we sprung, you and I and all of us; and if in you the virtue has grown and not the vice, do not therefore conclude that you are essentially different from him whom you have helped to put in stripes and behind bars. Your balance may be more even, you may be mixed in smaller proportions altogether, or the outside temptation has not come upon you.

I am no disciple of that school whose doctrine is summed up in the teaching that Man's Will is nothing, his Material Surroundings all. I do not accept that popular socialism which would make saints out of sinners only by filling their stomachs. I am no apologist for characterlessness, and no petitioner for universal moral weakness. I believe in the individual. I believe that the purpose of life (in so far as we can give it a purpose, and it has none save what we give it) is the assertion and the development of strong, self-centered personality. It is therefore that no religion which offers vicarious atonement for the misdoer, and no philosophy which rests on the cornerstone of irresponsibility, makes any appeal to me. I believe that immeasurable mischief has been wrought by the ceaseless repetition for the last two thousand years of the formula: 'Not through any merit of mine shall I enter heaven, but through the sacrifice of Christ.' —Not through the sacrifice of Christ, nor any other sacrifice shall any one attain strength, save in so far as he takes the spirit and the purpose of the sacrifice into his own life and lives it. Nor do I see anything as

unless political ones. But he finds no relief. He remains for a year, bitter, resentful, a prey to all miserable feelings. But at last he is touched by love, the silent, unobtrusive, all-conquering love of one who knew it all and forgave it all. And the regeneration of his soul began.

'The criminal slew,' says Tolstoy: 'are you better, then, when you slay? He took another's liberty; and is it the right way, therefore, for you to take his? Violence is no answer to violence.'

*Have good will
To all that lives, letting unkindness die,
And greed and wrath; so that you lives be made
As soft airs passing by.*

So said Lord Buddha, the Light of Asia.

And another said: 'Ye have heard that it hath been said 'an eye for an eye, and a tooth for a tooth'; but I say unto you, resist not him that is evil.'

Yet the vengeance that the great psychologist saw was futile, the violence that the present living religious teacher and the greatest dead ones advised no man to wreak, that violence is done daily and hourly by every little-hearted prosecutor who prosecutes at so much a day, by every petty judge who buys his way into office with common politicians' tricks, and deals in men's lives and liberties as a trader deals in pins, by every neat-souled and cheap-souled member of the 'unco guid' whose respectable bargain-counter maxims of morality have as much effect to stem the great floods and storms that shake the human will as the waving of a lady's kid glove against the tempest. Those who have not suffered cannot understand how to punish; those who have understanding will not.

I said at the beginning and I say again, I believe that in every one of us all things are germinal: in judge and prosecutor and prison-keeper too, and even in those small moral souls who cut out one undeviating pattern for all men to fit, even in them there are the germs of passion and crime and sympathy and forgiveness. And some day things will stir in them and accuse them and awaken them. And that awakening will come when suddenly one day there breaks upon them with realizing force the sense of the unison of life, the irrevocable relationship of the saint to the sinner, the judge to the criminal; that all personalities are intertwined and rushing upon doom together. Once in my life it was given to me to see the outward manifestation of this unison. It was in 1897. We stood upon the base of the Nelson monument in Trafalgar Square. Below were ten thousand people packed together with upturned faces. They had gathered to hear and see men and women whose hands and limbs were scarred all over with the red-hot irons of the tortures in the fortress of Montjuich. For the crime of an unknown person these twenty-eight men and women, together with four hundred others, had been cast into that terrible den and tortured with the infamies of

probably be very humane, well-intentioned persons when they start in; but the end of all this is imbrutement. One of our dailies recently observed that ‘the men in charge of prisons have but too often been men who ought themselves to have been prisoners.’ The Anarchist does not agree with that. He would have no prisons at all. But I am quite sure that if that editor himself were put in the prison-keeper’s place, he too would turn hard. And the opportunities of the official criminal are much greater than those of the unofficial one. Lawyer and governmentalist as he was, Ingersoll said: ‘It is safe to say that governments have committed far more crimes than they have prevented.’ Then why create a second class of parasites worse than the first? Why not put up with the original one?

Moreover, you have another thing to consider than the simple problem of a wrong inflicted upon a guilty man. How many times has it happened that the innocent man has been convicted! I remember an instance of a man so convicted of murder in Michigan. He had served twenty-seven years in Jackson penitentiary (for Michigan is not a hang-State) when the real murderer, dying, confessed. And the State *pardoned* that innocent man! Because it was the quickest legal way to let him out! I hope he has been able to pardon the State.

Not very long ago a man was hanged here in this city. He had killed his superintendent. Some doctors said he was insane; the government experts said he was not. They said he was faking insanity when he proclaimed himself Jesus Christ. And he was hanged. Afterwards the doctors found two cysts in his brain. The State of Pennsylvania had killed a sick man! And as long as punishments exist these mistakes will occur. If you accept the principle at all, you must accept with it the blood-guilt of innocent men.

Not only this, but you must accept also the responsibility for all the misery which results to others whose lives are bound up with that of the convict, for even he is loved by some one, much loved perhaps. It is a foolish thing to turn adrift a house full of children, to become criminals in turn, perhaps, in order to frighten some indefinite future offender by making an example of their father or mother. Yet how many times has it not happened.

And this is speaking only from the practical, selfish side of the matter. There is another, one from which I would rather appeal to you, and from which I think you would after all prefer to be appealed to. Ask yourselves, each of you, whether you are quite sure that you have feeling enough, understanding enough, and *have you suffered* enough, to be able to weigh and measure out another man’s life or liberty, no matter what he has done? And if you have not yourself, are you able to delegate any judge the power which you have not? The great Russian novelist Dostoyevsky, in his psychological study of this same subject, traces the sufferings of a man who had committed a shocking murder; his whole body and brain are a continual prey to torture. He gives himself up, seeking relief in confession. He goes to prison, for in barbarous Russia they have not the barbarity of capital punishment for murderers,

the result of the teaching that all men are the helpless victims of external circumstance and under the same conditions will act precisely alike, than a lot of spineless, nerveless, bloodless crawlers in the tracks of stronger men—too desirous of ease to be honest, too weak to be successful rascals.

Let this be put as strongly as it can now, that nothing I shall say hereafter may be interpreted as a gospel of shifting and shirking.

But the difference between us, the Anarchists, who preach self-government and none else, and Moralists who in times past and present have asked for individual responsibility, is this, that while they have always framed creeds and codes for the purpose of *holding others to account*, we draw the line upon ourselves. Set the standard as high as you will; live to it as near as you can; and if you fail, try yourself, judge yourself, condemn yourself, if you choose. Teach and persuade your neighbor if you can; consider and compare his conduct if you please; speak your mind if you desire; but if he fails to reach your standard or his own try him not, judge him not, condemn him not. He lies beyond your sphere; you cannot know the temptation nor the inward battle nor the weight of the circumstance upon him. You do no know how long he fought before he failed. Therefore you cannot be just. Let him alone.

This is the ethical concept at which we have arrived, not by revelation from any superior power, not through the reading of any inspired book, not by special illumination of our inner consciousness; but by the study of the results of social experimentation in the past as presented in the works of historians, psychologists, criminologists, sociologists, and legists.

Very likely so many ‘ists’ sound a little oppressive, and there may be those to whom they may even have a savor of pedantry. It sounds much simpler and less ostentatious to say ‘Thus saith the Lord,’ or ‘The Good Book Says.’ But in the meat and marrow these last are the real presumptions, these easy-going claims of familiarity with the will and intent of Omnipotence. It may sound more pedantic to you to say, ‘I have studied the accumulated wisdom of man, and drawn certain deductions therefrom,’ than to say ‘I had a talk with God this morning and he said thus and so;’ but to me the first statement is infinitely more modest. Moreover there is some chance of its being true while the other is highly imaginative fiction.

This is not to impugn the honesty of those who inherit this survival of an earlier mental state of the race, and who accept it as they accept their appetites or anything else they find themselves born with. Nor is it to belittle those past efforts of active and ardent souls who claimed direct divine inspiration as the source of their doctrines. All religions have been, in their great general outlines, the intuitive graspings of the race at truths which it had not yet sufficient knowledge to demonstrate—rude and imperfect statements of ideas which were yet but germinal, but which, even then, mankind had urgent need to conceive, and upon which it afterwards spends the efforts of generations of lives to correct and perfect. Thus the

very ethical concept of which I have been speaking as peculiarly Anarchistic, was preached as a religious doctrine by the fifteenth century Tolstoi, Peter Chilciky; and in the sixteenth century, the fanatical sect of the Anabaptists shook Germany from center to circumference by a doctrine which included the declaration that ‘pleading in courts of law, oaths, capital punishment, and all absolute power were incompatible with the Christian faith.’ It was an imperfect illumination of the intellect, such only as was possible in those less enlightened days, but an illumination that defined certain noble conceptions of justice. They appealed to all they had—the Bible, the inner light, the best that they knew, to justify their faith. We to whom a wider day is given, who can appeal not to one book but to thousands, who have the light of science which is free to all that can command the leisure and the will to know, shining white and open on these great questions, dim and obscure in the days of Peter Chilciky, we should be the last to cast a sneer at them for their heroic struggle with tyranny and cruelty; though to-day the man who would claim their claims on their grounds would be justly rated atavist or charlatan.

Nothing or next to nothing did the Anabaptists know of history. For genuine history, history which records the growth of a whole people, which traces the evolution of its mind as seen in its works of peace—its literature, its art, its constructions—is the creation of our own age. Only within the last seventy-five years has the purpose of history come to have so much depth as this. Before that it was a mere register of dramatic situations, with no particular connection, a chronicle of the deeds of prominent persons, a list of intrigues, scandals, murders big and little; and the great people, the actual builders and preservers of the race, the immense patient, silent mass who painfully filled up all the waste places these destroyers made, almost ignored. And no man sought to discover the relations of even the recorded acts to any general causes; no man conceived the notion of discovering what is political and moral growth or political and moral suicide. That they did not do so is because writers of history, who are themselves incarnations of their own time spirit, could not get beyond the unscientific attitude of mind, born of ignorance and fostered by the Christian religion, that man is something entirely different from the rest of organized life; that he is a free moral agent, good if he pleases and bad if he pleases, that is, according as he accepts or rejects the will of God; that every act is isolated, having no antecedent, morally, but the will of its doer. Not until modern science had fought its way past prisons, exilements, stakes, scaffolds, and tortures, to the demonstration that man is no freewill freak thrust by an omnipotent joker upon a world of cause and sequence to play havoc therein, but just a poor differentiated bit of protoplasm as much subject to the general processes of matter and mind as his ancient progenitor in the depths of the Silurian sea, not until then was it possible for any real conception of the scope of history to begin. Not until then was it said: ‘The actions of men are the effects of large and general causes. Humanity as a whole has a regularity of movement as fixed as the movement of the tides; and given certain physical and social environments, certain developments may be predicted with the certainty off a mathematical calculation.’ Thus crime, which for so many ages men have gone on punishing more or less light-heartedly, so far from having its final cause in

white lions chasing each other towards the walls, and leaping up with foaming anger as they strike, and turn and chase each other along the black bars of their cage in rage to devour each other? And tear back? And leap in again? Have you ever wondered in the midst of it all *which particular drops of water* would strike the wall? If one could know all the factors one might calculate even that. But who can know them all? Of one thing only we are sure: *some must strike it*.

They are the criminals, those drops of water pitching against the silly wall and broken. Just why it was these particular ones we cannot know; but some had to go. Do not curse them; you have cursed them enough. Let the people free.

There is a class of crimes of violence which arises from another set of causes than economic slavery, acts which are the result of an antiquated moral notion of the true relations of men and women. These are the Nemesis of the institution of property in love. If every one would learn that the limit of his right to demand a certain course of conduct in sex relations is himself; that the relation of his beloved ones to others is not a matter for him to regulate, any more than the relations of those whom he does not love; if the freedom of each is unquestioned, and whatever moral rigors are exacted are exacted of oneself only; if this principle is accepted and followed, crimes of jealousy will cease. But religions and governments uphold this institution and constantly tend to create the spirit of ownership with all its horrible consequences.

Ah, you will say, perhaps it is true; perhaps when this better social condition is evolved, and this freer social spirit, we shall be rid of crime—at least nine-tenths of it. But meanwhile must we not punish to protect ourselves?

The protection does not protect. The violent man does not communicate his intention; when he executes it, or attempts its execution, more often than otherwise it is some unofficial person who catches or stops him. If he is a born criminal, or in other words an insane man, he should, I reiterate, be treated as a sick person—not punished, not made to suffer. If he is one of the accidental criminals, his act will not be repeated; his punishment will always be with him. If he is of the middle class, your punishment will not reform him, it will only harden him; and it will not deter others.

As for thieves, the great thief is within the law, or he buys it; and as for the small one, see what you do! To protect yourself against him, you create a class of persons who are sworn to the service of the club and the revolver; a set of spies; a set whose business it is to deal constantly with these unhappy beings, who in rare instances are softened thereby but in the majority of cases become hardened to their work as butchers to the use of the knife; a set whose business it is to serve cell and lock and key; and lastly, the lowest infamy of all, the hangman. Does any one want to shake his hand, the hand that kills for pay?

Now against all these persons individually there is nothing to be said: they may

Some use their muscles: they use them to punch bags, and other gentlemen's stomachs when their heads are full of wine. Some use them to club other men and women, at \$2.50 a day. Some exhaust them welding them into iron, or weaving them into wool, for ten or eleven hours a day. And some become atrophied sitting at desks till they are mere specters of men and women.

Some love; and there is no end to the sensualities of their love, because all normal expressions have lost their savor through excess. Some love, and see their love tried and worn and threadbare, a skeleton of love, because the practicality of life is always there to repress the purely emotional. Some are so stricken in health, so robbed of power to feel, that they never love at all.

And some dream, think create; and the world is filled with the glory of their dreams. But who knows the glory of the dream that never was born, lost and dead and buried away somewhere there under the roofs where the exquisite brain was ruined by the heavy labor of life? And what of the dream that turned to madness and destroyed the thing it loved best?

These are the things that make criminals, the perverted forces of man, turned aside by the institution of property, which is the giant social mistake to-day. It is your law which keeps men from using the sources and the means of wealth production unless they pay tribute to other men, it is this, and nothing else, which is responsible for all the second-class of crimes and all those crimes of violence incidentally committed while carrying out a robbery. Let me quote here a most sensible and appropriate editorial which recently appeared in the *Philadelphia North American*, in comment upon the proposition of some foolish preacher to limit the right of reproduction to rich families:

The earth was constructed, made habitable, and populated without the advice of a commission of superior persons, and until they appeared and began meddling with affairs, making laws and setting themselves up as rules, poverty and its evil consequences were unknown to humanity. When a social science finds a way to remove obstructions to the operation of natural law and to the equitable distribution of the products of labor, poverty will cease to be the condition of the masses of people, and misery, CRIME and problems of population will disappear.

And they will never disappear until it does. All hunting down of men, all punishments, are but so many ineffective efforts to sweep back the tide with a broom. The tide will fling you, broom and all, against the idle walls that you have built to fence it in. Tear down those walls or the sea will tear them down for you.

Have you ever watched it coming in—the sea? When the wind comes roaring out of the mist and a great bellowing thunders up from the water? Have you watched the

individual depravity, bears a steady and invariable relation to the production and distribution of staple food supplies, a thing over which society itself at times can have no control (as on the occasion of great natural disturbances), and in general does not yet know how to manage wisely: how much less, then, the individual! This regularity of the recurrence of crime was pointed out long before by the greatest statisticians of Europe, who, indeed, did not go so far as to question why it was so, nor to compare these regularities with other regularities, but upon whom the constant repetition of certain figures in the statistics of murder, suicide, assault, etc., made a profound impression. It was left to the new historians, the great pioneer among whom was H.T. Buckle in England, to make the comparisons in the statistics, and show that individual crimes as well as virtues are always calculable from general material conditions.

This is the basis from which we argue, and it is a basis established by the comparative history of civilizations. In no other way could it have been really established. It might have been guessed at and indeed was. But only when the figures are before us, figures obtained 'by millions of observations extending over different grades of civilization, with different laws, different opinions, different habits, different morals' (I am quoting Buckle), only then are we able to say surely that the human mind proceeds with a regularity of operation outweighing all the creeds and codes ever invented, and that if we would begin to understand the problem of the treatment of crime we must go to something far larger than the moral reformation of the criminal. No prayers, no legal enactments, will ever rid society of crime. If they would, there have been prayers enough and preachments enough and laws enough and prisons enough to have done it long ago. But pray that the attraction of gravitation shall cease. Will it cease? Enact the water shall freeze at 100° heat. Will it freeze? And no more will men be sane and honest and just when they are compelled to live in an insane, dishonest, and unjust society, when the natural operation of the very elements of their being is warred upon by statutes and institutions which must produce outbursts destructive both to themselves and to others.

Away back in 1835 Quetelet, the French statistician, wrote: 'Experience demonstrates, in fact, by every possible evidence, this opinion, which may seem paradoxical at first, that it is society which prepares the crime, and that the guilty one is but the instrument which executes it.' Every crime, therefore, is a charge against society which can only be rightly replied to when society consents to look into its own errors and rectify the wrong it has done. This is one of the results which must, in the end, flow from the labors of the real historians; one of the reasons why history was worth writing at all.

From the days of the Roman jurisconsults until now the legists themselves have made a distinction between crimes against the law of nature and crimes merely against the law of society. From the modern scientific standpoint no such distinction can be maintained. Nature knows nothing about crime, and nothing ever was a crime

until the social Conscience made it so. Neither is it easy when one reads their law books, even accepting their view-point, to understand why certain crimes were catalogued as against the law of nature, and certain others as of the more artificial character. But I presume what were in general classed as crimes against nature were Acts of Violence committed against persons. Aside from these we have a vast, an almost interminable number of offenses big and little, which are in the main attacks upon the institution of property, concerning which some very different things have to be said than concerning the first. As to these first there is no doubt that these are real crimes, by which I mean simply anti-social acts. Any action which violates life or liberty of any individual is an anti-social act, whether done by one person, by two, or by a whole nation. And the greatest crime that ever was perpetrated, a crime beside which all individual atrocities diminish to nothing, is War; and the greatest, the least excusable of murderers are those who order it and those who execute it. Nevertheless, this chiefest of murderers, the Government, its own hands red with the blood of hundreds of thousands, assumes to correct the individual offender, enacting miles of laws to define the varying degrees of his offense and punishment, and putting beautiful building stone to very hideous purposes for the sake of caging and tormenting him therein.

We do get a fig from a thistle—sometimes! Out of this noisome thing, the prison, has sprung the study of criminology. It is very new, and there is considerable painstaking nonsense about it. But the main results are interesting and should be known by all who wish to form an intelligent conception of what a criminal is and how he should be treated. These men who are cool and quiet and who move among criminals and study them as Darwin did his plants and animals, tell us that these prisoners are reducible to three types: The Born Criminal, the Criminaloid, and the Accidental Criminal. I am inclined to doubt a great deal that is said about the born criminal. Prof. Lombroso gives us very exhaustive reports of the measurements of their skulls and their ears and their noses and their thumbs and their toes, etc. But I suspect that if a good many respectable, decent, never-did-a-wrong-thing-in-their-lives people were to go up for measurement, malformed ears and disproportionately long thumbs would be equally found among them if they took the precaution to represent themselves as criminals first. Still, however few in number (and they are really very few), there are some born criminals—people who through some malformation or deficiency or excess of certain portions of the brain are constantly impelled to violent deeds. Well, there are some born idiots and some born cripples. Do you punish them for their idiocy or for their unfortunate physical condition? On the contrary, you pity them, you realize that life is a long infliction to them, and your best and tenderest sympathies go out to them. Why not to the other, equally a helpless victim of an evil inheritance? Granting for the moment that you have the right to punish the mentally responsible, surely you will not claim the right to punish the mentally irresponsible! Even the law does not hold the insane man guilty. And the born criminal is irresponsible; he is a sick man, sick with the most pitiable chronic disease; his treatment is for the medical world to decide, and the best of them—not for the prosecutor, the judge, and the warden.

next to turn for a new palatal sensation. They cannot even waste their wealth. Some, and they are mostly the hardest workers, eat poorly and fast, for their work allows them no time to enjoy even wheat they have. Some—I have seen them myself in the streets of New York this winter, and the look of their wolfish eyes was not pleasant to see—stand in long lines waiting for midnight and the plate of soup dealt out by some great newspaper office, stretching out, whole blocks of them, as other men wait on the first night of some famous star at the theater! Some die because they cannot eat at all. Pray tell me what these last have to lose by becoming thieves. And why shall they not become thieves? And is the action of the man who takes the necessities which have been denied to him really criminal? Is he morally worse than the man who crawls in a cellar and dies of starvation? I think not. He is only a little more assertive. Cardinal Manning said: ‘A starving man has a natural right to his neighbor’s bread.’ The Anarchist says: ‘A hungry man has a social right to bread.’ And there have been whole societies and races among whom that right was never questioned. And whatever were the mistakes of those societies, whereby they perished, this was not a mistake, and we shall do well to take so much wisdom from the dead and gone, the simple ethics of the stomach which with all our achievement we cannot despise, or despising, shall perish as our reward.

‘But,’ you will say, and say truly, ‘to begin by taking loaves means to end by taking everything and murdering, too, very often.’ And in that you draw the indictment against your own system. If there is no alternative between starving and stealing, (and for thousands there is none) then there is no alternative between society’s murdering its members, or the members disintegrating society. Let Society consider its own mistakes, then: let it answer itself for all these people it has robbed and killed: let it cease its own crimes first!

To return to the faculties of Man. All would breathe; and some do breathe. They breathe the air of the mountains, of the seas, of the lakes—even the atmosphere in the gambling dens of Monte Carlo, for a change! Some, packed thickly together in closed rooms where men must sweat and faint to save tobacco, breathe the noisome reek that rises from the spittle of their consumptive neighbors. Some, mostly babies, lie on the cellar doors along Bainbridge street, on summer nights, and bathe their lungs in that putrid air where a thousand lungs have breathed before, and grow up pale and decayed looking as the rotting vegetables whose exhalations they draw in. Some, far down underground, meet the choke-damp, and—do not breathe at all! Do you expect healthy morals out of all these poisoned bodies?

Some sleep. They have so much time that they take all manner of expensive drugs to try what sleeping it off a different way is like! Some sleep upon none too easy beds a few short hours, too few not to waken more tired than ever, and resume the endless grind of waking life. Some sleep bent over the books they are too tired to study, though the mind clamors for food after the long day’s physical toil. Some sleep with hand upon the throttle of the engine, after twenty-six hours of duty, and—crash! They have had enough.

home and on the same day murdered his wife.' Evidently the brute is rather aroused than terrified by scenes of execution.

What then? If extreme punishments do not deter, and if what are considered mild punishments do not reform, is any measure of punishment conceivably or attainable which will better our case?

Before answering this question let us consider the class of crimes which so far has not been dwelt upon, but which nevertheless comprises probably nine-tenths of all offenses committed. These are all the various forms of stealing—robbery, burglary, theft, embezzlement, forgery, counterfeiting, and the thousand and one ramifications and offshoots of the act of taking what the law defines as another's. It is impossible to consider crimes of violence apart from these, because the vast percentage of murders and assaults committed by the criminaloid class are simply incidental to the commission of the so-called lesser crimes. A man often murders in order to escape with his booty, though murder was no part of his original intention. Why, now, have we such a continually increasing percentage of stealing?

Will you persistently hide your heads in the sand and say it is because men grow worse as they grow wiser? That individual wickedness is the result of all our marvelous labors to compass sea and land, and make the earth yield up her wealth to us? Dare you say that?

It is not so. THE REASON MEN STEAL IS BECAUSE THEIR RIGHTS ARE STOLEN FROM THEM BEFORE THEY ARE BORN.

A human being comes into the world; he wants to eat, he wants to breathe, he wants to sleep; he wants to use his muscles, his brain; he wants to love, to dream, to create. These wants constitute him, the whole man; he can no more help expressing these activities than water can help running down hill. If the freedom to do any of these things is denied him, then by so much he is a crippled creature, and his energy will force itself into some abnormal channel or be killed altogether. Now I do not mean that he has a 'natural right' to do these things inscribed on any lawbook of Nature. Nature knows nothing of rights, she knows powers only, and a louse has as much natural right as a man to the extent of its power. What I do mean to say is that man, in common with many other animals, has found that by associative life he conquers the rest of nature, and that this society is slowly being perfected; and that this perfectionment consists in realizing that the solidarity and safety of the whole arises from the freedom of the parts; that such freedom constitutes Man's Social Right; and that any institution which interferes with this right will be destructive of the association, will breed criminals, will work its own ruin. This is the word of the sociologist, the greatest of them, Herbert Spencer.

Now do we see that all men eat—eat well? You know we do not. Some have so much that they are sickened with the extravagance of dishes, and know not where

It is true that many criminologists, including Prof. Lombroso himself, are of opinion that the best thing to do with the born criminal is to kill him at once, since he can be only a curse to himself and others. Very heroic treatment. We may inquire, Is he to be exterminated at birth because of certain physical indications of his criminality? Such neo-Spartanism would scarcely commend itself to any modern society. Moreover the diagnosis might be wrong, even though we had a perpetual and incorruptible commission of the learned to sit in inquiry upon every pink-skinned little suspect three days old! What then? Is he to be let go, as he is now, until he does some violent deed and then be judged more hardly because of his natural defect? Either proposition seems not only heartless and wicked, but—what the respectable world is often more afraid of being than either—ludicrous. If one is really a born criminal he will manifest criminal tendencies in early life, and being so recognized should be cared for according to the most humane methods of treating the mentally afflicted.

The second, or criminaloid, class is the most numerous of the three. These are criminals, first, because being endowed with strong desires and unequal reasoning powers they cannot maintain the uneven battle against a society wherein the majority of individuals must all the time deny their natural appetites, if they are to remain unstained with crime. They are, in short, the ordinary man (who, it must be admitted, has a great deal of paste in him) plus an excess of wants of one sort and another, but generally physical. Society outside of prisons is full of these criminaloids, who sometimes have in place of the power of genuine moral resistance a sneaking cunning by which they manage to steer a shady course between the crime and the punishment.

It is true these people are not pleasant subjects to contemplate; but then, through that very stage of development the whole human race has had to pass in its progress from the beast to the man—the stage, I mean, of overplus of appetite opposed by weak moral resistance; and if now some, it is not certain that their number is very great, have reversed the proportion, it is only because they are the fortunate inheritors of the results of thousands of years of struggle and failure, struggle and failure, but *struggle* again. It is precisely these criminaloids who are most sinned against by society, for they are the people who needs to have the right way of doing things made easy, and who, when they act criminally, need the most encouragement to help the feeble and humiliated moral sense to rise again, to try again.

The third class, the Accidental or Occasional Criminals, are perfectly normal, well-balanced people, who, through tremendous stress of outward circumstance, and possibly some untoward mental disturbance rising from those very notions of the conduct of life which form part of their moral being, suddenly commit an act of violence which is at utter variance with their whole former existence; such as, for instance, the murder of a seducer by the father of the injured girl, or of a wife's paramour by her husband. If I believed in severity at all I should say that these were the criminals upon whom society should look with most severity, because they are

the ones who have most mental responsibility. But that also is nonsense; for such an individual has within him a severer judge, a more pitiless jailer than any court or prison—his conscience and his memory. Leave to him these; or no, in mercy take him away from these whenever you can; he will suffer enough, and there is no fear of his action being repeated.

Now all these people are with us, and it is desirable that something be done to help the case. What does Society do? Or rather what does Government do with them? Remember we are speaking now only of crimes of violence. It hangs, it electrocutes, it exiles, it imprisons. Why? For punishment. And why punishment? ‘Not,’ says Blackstone, ‘by way of atonement or expiation for the crime committed, for that must be left to the just determination of the Supreme Being, but as a precaution against future offenses of the same kind.’ This is supposed to be effected in three ways: either by reforming him, or getting rid of him altogether, or by deterring others by making an example of him.

Let us see how these precautions work. Exile, which is still practiced by some governments, and imprisonment are, according to the theory of law, for the purpose of reforming the criminal that he may no longer be a menace to society. Logic would say that anyone who wished to obliterate cruelty from the character of another must himself show no cruelty; one who would teach regard for the rights of others must himself be regardful. Yet the story of exile and prison is the story of the lash, the iron, the chain and every torture that the fiendish ingenuity of *the non-criminal class* can devise by way of teaching criminals to be good! To teach men to be good, they are kept in airless cells, made to sleep on narrow planks, to look at the sky through iron grates, to eat food that revolts their palates, and destroys their stomachs—battered and broken down in body and soul; and that is what they call reforming men!

Not very many years ago the Philadelphia dailies told us (and while we cannot believe all of what they say, and are bound to believe that such cases are exceptional, yet the bare facts were true) that Judge Gordon ordered an investigation into the workings of the Eastern Penitentiary officials: and it was found that an insane man had been put into a cell with two sane ones, and when he cried in his insane way and the two asked that he be put elsewhere, the warden gave them a strap to whip him with; and they tied him in some way to the heater, with the strap, so that his legs were burned when he moved; all scarred with the burns he was brought into the court, and the other men frankly told what they had done and why they had done it. This is the way they reform men.

Do you think people come out of a place like that better? With more respect for society? With more regard for the rights of their fellow men? I don’t. I think they come out of there with their hearts full of bitterness, much harder than when they went in. That this is often the case is admitted by those who themselves believe in punishment, and practice it. For the fact is that out of the Criminaloid class there

develops the Habitual Criminal, the man who is perpetually getting in prison; no sooner is he out than he does something else and gets in again. The brand that at first scorched him has succeeded in searing. He no longer feels the ignominy. He is a ‘jail-bird,’ and he gets to have a cynical pride in his own degradation. Every man’s hand is against him, and his hand is against every man’s. Such are the reforming effects of punishment. Yet there was a time when he, too, might have been touched, had the right word been spoken. It is for society to find and speak that word.

This for prison and exile. Hanging? Electrocution? These of course are not for the purpose of reforming the criminal! These are to deter others from doing as he did; and the supposition is that the severer the punishment the greater the deterrent effect. In commenting upon this principle Blackstone says: ‘We may observe that punishments of unreasonable severity ... have less effect in preventing crimes and amending the manners of a people than such as are more merciful in general...’ He further quotes Montesquieu: ‘For the excessive severity of laws hinders their execution; when the punishment surpasses all measure, the public will frequently, out of humanity, prefer impunity to it.’ Again Blackstone: ‘It is a melancholy truth that among the variety of actions which men are daily liable to commit, no less than one hundred and sixty have been declared by act of Parliament to be felonies... worthy of instant death. So dreadful a list instead of diminishing *increases* the number of offenders.’

Robert Ingersoll, speaking on ‘Crimes against Criminals’ before the New York State Bar Association, a lawyer addressing lawyers, treating of this same period of which Blackstone writes, says: ‘There is something in injustice, in cruelty, which tends to defeat itself. There never were so many traitors in England as when the traitor was drawn and quartered, when he was tortured in every possible way—when his limbs, torn and bleeding, were given to the fury of mobs, or exhibited pierced by pikes or hung in chains. The frightful punishments produced intense hatred of the government, and traitors increased until they became powerful enough to decide what treason was and who the traitors were and to inflict the same torments on others.’ The fact that Blackstone was right and Ingersoll was right in saying that severity of punishment increases crime, is silently admitted in the abrogation of those severities by acts of Parliament and acts of Congress. It is also shown by the fact that there are no more murders proportionately in States where the death penalty does not exist than in those where it does. Severity is therefore admitted by the State itself to have no deterrent influence on the intending criminal. And to take the matter out of the province of the State, we have only to instance the horrible atrocities perpetrated by white mobs upon negroes charged with outrage. Nothing more fiendishly cruel can be imagined; yet these outrages multiply. It would seem, then, that the notion of making a terrible example of the misdoer is a complete failure. As a specific example of this, Ingersoll (in this same lecture) instanced that ‘a few years before a man was hanged in Alexandria, VA. One who witnessed the execution on that very day murdered a peddler in the Smithsonian grounds at Washington. He was tried and executed; and one who witnessed his hanging went