

is elevated to the first rank of benefits when it is regarded not as an act of wrath or of vengeance against a guilty or unfortunate individual who has given way to mischievous inclinations, but as an indispensable sacrifice to the common safety."

It may well be that particular phrases in these typical passages offer scope for criticism. But in general, and for the present purpose, they may perhaps be treated as exhibiting the root of the matter. We are to look to the common safety, to the security of all, and to making less likely the doing of similar wrongs in other cases. Yes; but a very little reflection shows that this is essentially a task of discrimination. As there are great differences between one offence and another, so also there are great differences between one offender and another, and society has come more and more to recognize that it owes a duty not only to the common security but also to the individual offender himself. Society, after all, consists not of classes but of individuals, and it is the first and most elementary task in any adjudication to try an individual case upon its merits. One hears sometimes of what are called "standardized sentences." But the standardization of sentences means the abdication of the Judge. Fortunately for mankind, neither sentences nor offenders are "standardized," and the very same considerations of public interest as those which require that one man should go into penal servitude for ten years may require that another man should not go to prison at all. Nothing, it goes without saying, is more injurious to the public interest than the manufacture of criminals. What is not so generally recognized is that there are few more effectual ways of manufacturing criminals than to send young offenders unnecessarily to prison, where they may easily find themselves far more comfortable than they expected to be, where they may perhaps make acquaintance with men and methods likely to bring them to ruin, and where, after serving some short sentence of complete futility, they may abandon for ever their repugnance to prison and all that it involves. Grave indeed is the responsibility of those who, otherwise than in a case of clear necessity, send any youth or girl, or indeed any man or woman, to prison for the first time.

Our criminal law already permits, and therefore encourages, certain alternatives in particular cases, and it would be strange indeed if this International Congress were to bring its deliberations to an end without at any rate formulating some further suggestions, or some specific improvements and developments along lines already ascertained. Everybody who is here is, no doubt, well aware of what is known in this country as the method of probation—a method of which it is a commonplace to say that its value can hardly be exaggerated, and that its opportunities have by no means as yet been fully explored. That admirable method or system, first recognized by the Summary Jurisdiction Act, 1879, continued by the Probation of First Offenders Act, 1887, and developed by the Youthful Offenders Act, 1901, has been consolidated and extended by the Probation Act, 1907, and further improved more recently in the case of certain offences. The first section of the Act of 1907 manifestly invites that discrimination to which reference has been made. It provides that where any person is charged before a Court of summary jurisdiction with an offence punishable by that Court, and the Court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the Court may, without proceeding to conviction, make an order either (1) dismissing the information or charge, or (2) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order. Now, these are very remarkable and far-reaching powers, and the next subsection proceeds to confer them, with such minor changes as are necessary, upon Courts before whom any person has been convicted on indictment of any offence punishable with imprisonment. It may be doubted whether the full meaning of these provisions has been universally, or even usually, appreciated and turned to account. Wide indeed is the range of the several and alternative matters which the Legislature has deliberately invited the Court to consider for the purposes of the Act—with regard to the defendant himself, (1) his character, (2) his antecedents, (3) his age, (4) his health, or (5) his mental condition; or, with regard to the offence charged, the question whether it was or was not really of a trivial nature; or, finally, any extenuation to be found in the circumstances in which the offence was committed. Section III of the Act provides for the appointment of Probation Officers, and also of special Probation Officers called Children's Probation Officers; and Section IV describes in detail the duties which the Probation Officer is to discharge. It is his duty, subject to the directions of the Court, (a) to visit or receive reports from the person under supervision, at such reasonable intervals as may be specified in the probation order, or, subject thereto, as the Probation Officer may think fit; (b) to see that he observes the conditions of his recognizances; (c) to report to the Court as to his behaviour; (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment. It seems useful to direct the most careful attention to the provisions of this statute. It is not necessary to explain or to enlarge upon them: they speak for themselves. But unless and until those provisions—which did not become law yesterday or the day before yesterday—have been loyally, sincerely, diligently, and vigilantly applied, what nonsense, and what mischievous nonsense, it is to deplore, for example, the painful necessity, which does not exist, of sending youthful offenders to prison for trivial offences!

To say so much is not at all to say that those provisions, and others like them, may not be misapplied. Misapplied they certainly are if, through a misuse of them, there is an acquittal where there ought to be a conviction. They are no less certainly misapplied if by an insincere afterthought they are employed, in a case stated, in order to explain, or to explain away, an acquittal which owed its origin to error in law. But these are not reasons, nor are there any reasons, why in a proper case the fullest effect should not be given to provisions so excellent and so deliberately made. It is not necessary to trouble you with statistics, which no doubt are familiar to most of you, and are in any