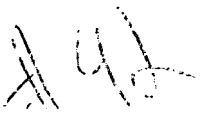
From Christina Gates <Christina_Gates@unc.edu>
Sent Thursday, August 31, 2006 12:53 pm
To rennies@csusb.edu
Subject Re: out of print book

Dear Scott: This book is now in the public domain as copyright for it was not renewed. Unfortunately, we do not have any additional copies available for order; but you are welcome to photocopy the material for distribution.

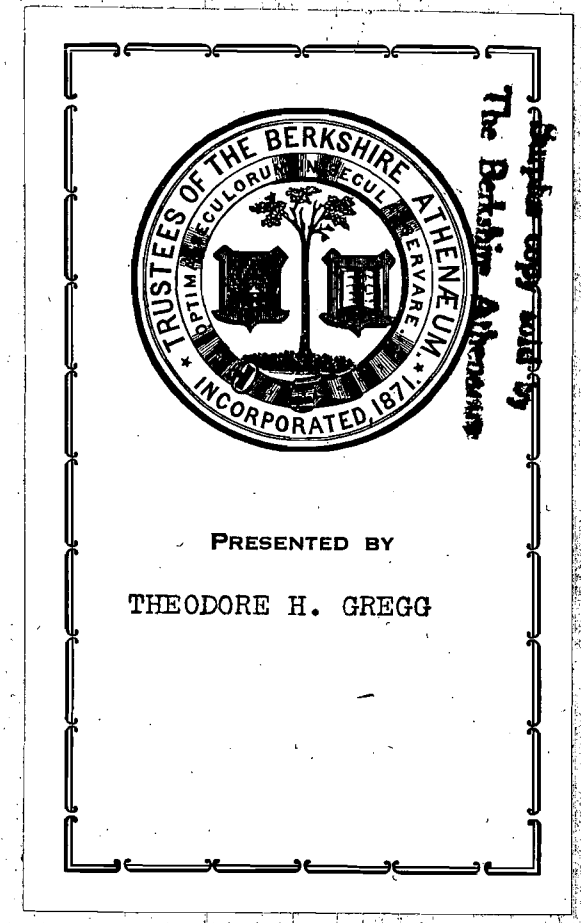


Best wishes,
Christina

Christina Gates, Advancement Coordinator & Assistant to the Director
phone: 919-966-3561 ext. 223 / fax: 919-966-3829

The University of North Carolina Press
116 S. Boundary St. / Chapel Hill, NC 27515-2288
http://www.uncpress.unc.edu

rennies@csusb.edu wrote:
> The Center for the Study of Correctional Education at California State University, San Bernardino is looking to obtain multiple copies (30 or so) of the following (long) out of print book:
>
> Tannenbaum, F. (1933). Osborne of Sing Sing. Chapel Hill: University of North Carolina Press. (could not find an ISBN)
>
> We understand the book is out of print. Do you currently hold the copyright? We would like to supply prison libraries with a copy of this text. Any help you can give is appreciated.
>
> Best,
>
> Scott Rennie



OSBORNE
OF SING SING

BY

FRANK TANNENBAUM

WITH AN INTRODUCTION BY THE

HONORABLE FRANKLIN D. ROOSEVELT

CHAPEL HILL
THE UNIVERSITY OF NORTH CAROLINA PRESS
1933

PRINTED IN THE UNITED STATES OF AMERICA BY
THE SEEMAN PRESS, DURHAM, NORTH CAROLINA

To

GEORGE FOSTER PEABODY

WHO HAS DEVOTED A LONG AND FAITHFUL
LIFE TO THE SERVICE
OF HIS FELLOWS

ACKNOWLEDGMENTS

THIS BOOK grew out of a conversation I had with Thomas Mott Osborne two years before his death. I recall sitting in front of the fireplace of his large library in the city of Auburn, New York, discussing the advisability of using the many thousands of letters in his files for the purpose of describing the history of the great experiment he had initiated. I was to come to Auburn and write the book.

A long trip to Mexico intervened, and when I returned it was too late to carry out the initial project—Osborne died within two weeks.

I am profoundly grateful to Osborne's family for making possible the carrying out of his implied wish by turning over for my use the files containing the prison materials upon which the book is largely based. In addition to the prisoners' letters the files contained copies of investigations of New York State prisons, as well as copies of the minutes of the hearings of the Grand Jury that indicted Thomas Mott Osborne, and copies of the court records of his trial. As a background for the book, there were long years of intimacy with Mr. Osborne, which included a number of visits to Sing Sing, Auburn and Portsmouth prisons at the time when his influence was at its height in those institutions, and beyond that the rare privilege of days in his home on many occasions, talking about the prison and its problems.

The Social Science Research Council underwrote the project, and I want to acknowledge my indebtedness to Dr. Harold G. Moulton for interesting the Social Science Research Council in the matter.

Further indebtedness is due to Dr. Luis L. Lorwin, M. H. Hedges, Austin H. McCormick, Mrs. Harrison S. Morris,

Charles D. Osborne and Dr. George W. Kirchwey for reading the manuscript, to Mr. Jurgen Kuczynski for helping to classify the vast material in the files, to Paul Kellogg of the *Survey* for reading and publishing part of the manuscript, to Edwin Lamke for reading the proof, to Mrs. Glenore Fisk Horne for editorial help, and to the Brookings Institution for providing me with the facilities for doing the work.

FRANK TANNENBAUM.

Washington, D. C.
June, 1933.

INTRODUCTION

THOMAS MOTT OSBORNE had courage; even his enemies admit that; he had vision; even those who laughed at him twenty years ago admit that now.

Nearly a century ago Charles Dickens and others brought out the physical harms of a prison system which had not changed in a thousand years. This was followed by some improvements in all countries—improvements which, however, were directed primarily to actual living conditions in penal institutions.

When Osborne first began his work in the State of New York, the cells, the food, the sanitation in our prisons had changed little from the status of 1850. Mr. Osborne was the great pioneer in calling our attention to these physical conditions. His was a voice crying in the wilderness and it has been only in the past half dozen years that society as a whole and leaders of government have heeded the appeal.

It was, however, on the basically more important phase of the prison problem that Mr. Osborne made his greatest contribution to modern civilization. I like to think of him as the real pioneer who brought out the fact that ninety men out of every hundred who go to prison return sooner or later to our midst as members of our communities. His deep principle was wholly sound—that human beings who are apprehended and punished by the State for sins against society can, in a very large percentage of cases, be restored to society as law-abiding citizens. He was right in holding that the prisons themselves were the key to the problem. Crime prevention is another problem and so also is an adequate system of parole and supervision after prisoners are released. It is in the prison itself,

however, where the greatest opportunity lies in turning men who have sinned into men who will sin no more.

It was natural and logical that Mr. Osborne's efforts should meet with opposition from those who for one reason or another were satisfied with existing conditions, and it was also natural that many perfectly well meaning people were unable to grasp the fundamentals which he advanced. Today there are growing evidences that the seeds which he sowed are bearing good fruit. Let us remember that penology as a social science is still in its infancy and that the greatest tribute which we can pay Mr. Osborne's memory will be to carry on the fight relentlessly, and with the high idealism which he so well exemplified.

FRANKLIN D. ROOSEVELT.

PREFACE

THOMAS MOTT OSBORNE challenged a deeply rooted prejudice when he set out to reform the American prison. The American prison is tinctured with the belief that criminals are set apart from their fellows by some deep moral difference that degrades and perverts their very nature, that makes them unlike other human beings, that describes them as of a lower order, more bestial, more inhuman, more perverse than men in the street, the home, the church, and the government.

Only on the assumption that criminals are different could we have built and for so long maintained an institution that can only be defended as one set apart for those who are separated from ordinary men. The drab and often horror-filled prisons that were typical up to 1910, their small cells, absolute silence, their inmates with shaven heads, and striped clothing;—their rule of iron, the lockstep, iron chains, cages, iron balls, the dungeon, handcuffs, whipping, aye, even the straightjacket—all still common at the time that Osborne began his campaign, could only be maintained, could only be defended, on the assumption that prisoners are unlike other men. These practices could only have persisted on the assumption that they were natural to the perverse nature of the men within the prison walls.

Osborne challenged that assumption. Men in prison were men to him—ordinary men, arrested and sentenced for a crime which in the nature of things was not inconsistent with the possibilities of the mass of other people who had not come within the grip of the law. It was his belief that men in prison could be treated as other men, and that in such a treatment lay the possibilities of reconstructing their habits, redirecting their

energies, of remodeling their interests, and of reshaping their activities.

In the career of the criminal, imprisonment served chiefly as an interlude between two periods of crime. The prison provided no new experience, no new incentives, no new attitudes, no new stimuli. The time spent in prison was a time of incubation between one crime and another. The theory that punishment would serve as a deterrent was proven wrong in fact by the numerous careers that oscillated for a lifetime between a period of criminal activity and a period of imprisonment. The reason for this was that the men within the prison fed upon their past—their past criminal experiences—for their emotional and intellectual life during their period of confinement.

Osborne attempted to change that basic experience of the men in prison by turning the penal institution into a community with new interests, stimuli, and activity that would in turn become the source of new ideas and new ideals, new interests and new attitudes. The prison was to be a place where men became different human beings by being absorbed in different activities. They were to be socialized by being drawn into an absorbing social environment.

One thing is certain. Osborne proved that men in prison can be handled and disciplined without the cruelties of the old order. He also showed that it is not necessary to suppress the whole prison population for the purpose of disciplining the individual who breaks the prison rules. That in itself was an achievement of the first magnitude even if the by-product of easier and readier adjustment to the world outside after release is not as obvious as he assumed. It is, however, certain from the many hundreds of men who made new and better places for themselves in the world after having served under Osborne that given a longer time and more favorable circumstances, the ultimate reshaping of character by confinement within a penal institution is more than a possibility.

It is important to remember that Osborne was no mere theorist. He did not merely project a theory for others to test. He developed a method and proved it a workable way of handling prisoners in three different institutions—with results that were revolutionary and profoundly significant.

But more than any method or theory, the work of Osborne represents a great human adventure. He literally did the impossible. In spite of all the scoffing and ridicule he did what no one had had the courage to do before—to take men in prison as men, to trust them, to work with them as with human beings. His results were as astounding as was his daring. No one can follow the experience and its by-products in creative human emotion and activity without a feeling of deepest gratitude to Osborne for vindicating the common humanity of men—even in prison.

The plan of the book is simple. The first four chapters give a picture of the American Prison as it existed in 1910. (As confirmatory evidence we print a description of Sing Sing in 1913—a year before Osborne went there. This is to be found in the Appendix). Unfortunately, some of the worst features of the prison as there described still persist in some of our largest institutions, and the material out of which the chapters are constructed is in a large measure drawn from letters by prisoners and official reports—after 1913. This is done deliberately, to show that the evils Osborne fought against persisted beyond his day and unfortunately still persist in various places.

The reader, unless he can stand horror and cruelty without suffering from sleepless nights and devastating nightmares, is advised not to read the first four chapters, or the Appendix. He had better begin the book with Chapter V, "The Challenge," which starts a tale of rare human adventure, courage, faith, affection, and later of malice, malignity, conspiracy, and disillusionment, ending in a dramatic struggle for justice and decency.

FRANK TANNENBAUM.

TABLE OF CONTENTS

PART I

THE PENAL SYSTEM

1

THE PRISON

In 1910, when Thomas Mott Osborne became interested in the reform of American prisons, conditions were very much worse than they are now. His influence directly and indirectly has contributed during the last twenty years to the bringing about of many improvements. But unfortunately many of the things he fought against are still to be found in our penal institutions. While the first four chapters are meant to describe the prison as it existed in 1910, the reader will note that much of the material is drawn from a later date, showing that the evils he opposed persisted beyond his day. The chapters are written in the present tense so as to remain consistent with the prisoners' letters upon which they largely rest.

* * * * *

There is something unkindly about the American prison. There is something corroding about it. It tends to harden all that come within the fold of its shadows. It takes kindly, well-intentioned people and makes them callous. "I conceived," writes a Naval officer in 1921, "a great dislike for the very moral people. And I have no desire to be classed with the good. The good people on Parris Island were mostly engaged in getting something out of the prisoners, rarely giving anything in return. Nearly all the brutal and terrible things I saw, and vile, cowardly acts were perpetrated by the so-called good people."

In some inexplicable manner the prison "gets" not only the prisoners but the prison guards as well: "I would much rather

be in a grave in Flanders than filling a felon's cell, submitting to the authority of cowardly, ignorant men who seem intoxicated by their power, for who but a coward would knock a man senseless with an iron-tipped hickory club?" This was written in 1925 by a prisoner in Jefferson City Prison.[1]

Only on the theory that the prison perverts the human beings who come in contact with it, can the persistent recurrence of prison cruelty be explained.[2] The half dark prison building, with its narrow, dim cells, filled with embittered, restless young men, held in restraint and chafing for freedom, watched over by armed guards, surrounded by overtowering walls and barred iron gates, creates an atmosphere of eternal suspicion, stealth and fear that drives both guard and prisoner to exasperation and a sense of futility. Only a sense of futility and defeat could make men—reasonable men—do the things they do in prison. The defeat becomes complete both for the sufferer and the perpetrator, only that the prisoner is embittered by his pain and the guard chagrined by his sense of failure—the failure to make men "good" by evil methods.

The part that the prison structure plays in shaping the spiritual destiny of the penal institution is not sufficiently clear. Certain it is that the character of the prison building, its persistent dimness, its small cells that send every sound, magnified

[1] On March 29, 1930, the *New York Times* carried an Associated Press dispatch from Jefferson City, Missouri, containing the following: " . . . prison guards wielded their guns today at the least provocation, with the result that the casualty list of convicts mounted to seventy-five, most of whom were treated in the prison hospital for head injuries. . . . The only clash today was a brief skirmish between guards and fifteen convicts, who became gruff when taken from their cells. They were clubbed and sent to the hospital."

[2] "Marquette, Mich., December 12. Fred Menhennit, deputy warden of the Marquette Branch Prison, died from knife wounds inflicted by three convicts, 'Gypsy Bob' Harper, Jasper Perry and Charles Roberts. The three convicts were flogged this morning. Arthur Anderson, prison clerk, who, with Major Robert Marsh of the State Constabulary, has been placed in charge of the prison, has ordered them flogged every day until they 'come to time.' Harper will get thirty lashes, Perry and Roberts twenty-five each day.—Special dispatch to the *New York Herald*.

"It would seem from the above and other recent occurrences of a similar character that the American prison is running true to form. On the day following the date of the Marquette dispatch the newspapers carried the story of a mutiny of 80 prisoners in Essex County penitentiary in North Caldwell, New Jersey; and it is only a few months since the Michigan press was teeming with stories of the brutal flogging of insane young men and boys confined in the State Reformatory at Ionia, and of conditions of filth, neglect, and immorality too vile for words in the Industrial Home for Boys at Lansing." *The Nation*, January 4, 1922.

a thousand-fold, into a long corridor, its hundreds of human beings that, separated from each other by a wall, but united by every whisper that passes, by every mood that takes hold of men when lonely and alone, makes the prison vibrant with an underground emotion that every so often breaks through in riot and hysteria.

The typical American prison[3] is little more than a block of stones with narrow crevices for the keeping of the inmates; a high stone wall shielding a stone building broken by grated windows, and hiding within it another stone building—the cell block that reaches, tier upon tier, to as many as six stories. In Sing Sing, in the old cell block, built in 1825 and still occupied, "there are six tiers or galleries of 100 cells in each cell block equal to a total of 1,200 cells in the two blocks. The cells in each tier are placed back to back. Each cell is 7 feet long by 3.3[4] feet wide and 6.7 feet high and is provided with an entrance 6 feet high by 1.6 feet wide by 2 feet deep." "The cells are dark, without plumbing, without toilets, hot and stifling in summer, freezing cold in winter, with the walls moist with a heavy dampness all the time. These inhuman conditions expose the inmates of Sing Sing to all manner of physical diseases and to almost inevitable moral degeneracy."

A prison cell has but little furniture. What the older cell usually does contain is a night bucket that serves for two men, a little light bulb up in the corner, two iron beds hung on hinges against the wall. That generally is all. An iron grated door gives access to the deep corridor between the cell block and the prison building. The rest is silence like "the stillness of the death chamber." An occasional footstep along the tier, a footstep above, hollow over your head, the noises of cowed men restless in their sleep—a sigh, a curse, a nervous laugh, and then silence again. And each sound thrown out upon the

[3] "The Age of Our Prisons.—We have approximately 100 institutions used for long-term confinement of convicts. These include Federal and State prisons and reformatories, as well as women's institutions . . . well over a third of all prisons in the country still in use were built over 70 years ago. Only 17 prisons were built since 1900. . . ." *Report on Penal Institutions, Probation and Parole*, National Commission on Law Observance and Enforcement, 1931, (Wickersham Report) No. 9, p. 7-8. Cited hereafter as Wickersham Report, *Penal Institutions*.

[4] Read: "3 feet, 3 inches wide," etc. Letters from prisoners are quoted verbatim, without correction.

corridor from the little cell through the grated door reverberates through the night. An inmate writing in Sing Sing in 1915 gives a vivid picture of the prison cell.

"Think of one hundred men just as they came along in memory, think of them with all their varying physical peculiarities and then think of them as barbered by a Bowery barber, strip them, burn their clothes, bathe them en masse, Bertillon them, regarb them in torn, patched, dirty second-hand cap, sack coat and trousers of the prison make, socks, drawers and undershirt, equip each with a book of prison rules, one more second-hand hickory shirt, another pair of socks and drawers, another undershirt, two small towels, a tin quart cup, a water pail, a wash basin, a night bucket, also two shoddy blankets—one single and one double, which have been unwashed for years, though in continuous use (by whom, your "one hundred" had, for their own peace of mind, better not ask), an old worn straw mattress, and straw pillow, and then with stone cell three feet, four inches wide by seven feet long and six feet, eight inches high, cold in summer and not warmed in winter, and in which there is nothing but the individual and what is here listed, plus vermin, an electric light and a flat wire and iron bed-frame, two feet wide by six and a half feet long, adjustable fifteen inches from the floor, to the side wall, to hold the mattress, and with similar bed frame two feet higher.

"To make it more realistic assign each to a cell already occupied by one con (a common occurrence, hundreds in the large prisons are thus doubled up) making it necessary to use the upper bed frame for one of them and each occupant having an identical outfit excepting water pail and wash basin, only one of each of these is allowed to a cell and they are used in common."

But this description of overcrowding in Sing Sing is mild in comparison to some given by officials or investigators.[5] Said Mr. Louge, of the Eastern Penitentiary of Pennsylvania: "We are compelled to imprison 1,700 prisoners in such narrow quarters that there are three and sometimes four in a cell.

[5] See the Wickersham Report on overcrowding as it existed in 1930. *Op. cit.* pp. 11-14.

There is less room per prisoner in some of the cells than a dead man has in his coffin."[6] A prisoner writing from Jefferson City in 1925 says: "Men are sleeping on the floors in the prison corridors." While an outside investigator writing of Trenton Prison in 1917 says: "Here in these cells (5 ft. by 7 ft.) in this cramped and overcrowded condition, often three and sometimes four in a cell are thrown together, the murderer, the felon, and the pervert. Between boys young in crime and men old in crime there is no difference made. They are all placed on a common level, and among them circulate men suffering with consumption and sometimes with syphilis. . . ."[7] And where there is no work the men are frequently compelled to spend most of their time inside of their cells. "Most of the cells in the Western Penitentiary of Pennsylvania are 8 by 5 ft. wide. Seven hundred men stay in these twenty-two hours each day and over one hundred men who are deprived from eating in dining room do twenty-three hours a day in cells, most of the time on the beds where bed vermin breed."

The cell block, with its thousand cells and more, such as we have just depicted, having stood a hundred years without sufficient air and sunshine, without plumbing, damp, insufficiently painted, saturated with the grime and sweat of unwashed human beings who spend more than half of their living time in a space that is barely larger than a good sized dog kennel, cannot be kept clean—at least cleanliness has been but rarely achieved and that only in the very newest prisons.

"These night buckets (in Sing Sing[8] and Auburn) add a malodorousness to an overburdened, germ-laden atmosphere. They cause the storing of excreta for ten to fourteen hours in an enclosure where a human being must remain in practical contact with it during that time. In both prisons this condition is duplicated in each of the 1,200 cells.

"A sentence to Sing Sing for a term of several years is too often equivalent to a slow death sentence. Many become affected with tuberculosis and are sent out into the world too

[6] *New York Times*, April 29, 1923.
[7] Harold Littledale, *New York Evening Post*, January 15, 1917.
[8] See Appendix.

much diseased to earn their livelihood. Often they carry the germs of this malady into their families and become a menace to the health of the community in which they live." This tale is told over and over again, from prison to prison, by prisoner, official, and private investigator.

"Trenton," writes a prisoner, "has been repeatedly investigated and cleansed but mattresses and blankets in very many cases are dirty, long unwashed and entirely unfit for use, disease breeders. Only recently they moved twenty to thirty consumptives and syphilitics from 4 gallery in 7 wing and (without cleaning the cells or even changing the mattress) moved myself and others into these dirty, pestiferous holes. Good God, is not this the height of indecency and cold malice? The cells are filthy. A few take pride in keeping their cells clean but the majority of the men are worse than indifferent. The stench from toilets in cell and from men spitting on their cell floors is awful. For ten months of the year we must bathe from an old tin bucket.[9] Those who do not wish to bathe need not (and you would be surprised to see the number that do not.)"

"If you want to see dirt, bedbugs, and, in some cases, lice, visit the Blackwells Island Penitentiary," says a man in 1917, "and give the North, West and South Prisons an inspection, go into the cells and look at the beds, walls and bedclothes. Notice how the men are dressed.

"A negro was being transferred to Hart or Riker's Island, carrying his blanket at arm's length. An inmate having charge of the blankets told him to throw them in a cell in which the blankets given to the new men were kept. The negro said 'the blankets are lousy.' But he had to throw them with the other blankets and some new man received them. It is the dirtiest place I've ever been in, and I've been in a good many. The Doctor is a nice man, but when one sees a man whose head is a

[9] This is confirmed by an outside investigator. "A commodious bathtub with hot and cold water supply is used only two months of the year. For ten months of the year the convicts are given only a bucket of water once a week in which to bathe and after bathing they must wash out their clothes in the water and then wash their cells." Harold A. Littledale, *New York Evening Post*, January 17, 1917.

mass of syphilitic sores, eat and mingle with the other men for three days before he is isolated, what is the result?"

Not only are the buildings inadequate, old, unsanitary, overrun by bedbugs, lice and, in some instances, rats and mice, but to the inadequacy of the physical conditions are added the negligence, incompetence, and meager initiative of the administrative staff.

"Fifteen minutes for breakfast and eighteen minutes for dinner," says a man confined in Auburn in 1912, "does not allow a man ample time to masticate his food properly; especially on holidays when the dinner carries with it extra side dishes. Time and time again I have seen men leave part of their meal or carry it with them to their shops (at the risk of punishment) because they could not eat it all in the time allowed; twenty minutes, fully, should be allowed for breakfast, and thirty minutes for dinner. Why all this hurry to get the meal over with?"

But haste in eating is not the only serious evil. There is sometimes not enough to eat. "I suffer from hunger all the time," writes a woman prisoner from Jackson, Louisiana in 1923. And a male prisoner from Wethersfield, Connecticut, in the same year, complains that "eats are poor" in quality and "no evening meal on Sunday, just tea."

"Today being Sunday," says an inmate of Jefferson City in 1925, "we had our last meal at two-thirty—we do not eat again until seven in the morning, then we have molasses and bread and muddy water, work all morning and return to the Mess Hall tomorrow noon and have a dinner which is a stew composed of the food that was left over from today—this and beans, if we have beans, and bread and water—back to the shop for three hours and a half, and then another meal comprised of molasses and bread and black coffee and then to the cell." This complaint comes from many prisons and from different sources, not only prisoners, but from officials and public investigators. Of the conditions at Trenton, it was said in January, 1917, in the *New York Evening Post*, "the wards of the State save scraps of one meal to eat at the next." But in addi-

tion to being insufficient, it is of poor quality. "The food that is served is not fit for a human being to eat and many men are made sick from the effects of the same," is the complaint from Jefferson City in 1921.

"The dishes we eat from," says a Trenton prisoner,[10] "are not fit for a dog to eat from. They were originally agate ware (enamel). But the enamel is all cracked off. They are but half washed in lukewarm water, are greasy, rusty and entirely unfit to serve food in. The food is brought along the gallery in trays after having been brought one-fourth mile from kitchen. Often there is a lapse of five to ten minutes before we receive the food and then it is cold and unpalatable. The quantity and quality is 'fierce.'" An official report of the State Prison of Texas in 1921 tells us that "we find that the prisoners are fed with peas and beans infested with weevils and worms and also were supplied with strong and unwholesome meats." This lack of sufficient food and its monotonous and unwholesome character have been responsible for many a prison riot. The *New York Times* on March 28, 1930 reported a riot at Jefferson City, Missouri, on account of the food, while the *New York Evening Post* reported in January, 1917 that "Cries of convicts protesting against their food have been heard by thousands that have passed through the streets on the outside." "The inspectors at Holmsberg, Pa. closed the prison for a month. They were angry because we went on a hunger strike. The food was not fit for a dog. Stew 365 times a year. That was what I had for two years." An undated official report of conditions in Sing Sing prison prepared for Warden Clancy states that "under Warden Kennedy, the men in the Cart and Wagon Shop, where the most difficult labor in the prison is performed, after repeated promises by Kennedy to give them *something they could eat* (notwithstanding his knowledge of gross irregularities existing in office of Storekeeper and the graft there) instead of the tainted, evil-smelling food impossible to eat, the odors of which were so nauseous that the officers in charge of the men were sickened by it, they being physically unable to do their heavy tasks on account of being continually robbed by

[10] Undated. 1923?

those who were supposed to look after their needs, finally refused to work."

While we leave a discussion of prison discipline and its results to the following two chapters we may make a short summary picture of the physical condition as it existed in 1910 and as it still largely exists.[11] That summary picture must include the fact that many of our prisons are old, unsanitary, dirty and disease ridden. It must include the fact that prisoners are poorly clothed, frequently underfed, and that their health is subjected to unnecessary and often inexcusable dangers, that consumptives and syphilitic men mingle with healthy ones, that degenerates are allowed to mingle and live in the same cells with decent prisoners and with young prisoners, that the men are often kept in idleness, that those who labor are underpaid, that in places like Missouri the contract system is sometimes cruel and brutal, that the administrative staff is underpaid, frequently negligent, and always and everywhere incompetent really to deal with or even understand the basic problem involved—the reconstruction of character. Dr. Ellen Potter, Director of Public Welfare in Pennsylvania, summarized the conditions for the State of Pennsylvania as follows: "There is virtually not one institution in the State that provides the simple necessities for a healthy life for its inmates. There is not one that combines light, sun, air, sanitary appliances, decent food, proper segregation, education, recreation and work. And yet we expect our Wardens to administer the institutions adequately. It cannot be done."[12]

This summary, while covering some questions not raised by this chapter, may be accepted as representative of conditions not merely in Pennsylvania but in a number of other states of the Union, except that it is exceedingly mild for a great many, including, for the year 1924, Pennsylvania itself.

Why are such conditions permitted to persist in a civilized and Christian community? The answer is that these conditions are generally unknown and unsuspected by the mass of the people. And the reasons for that lies in part at least in the

[11] See Wickersham Report, *Penal Institutions.*
[12] Quoted in *The Prison World*, March 15, 1924.

difficulty of making the information available to the general public. Every investigation has in a large degree to depend upon the testimony of prisoners. The prison officials are not in a position to testify against themselves and almost every investigation of necessity takes on the form of an attack on the administration, and the administration defends itself as best it can. The process of defense is to discredit the testimony of the witnesses who are mainly prisoners and to intimidate them. A few illustrations of the point will make it clear.

"Inspector ——— tries to tell the people that we are nothing but a pack of liars and thieves." The Warden may threaten punishment and later punish. "If any of the men tell an investigating committee anything that is not good, they are placed in the Punishment Hall after the 'Committee' leaves and are subjected to tortures undreamed of. If you doubt this statement try hanging yourself up by the wrists for ten hours a day and have them issue a half slice of bread at night when they let you down." This fact is known to anyone who is acquainted with the problem of penal administration and with the history of prison investigations. It could be cited over and over again. "I am telling you this so you can use your own judgment . . . every word of it is the God's truth but you know that they would make it hard for me if they found out about it." But more specific is the following: "If my letter should reach the wrong hands," writes a prisoner in Jefferson City as late as 1926, "it would mean that I would be beaten to death sure as God lives."

2

DISCIPLINE AND MORALS

GIVEN THE confinement of the prison wall, and a thousand or more young people scheming for some way to freedom, given the officials' emphasis upon restraint and their fear of conspiracy among the men, and you have the background for the problems of penal discipline. From the point of view of the administration, discipline consists of order and continued compliance with the rules. If all the prisoners obey all the rules all of the time, then the prison runs smoothly. A good prisoner is one who obeys the prison rules, one who makes no trouble for the prison administration. A troublesome prisoner is one who is not pliant, and the prisoner who is not pliant to the prison rules is easily considered a dangerous criminal. The step from making trouble for the administration and being a bad and dangerous criminal is easily made, and almost always made.

This raises the whole problem of the nature of penal discipline and its underlying motives. It should be clear to the reader that prison punishment is inflicted for the violation of the prison rules, and has nothing to do with either the offence for which the man was sentenced or the length of the sentence which he received. The prison is thus in a sense a great equalizer. Theoretically all men who come to the prison are equal in the treatment that they are to receive, be they guilty or innocent, be the crime heinous or mild. The punishment, the cruelty, the torture imposed in prison is for violation of the rules set up by the institution itself for its own government and has nothing to do with the crime the man committed outside

before he came to prison. The Warden is legislator, judge, and executioner. He makes his own rules, judges those who violate them, and imposes the punishment—and the severity of the rules are determined by the temperament, habits, and character of the Warden. The evidence is clear that the Warden and guards impose for minor violations of the prison rules every kind of physical pain and mental torture outside of death. In some instances, even death in prison may be traced to punishment inflicted for violation of prison rules.

There are, however, certain extenuating circumstances. The Warden, after all, under the organization of the prison has very limited means at his disposal for the enforcement of discipline. The man is already deprived of his freedom, he has already been torn from those he loves, disgrace and ill-repute have already been poured upon him, and he has little or no money. What can the Warden do? He can still further deprive the man of the few things that are left him. He can still further cut his ties with the outside world by denying him the privilege of sending or receiving letters or visits. He can take from him the right to smoke; he can take such small earnings as the prison may make possible. But with repeated offences these means of punishment are insufficient. The Warden is driven to contrive other methods. And within the limited resourcefulness of the penal institution these methods become utilization of the man's body as the means of imposing punishment. His food ration can be cut; he may be forced to sleep on the floor in a dark dungeon; he may be chained; he may even be whipped, and the punishments tend to overlap.

Punishment, therefore, generally not only means the loss of privileges, but physical suffering as well—screen cells, dungeons, chains, whipping—in accord with the practice of the institution. How uniform the system of penal discipline is in American prisons is clearly indicated by the following list of punishments and causes of disciplinary action in 31 states.

In 1924, one of the state officials in Alabama[1] collected

[1] W. F. Feagin. The reader who wishes to satisfy himself that many of the conditions here described still persist is asked to turn to the Wickersham Report, *Penal Institutions*, pp. 18-40.

from penal institutions in a number of states their methods and causes of discipline. We hereby present a summary statement of them as they were given in the official correspondence:

Arkansas—Whipping, legal limit of 10 lashes; *Florida*—Double duty, strap; *Georgia*—Shackles and chains: "Whipping Boss may inflict corporal punishment, which in no case shall be unreasonable." *Illinois*—Handcuffs and solitary and dark cells in the old prison; *Iowa*—Solitary confinement, bread and water; *Kansas*—Restricted diet, solitary, handcuffed to bars; *Kentucky*—Solitary, restricted diet; *Louisiana*—There is an allotted number of lashes with a strap for the offense cited: Laziness, 8-10 lashes; Impudence, 10-12 lashes; Insolence, 8-10 lashes; Disobedience, 10-12 lashes; Fighting, 10-15 lashes; Inferior work, 8-10 lashes; Stabbing, 15-20 lashes; Destroying property, 10-12 lashes; Attempting to escape, 20-30 lashes; Escaping 30-40 lashes; Stealing, 10-15 lashes; Feigning sick, 8-10 lashes; Disturbance in cell room, 10-15 lashes; Using bad language, 10-15 lashes; Sodomy, 10-20 lashes. For other minor offences 8-10 lashes, all done by the captain of the camp;[2] *Maine*—Solitary confinement; *Maryland*—Solitary confinement, bread and water, handcuffed to the bar, handcuffed to their cells, handcuffs and leg irons at same time; *Massachusetts*—Loss of writing privileges, amusement, etc., solitary confinement; *Minnesota*—Solitary confinement. On page 35 of the prison rule book is found the following: "Communication between inmates is strictly forbidden and will not be allowed at any time except by special permission of the officer in charge, and then only when absolutely necessary. . . . No permission to have pencil;" while on page 36, one reads: "Dining Hall. Staring at visitors, talking, laughing, fooling or gazing about the room is strictly prohibited;" *Mississippi*—Fifteen lashes at a time; *Montana*—Dungeon 2 to 10 days, shackles riveted to legs of men while in dungeons, bread and water; *Nebraska*—Locked up in jail 1-30 days, or indefinitely without mattress, cell 8 by 10; *New Jersey*—Solitary,

[2] On September 10, 1928, the *New York Times* carried the following headline: "26 Shot in Battle at Louisiana Prison, two are killed, four reported slain, and score wounded as convicts fight guards."

no privileges, confinement in special cell built for solitary, limited exercise; *New Mexico*—Loss of all privileges, restricted diet, solitary confinement, dark cell, whipping; *Nevada*—Solitary confinement, dungeon, loss of good time;[3] *Ohio*—No fixed rules was what the correspondence said but the prison had a folding cage, and employs solitary confinement; *Oklahoma*—Solitary confinement, handcuffed to bars; *Oregon*—Solitary, no privileges of any kind from 3 months to a year; *Eastern Penitentiary, Pennsylvania*—Three days bread and water, no furniture; *Rhode Island*—Loss of privileges, solitary confinement on bread and water, straight jacket;[4] *South Carolina*—Bread and water and corporal punishment, and the correspondent continued: "Bread and water and solitary do very well in institutions where prisoners do not work, but where they are employed, the strap can be used and in a few minutes the party be put back to work again without losing any time to speak of." The officials of the prisons in *South Dakota* and *Tennessee* gave lists of offences for which prisoners were subjected to punishment. We give them in full because they reveal the nature of the disciplinary organization of the prisons. The list of offences in *South Dakota* included the following: Malicious mischief, not out of bed promptly, not at door for count, not wearing outside shirt, not promptly out of cell, out of place in line or shop, profanity, quarreling, shirking, altering clothing, bed not properly made, clothing not in order, communication by signs, defacing property, dilatory, dirty cells or furnishings, disobedience, disturbance in cell house, fighting, spitting on floor, staring at visitors, stealing, talking in chapel, in line, at work, from cell to cell, in corridor, throwing food away, hands in pockets, hands or face not clean, hair not combed, impertinence to visitors, insolence to officers, insolence

[3] For description of this dungeon see the author's *Wall Shadows*, pp. 112-113.

[4] "I knew a man in the reformatory [Elmira, New York] during the Brockway, regime, who was partially paralyzed from the straight jacket, after a murderous assault on an officer, and who, sooner than go through life in the condition he was in, jumped out of the line, rushed to the top galley, and before he could be stopped, or prevented, threw himself to the flags below and was instantly killed. This is but one of the many revolting spectacles which took place during my six (6) years at the reformatory, and finally becoming disgusted with the system came to Auburn, where as bad as it was here it was a paradise compared with Elmira. Of course, this is all changed now, I am glad to say." Auburn Prison, Guard's Letter to Thomas Mott Osborne, April 13, 1914.

to a fellow prisoner, insolence in line, laughing and fooling, loud talk in cell, loud reading in cell; while *Tennessee* officials wrote that they punished men by strap and bread and water and gave the following list of offences: Altering clothing, loud talking, singing or whistling, creating disturbance, disorderly conduct, failure to make satisfactory progress in school, gazing at visitors, having papers when not in cell, having unauthorized articles, injuring tools, clothing, etc., inattention, laughing and fooling, losing an article of clothing, neglect to obey an officer promptly, neglect to comply with laundry rules, quarreling, replying when corrected, talking, soiling books, unnecessarily leaving shop, using improper language, wasting goods or materials of any kind, writing or receiving notes, using objectionable language, attempt to escape, attempt to deceive an officer, bad work, answering for another at roll call, breach of trust, falsehood, gambling, general crookedness, immoral acts and conversations of any nature, misrepresentation, laziness, other offensive acts, profanity, short work, smoking cigarettes, vulgarity, and some dozen others. *Texas*—Whipping with leather strap, solitary confinement, dark cell, bread and water; when a man gets strapped it takes a year before he can get back to first grade; minor offences, 12 to 48 hours in dark cell; *West Virginia*—Loss of privileges, handcuffs, dark cell eight hours; *Wisconsin*—Stripes, shaved heads, red suit, no privileges, no mail, no light in cell for 90 days[5]; *Virginia*—Strap, solitary, 10 to 30 days, loss of 20% of good time; *Wyoming*—"We make the penalty fit the crime, for insolence we cut their time or take away their writing privileges, for serious offences, cold baths, ice is cheaper here than it is in Alabama. We like bread and water diet with solitary confinement."[6]

[5] When I visited Wisconsin State Prison in 1920 they also handcuffed a man in punishment cell to a sliding bar while asleep at night.

[6] Proof of the fact that these lists are not confined to the state prisons but are prevalent in reformatories as well (such rules are still prevalent in reformatories—see Wickersham Report, *op. cit.*, pp. 53-55) is provided by the following from the State reformatory at Concord Junction, Mass., sent out through underground channels. The whole letter is too long to print. In a list of 22 complaints the boys ask that the long Sunday and Holiday lock up be abolished and that "All syphilis boys under treatment be allowed a table by themselves instead of handling bread, plates, knives, forks, etc., of other boys." In addition there follows the list of punishable offences:

We will now examine what these descriptions of penal discipline may mean in practice. That the official statement is often a poor description, is indicated by the following. The officials of the Eastern Penitentiary in Pennsylvania described their system as "three days bread and water, no furniture." The May Grand Jury for 1924, reporting an investigation of the same prison, had this to say:

"The Grand Jury visited the punishment cells located in the fourth gallery, known by the officials and convicts as 'Klondike.' These cells are painted black on the inside, both on the walls and ceilings. They contain no window, the only opening to the outside being a small slit or ventilator in the roof. The wooden door of the cell, which is solid, except for a small peep-hole is kept closed all the time. When the ventilator in the ceiling is closed the cell is in complete darkness. When the ventilator in the ceiling is open some few rays of light come through. When the ventilator is open, however, the cell is exposed to the weather and rain beats in. The floors of the cells in which the ventilator was open were found by the Grand Jury to be wet and the cells themselves damp. There is no furniture

("Red Report" of Mass. Reformatory, Concord Jct., Mass. Printed in red ink.)

Massachusetts Reformatory

To the Deputy Superintendent:

CONS. NO..... ROOM NO.....

is reported for the offences checked below:

.....
Officer.

Absent from school, altering clothing, bed not properly made, clothing not in proper order, coat not buttoned, crookedness, destroying state property, dilatory, dirty room or furnishings, disobedience of orders, disorderly room, disturbance in dining room, disturbance in shop, disturbance in wing, eating before signal, fighting, gaping about, gross carelessness, hair not combed, hands and face not clean, hands in pocket, idleness in school, idleness in shop, inattentive in chapel, in line, in school, in shop, injuring property, insolence to instructor or to officer, late at work, late entering room, late leaving room, laughing and fooling, loud talk in room, lying, malicious mischief, neglect of study, not at door for count, not wearing outside shirt, not wearing slippers in chapel, not wearing slippers in school room, out of place, poor work, profanity, quarreling, refusal to obey, refusal to work, shirking, smoking, spitting upon the floor, staring at visitors, stealing, talking from room to room, talking in chapel, talking in dining room, talking in lecture room, talking in line, talking in school, talking in shop, talking in corridor, using tobacco, vile language, wasting food, wearing slippers in yard.

(Pencil note: This is a red report and when an officer sends in one of these the men are punished by marks without a trial and with no chance to defend themselves. Would like to have this report abolished as it is not a fair chance to both sides toward freedom. Thanking you in advance we are "All The Boys of Mass. Reformatory.")

Mass. Reformatory
Concord Junction Mass.,
Dec. 23, 1919.

of any kind in the cell except an iron toilet. These cells are not reserved for certain offenders; but convicts who are charged with major infractions of the rules are confined there for punishment. When a convict is placed in the cell his clothes are taken away from him and he is allowed to wear only a pair of pants and a shirt.

"This rule is enforced both summer and winter. The convict wears no underclothes, socks or coat. The cell contains no bed, mattress or chair. The inmate sits on the floor and sleeps on the floor. He is furnished with only a blanket. He is locked in his cell in complete darkness and the door is opened once and possibly twice in twenty-four hours. Once a day he receives his food which consists of dry bread. In some instances the convicts receive one-half a loaf of bread per day and in some instances five slices of bread for their daily diet. They drink water by placing their mouth under a spigot which is attached to the wall above the toilet. One instance was called to the attention of the Grand Jury where this water was shut off and remain shut off for twenty-four hours.

"These cells appear to be used freely. Testimony was produced before the Grand Jury that the row of cells so occupied was frequently filled. When a convict is placed in the cell he is not placed there for a definite period. The testimony which the Grand Jury heard would indicate that the usual sentences range from five to fifteen days with occasional sentences of longer duration."

A prisoner of Western Penitentiary in Pennsylvania, writing during this investigation, says: "You will find the basket cells are screened and have very small holes allowing very little air in cell. Ventilators in rear of cell are but a sham and some fellows must stay in these cells for two weeks without attention and are compelled during the day to either sit on cold damp cement floor or lay on it."

The dark cell at Clinton Prison, New York, was described in 1921 as absolutely barren except for a three inch ring in the floor. "The dark cell is stripped so there is not a nail or hook of any kind in it, the cross bar door has been removed and even

the hinges on which these doors hang have been taken off, and the door that closes the cell is a sheet iron door with about fifty holes in it near the top. These holes are about the size of a ten-penny nail. At the bottom of the door there is a hole about 15 inches square with a screen over it, although there is a ring in the floor about three inches in diameter. . . ."

But a more graphic and detailed account of the dungeons that may be found in American prisons is given by an outsider —an investigator for the *New York Evening Post*. "One of the worst, most vicious, most degrading features of the New Jersey State Prison at Trenton are the dungeons. Of these there are fifteen in all, eight of them are on the ground level, but they might as well be underground for they are pitch black, and have no windows. Seven actually are underground—twenty feet underground. There is no doubt as to the existence of these for, while ordinarily shown to no visitor, a reporter for the *Evening Post* got access to them. They are there. The writer has been in them. He has seen the ringbolt in the wall and the chain that hangs down from the ringbolt, the chain with which men have been shackled. . . . Twenty steps lead down to these seven separate hells. . . . It measures some five feet by four, is large in comparison with some of the others; the height is perhaps fifteen feet. In one wall some seven feet above the floor of the dungeon is a small window. An iron shutter has been made which completely excludes the light that brings only happiness and can do no harm. . . .

"You are now standing on your feet, your body bent over double, so that you head is within two feet of the ground, your arms stretched down. And it was so that men were chained, their wrists manacled, a handcuff binding fast the wrist-shackle and the chain. It was in that way they were punished. The posture caused excruciating agony. Men screamed in their great pain, but their screams were of no avail for each one of the eight other dungeons is fitted with two doors, an inner door of wood and outer door of sheet iron, made so that they fit exactly, and imprison in this tomb not only the man but the screams of that man. The six other dungeons are the same

except that they are smaller. To lie down on the floor, supposing the man were not chained, would necessitate drawing up the knees. There is no equipment of any kind. There is not even a board to lie upon. When a man fell, in sheer exhaustion and faint with pain, he fell on the floor. And there he lay. There are no toilet facilities. Each man who went in took his bucket with him but his hands were bound. If he needed to use the bucket, he called aloud and often called aloud in vain. His cries could not penetrate the doors, and it was necessary for him to wait for the keeper who twice a day brought him bread and water, the only food that was given to him for perhaps six days.

"In the other 8 dungeons on the ground level there is a plank bed and in winter a blanket is provided. Also they are equipped with toilets and not always is a man handcuffed in these cells. These eight dungeons are in use today. The other seven were in use up to last summer. They were discontinued then by the present Warden but there is nothing to prevent their use if it so pleases any succeeding Warden. Nor are the dungeons and chaining all. It seems to be fairly well authenticated that a ball and chain was in use for many years until July 27 last, when Dominick Mongano, the man who wore it, was removed from the prison to the State Hospital for the Insane. . . . Trenton's ball and chain is said to be in the locker near the blacksmith's shop and unless the Legislature passes some law, there is nothing to prevent it being used upon the whim of any Warden." Nor is this tale complete—women have been placed in these dungeons. The dungeons are never shown to visitors, nor do they mention the fact that women are placed with men, and that cell fifty-five wing four is kept apart for that purpose. "In that cell May Jackson was placed on December 5 last and she was there again as late as January 5. She was put there under lock and key of a male keeper because she became unruly and the matron could not handle her."[7]

[7] Harold Littledale, *New York Evening Post*, January 13, 1917. And on the 19th of the same month he wrote: "In the underground dungeons of the N. J. State Prison there lie three wretched men in the midnight darkness of three separate hells they lie shackled to ring bolts in the wall. They are there. The writer has seen the men and the shackles that are on them. Their names are James L. Green, James E. Hughes, and John Gerhardt. *Ibid.*, January 19, 1917.

Thomas Mott Osborne in his report to the New York Commission on Prison Reform in 1913 described the punishment cells at Auburn as follows: "Before the appointment of Superintendent Riley, there were two forms of punishment cells in Auburn Prison, the so-called 'Screen Cells' and the 'Jail.' The Screen Cells were small cells built into the regular cell block with, in addition to the iron grating, an extra solid or screen door which closed over the cell opening. A few holes, about the size of a slate pencil were pierced through this outer door; but not enough to give any considerable amount of light or ventilation. The occupant lay on the bare stones or concrete floor, without bedding or covering, and received one slice of bread and one gill of water in twenty-four hours. The Screen Cells were discontinued in the month of September 1913, by order of Superintendent Riley.

"The 'Jail' at Auburn is a stone or brick vault about 20 feet wide by fifty long, with eight iron cells ranged along the East wall. The cells have grated doors and iron floors studded with rivets. Warden Rattigan has had wooden floors laid down. He has also increased the allowance of bread and water—the latter to three gills a day.

"Men are sent to these cells for the most trivial offences; the largest number for talking. There is no limit placed upon the man's stay; the object apparently is to keep him there, regardless of his offence, until 'his spirit is broken.' Naturally this requires more time in some cases than in others. One man said to me: 'I stayed down there eight hours and then I caved right in; I told them they could do anything they liked with me.'

"Another man, punished for a very slight offence—breaking a flask in the moulding shop (a very frequent accident in any foundry) refused to apologize to his officer for an offence purely accidental, and was kept in the Jail for six days. When he was rescued he was unable even to swallow any water at all for two days; and he was so changed in appearance that his shopmates could not recognize him. This may give some dim idea of the physical effect of this place of torture."

So much for the dark cells and dungeons. The uses they are put to are self-evident. The results if not clear already will become clear in the discussion. We will take another phase of the discipline still current in some American prisons. It will be recalled that the officials of the South Carolina State Prison had written in 1924 that "The strap can be used and in a few minutes the party be put back to work again without losing any time to speak of." What the Joint Legislative Committee in 1923 thought of this method is found in the following:

"There is no limit, as far as we can find, to any of these punishments. Their severity is left entirely to the will of the Captain of the Guard. As many as forty-seven lashes have been administered to men and twenty-five to negro women. (White women are not whipped). Women and men are stripped naked to the waist, men are sometimes entirely naked. The women have their arms placed in stocks while being whipped. Men whipped in the death house are laid face down on the table used to lay out the dead bodies after electrocution. They are held in place by guards or trusties who hold their wrists and ankles, and by a stick placed across the neck, the ends of which are held down by the assistants. Men whipped in the basement of the hospital building have their wrists handcuffed and secured above their heads to a ring in the wall. The whipping strap used for the women is a duplicate of that used for the men—a piece of smooth, pliable harness leather about a quarter of an inch thick, two inches wide and twenty inches long secured to a round wooden handle ten inches long. This punishment is inflicted by the Captain of the Guard in person or by one of his assistants. It is difficult to determine just how severe the floggings are. The Captain of the Guard states that the skin is not broken. There is testimony that one of the women spit blood after a recent whipping and has not worked since; and we heard evidence that men have lost consciousness under the lash. A trusty who works out of doors 200 feet from the women's building testified that he could hear not only the cries for mercy of the women undergoing punishment in their second story barracks room, but that he could hear and count

the stroke of each lash on the bare back. Floggings in the death house can be heard in the nearby main cell house. Those in the upper stories can count the strokes as they are administered in the whipping room in the basement of the hospital building. One negro woman was put in the stocks, her back bared and whipped for breaking ranks and picking a flower in the prison yard. In brief, there can be no doubt that the floggings are often very severe."[8]

But strapping is not confined to South Carolina. The State of Michigan has had in recent years scandals that have centered about the physical abuse of prisoners by Warden Hulbert. Charges that severe whippings were taking place in the Michigan State prisons, published in the *Detroit News* of January 27, 1920, are as follows: "Harry L. Hulbert, Warden of the prison, explained to the committee how the flogging apparatus is worked. The man to be flogged is blindfolded, handcuffed and shackled at the ankles. Then he is stretched out on a long ladder which is made to fit snugly over a barrel. His hands and ankles are fastened to the ladder. The prisoner is blindfolded, the Warden said, so he will not see who is flogging him. His back is bared and a piece of stout linen cloth placed over the bare spot. The instrument used in the paddling is a heavy strap about 4 inches in width, punched with small holes about an inch apart, and fastened to a handle. The strap is soaked in water, according to the Warden, till it is pliable. Dr. Robert McGregor, prison physician, holds the pulse of the man being flogged and gives the signal for the flogger to stop. . . . Thomas Schultz, boy 21 years of age, seven months after being sent from the insane asylum, was given 181 lashes and kept in the dungeon during the period of the flogging for nine days, and fed on bread and water. On November 4th he received forty lashes; November 5, he received thirty-five lashes; November 6th he received twenty-six lashes; November 9th he received forty lashes; November 13th he received forty lashes; total 181 lashes. November 30th he was returned to the insane asylum."

[8] Report of the Joint Legislative Committee to Investigate Conditions at the State Penitentiary of South Carolina, 1923, Columbia, S. C., p. 46.

Here is a description of the same situation by a prisoner in Michigan State Prison. "I do not know all the men who have been flogged but can give you the names and prison numbers of a few, and no doubt these men can be asked all about it. Now think of this, THREE men who were flogged recently have gone insane. They are now in the insane asylum at Ionia. Their names and numbers are Curry 10759, Schultz 11782, and Lee 11348. They can be seen at Ionia. Schultz was flogged about three weeks ago and the others a few months ago. Other men who have been flogged lately are Lamay 12621, Kaul 12551, Wynn 12407, Parker 12306, and Lapp. This is the way the flogging is done. The man to be flogged is put in the bull pen and made to stand up in a narrow cage. He cannot sit down, but is forced to stand up all day in this cage. At night the man is put into the cell behind the cage with concrete floor and no bedding. He is given only bread and water. After a few days he becomes weak, then the Warden, two huskies over six feet tall and the Prison Doctor goes into the bull pen, blindfolds the man, handcuffs him and puts leg irons on his feet, then he is jerked to a ladder fixed to a large barrel. Over this barrel the man is stretched by the use of the handcuffs and leg irons, so tight that he can hardly breathe. Over his bare back a wet cloth is put and he is then flogged with a leather paddle and becomes unconscious after a few lashes. This is done for three or four or five days in succession. They all but kill him but the prison doctor looks out that they stop just in time.

"The screen cells are another form of punishment. They are narrow, dark, and clammy ventilated. About a year ago a man committed suicide in one of them. They stay in there for a week or more—mostly more—on bread and water. This is done whenever it pleases any guard and for the least infraction of a rule."

The State Prison of Colorado, which for years was described throughout the country as a model institution, was shown to contain the most barbarous system of flogging, and it was in that prison that the author saw, in 1920, nine men with

balls and chains riveted around their ankles wheeling the balls in wheel barrows, and was informed that this punishment lasted for a period of three months.

A prisoner from Texas in 1917 described conditions as follows: "The entire Texas Prison system is depraved, degraded, damnable, and inhumane. I have slaved with my fellow convicts from daylight till dark into those hellish swamps of Southeastern Texas. I have seen the weaker ones drop from sheer exhaustion, to be dragged to a tree by the brutish-blood-drunk guards, and 'chained' up by their hands until their misery caused them to 'faint.' I can produce POSITIVE evidence of men who were stretched up by their arms all night and BURIED the following day. I fought my way through every circle of that miserable hell, to the top—to the most responsible job ever given a prisoner there, sec'ry to the Warden. This Warden is no longer there, but they have one a great deal worse."

If the reader thinks that this is too strong[9] and not to be credited because coming from an inmate, the testimony of an official legislative committee for 1918 may be more convincing.

"We have seen convicts who have been severely beaten by guards with no authority to punish convicts; we have seen convicts who have been beaten with ropes unmercifully; convicts who have been spurred and lashed by guards on horseback until their backs were scarred and lacerated; convicts who have lost

[9] Senate Concurrent Resolution No. 17.

By Senator Murphy:

WHEREAS: It is openly and publicly charged that the State convicts in the penitentiary and on state farms are required by the Prison Commissioners, guards and other officers in charge of the penitentiary and the various farms to straddle a board 2 x 6 (two by six inches) elevated about ten (10) feet high, the upper edge of which is sharpened, and to remain thus stationed for hours at a time with nothing to support them, with both legs hanging; and

WHEREAS; The sensitiveness of that part of the person coming in contact with the sharpened edge of the upright 2 x 6 results in immediate depression in mental and nervous system which has the effect of degenerating those systems and will result in and cause insanity or abnormal development of criminal instincts and is injurious, severe, inhuman, and should not be countenanced in any civilized government, therefore, be it

RESOLVED, That the Penitentiary Commissioners be and they are hereby requested to investigate these charges, and if any such acts are being committed in the penitentiary or on the farms, they are requested to prohibit same.

The resolution was read and adopted.

Senate Journal, 38 Legislature, Second Called Session, Texas (Austin) May 14, 1923, p. 607.

their eyes from the effects of brutality; convicts who have hung on chains until unconscious; convicts who have been run on the turn-row; convicts who are poorly fed and poorly clothed. We have seen white men who have suffered all these acts of cruelty, and men who have suffered even more than this, and we might fill this record with specific cases of pronounced brutality to convicts. In some instances brutality to such an extent that it would be difficult to believe that such horrible and atrocious acts could and would be committed against humanity within the bounds of the State of Texas."[10]

These conditions are not confined to Texas. County Commissioners in one of the counties of the State of Georgia instructed the county wardens as follows: "They [the county wardens] shall safely keep all prisoners submitted to their charge, rigidly enforce discipline by the use of such humane modes of punishment as will best enforce submission to the authorities and compel and induce the performance of good and faithful labor during work hours, such as solitary confinement, restriction of diet, restriction of privileges of receiving visitors, and other privileges usually accorded first-class prisoners, using shackles and chains and handcuffing their hands and feet, in an elevated position above their heads, while they are compelled to stand in an upright position, and such other mode of punishment as will suggest itself to the warden in charge and is suitable to the situation."[11]

A prisoner writing from the State Prison at Jefferson City, Missouri, after describing conditions at the institution and after detailing the fact that convicts cut their fingers off to escape the hardship of contract labor says: "Men are committing suicide in preference to doing three or four years of this particular kind of imprisonment." Thomas Mott Osborne, who had visited the prison wrote to a correspondent as follows: "In fact, the thought of Jefferson City is one of recurring

[10] See Report of Subcommittee of the Central Investigating Committees of the House and Senate, the 3rd Session of the 35th Legislature of Texas, 1918, p. 266. But for a picture of what is humanly possible in our penal system the reader should consult all of the above as well as the Report of Penitentiary Investigating Committee, Texas *House Journal*, July 30, 1921.

[11] *Macon Telegraph*, February 23, 1923.

horror to me, I have not the slightest doubt of the accuracy of this information. But then, what can we do?"

Mr. Ogden Chisholm, who until recently was United States member of the International Prison Commission, is quoted as follows: "The dark cell and solitary confinement are common. Perhaps the worst punishment is the rule of silence, which prohibits men from conversing with their fellows and gives them more time to brood. In some prisons it is made a special privilege to talk, and a special punishment never to speak a word. Despite laws in many states, occasional flogging obtains. I was in a prison not long ago where eight men came in to dinner in chains, dragging iron balls behind them. These men had tried to escape and for eight hours each day were compelled to roll wheelbarrows up and down with the balls at the end of their chains lying in the wheelbarrow. It was a senseless punishment and did not in any way change the attitude of the men on whom it was inflicted.

"I have seen twenty-four men in one prison hung up by their wrists with toes just touching the floor. They remained that way for four hours at a time, and you can conceive their state of mind when let down. Not long ago I saw a prisoner, little more than a boy, strung up in this fashion by one hand, at a place where every prisoner would pass and see his punishment. In another prison dining room I was present when the guards brought in a man dressed in a scarlet suit and stood him in a corner with face to the wall. He, too, had tried to escape, and every time the men in that prison ate a meal he was paraded before them in this infamous suit."[12]

We have perhaps said enough to indicate certain features in the penal system of the United States against which Osborne began his battle around 1910. We have also made it clear that these features prevail in all sections of the country. But to understand fully the importance of the task Thomas Mott Osborne undertook when he challenged the whole scheme of

[12] Ogden B. Chisholm, "Faults in our Prison System," *New York Times*, Sunday, February 26, 1922.

contemporary penal administration, we must look at some of the consequences of this system of treating human beings.[13]

[13] It might be well for the sake of the record to reproduce the following short history of riot and rebellion in one American prison (Kansas State Prison, Lansing, Kansas):

"Unsuccessful attempts at escape, disorder and riots have marked the history of Lansing Penitentiary for the last ten years.

"An elaborate plot to escape, framed by Underhill, was frustrated in September, 1931, by information given by a life-term convict. On the eve of the attempt, prison officials seized three shotguns, a machine gun, a rifle, a revolver and ammunition that had been smuggled into the prison.

"The plan, according to information received by the warden, was to kill three guards and three trusties charged with guarding the prison gates. After this wholesale slaughter, the convicts planned to scale the wall with ropes and ladders and turn the machine gun and other firearms on any guards who sought to prevent their flight.

"In August, 1929, two prisoners were shot to death, one was seriously wounded and a guard was shot in the leg when six long-term prisoners made an unsuccessful dash for liberty.

"An outbreak that lasted seventy-two hours occurred in the prison coal mine in June, 1927, when 328 convict miners seized fourteen prison guards and refused to go to the surface. The leaders demanded 'more good times,' better food and changed parole procedure. A battle among the convicts, 720 feet below ground, ended the disorder after seventy-two hours.

"The coal mine was the scene of another demonstration in July, 1926, when a convict group locked fifteen guards and 375 prisoners in the mine. The ringleaders announced their intention of keeping their prisoners in the mine until officials released several convicts held in solitary confinement for a previous demonstration. The outbreak ended when the convicts became hungry after thirty-six hours in the mine.

"Four prisoners fled the prison in December, 1923, after stabbing a trusty who sought to spread the alarm. A fifth was shot and captured. An investigation was held and several prison employes were discharged. Evidence was given that one of the guards had received $875 to smuggle a revolver to the prisoners."—*New York Times*, May 31, 1933, p. 13.

3

THE INFLUENCE OF THE PRISON

THIS BRUTALITY that we have just described, this continuous and persistent violation of every sense of decency that over and over again comes to the front wherever and whenever one digs deeply enough into the organization of the American prison rests upon a peculiar human relationship and in turn produces relationships of its own. At the head of the institution stands a warden. The warden is a political appointee. He frequently changes with the change of administration and, in numerous instances, even more often than that.[1] The warden, therefore, tends to depend upon the principal keeper for the actual administration of prison discipline. In fact, the warden in many institutions is the business executive and rarely goes down into the prison proper, while the principal keeper is the disciplinarian of the institution. "The Grand Jury interviewed many inmates at the institution without finding one who had ever seen Colonel Groome, the warden. When the Grand Jury interviewed Colonel Groome himself he was unable to

[1] "Of the thirty-one wardens of Sing Sing from September, 1845, until I took office on December 1, 1914, only one died in harness; the history is a dreary record of dismissals from office, resignations forced or voluntary, and even indictments by grand jury. The slimy trail of politics can be discerned through it all.

"Of the thirty-one, two were merely temporary appointments—my immediate predecessor—George Weed and the old Principal Keeper—Connaughton who was officially appointed to the office for a few days in 1913. Of the other twenty-nine (two of these are counted twice as each held the office at two different periods) only nine were retained over two years, and only three held on for over five years. Deducting these three long term wardens the average length of term of the head of Sing Sing Prison, from 1845 to 1914, had been less than one year and two months.

"Of course, there are various reasons for all this: the obvious one being the fact that most of these officials, even when honest, were grossly incompetent. They owed their appointment entirely to partisan politics; and if it is assumed that every ward-heeler is

answer questions relating to the ordinary affairs of the institution. The Grand Jury recommends that Warden Groome perform his official duties in person, instead of delegating them to his subordinates."[2]

The principal keeper is almost always a guard who has risen to exercise the position of responsibility through long service in the institution and who has shown himself capable of keeping the "lid down" through changing administrations. This fact explains many things about the prison administration. The guards are responsible to the principal keeper, the principal keeper to the warden. But the warden comes and goes, while the principal keeper stays on, and the new warden tends to rest upon the shoulders of the experienced prison official who "knows the ropes." Changing policies and notions must, therefore, be filtered through the experiences and powers of resistance of the principal keeper and the guards. This explains why the prison system tends to go on without any perceptible change even with the changing wardens. The life and problems of the guards, from among whom the actual administrative head is drawn, are so hard and burdensome that they do not draw upon the better element in the community. The pay is low, the hours long, the conditions of labor irksome, the personal danger considerable, and the prospects of promotion practically nil. "Most of them get $88 a month, and they never get it promptly. All of them work 12 hours a day, and that is too much if you want efficiency and interest."[3] Not only

capable of managing a prison the rest follows as a matter of course. My immediate predecessor (not counting Weed) was a 'steamfitter' named 'McCormick,' from Yonkers. His predecessor, Clancy, from the Bronx, was rated as an 'accountant'; it was not generally known what he accounted for. His predecessor, Kennedy, was a New York Police Captain—an ordinary 'cap.' His predecessor, Frost, was 'transfer tax appraiser and district leader' from Brooklyn—in other words, another professional politician. His predecessor, Johnson, was rated as a 'horseman'—it may be imagined what that meant. His predecessor, Sage, was a coal dealer from Catskill—also a politician but one of the best in the line of wardens. His predecessor, Durston, the one who died in office, was a resident of Auburn; I had known him there as a very low-grade political lawyer. He had been warden of Auburn Prison and was later transferred to Sing Sing under circumstances which rumor indicated were most unsavory. His predecessor, Brown, was a man whose inebriate revels kept the institution in a constant turmoil; and his conduct outside the prison would indicate that he was probably insane."—Thomas Mott Osborne Manuscript.

[2] Philadelphia Evening *Bulletin*, May 29, 1924.

[3] See the Wickersham Report, *op. cit.*, pp. 43-47.

are they overworked and underpaid, but they are denied the right to develop any personal relations with the men under their control. They are watched by the warden and the principal keeper on one hand and by the prisoners, who are always scheming to break the prison rules, on the other. "Convicts under the strictest of discipline and in one of the toughest prisons in the country would scheme day and night for weeks, months, and years with the one thought always in mind to get the better of the prison officials. Or, in the words of the convict, 'putting it over on the screw'." The keeper is caught in a vortex that either tends to make a brute out of him or to make him dishonest. Sometimes it does both. There are some who escape, but from the testimony available those who escape are very few.

This continuous irritation between the guards and prisoners tends to make guards indignant, to make them insensible and sometimes pitiless. Given what we know about human nature and the ease with which human beings justify their own acts and find pleasure in the exercise of physical mastery and domination over others, it is easy for the keeper to go from irritation to anger, from anger to violence, from repeated violence to brutality, and from brutality to the habitual employment of violence. Of Warden Hulbert, who was responsible for the merciless whippings described in the last chapter, a prisoner writes: "Sometimes we wonder whether he is in his right mind. He is crazy about himself. It is I this and I that, and nobody but I, he is drunk with power."

Only on the theory that the infliction of pain may be pleasurable can we explain what has gone on and still goes on in some of our American prisons. "The Guards done all in their power to develop the instinct of the savage in each man; they drove and persecuted them until they turned a wild beast at bay; then they were pointed out to the visitors as most dangerous and incorrigible. Punishment of all kinds seemed the one thing those Autocratics knew or cared about. It seemed to please them to know that some poor half starved down trodden and beaten brother man had been forced to spend a week,

month, locked away in some vermin-infested cell, in which no reasonable human would keep a dog; without a bath, shave, or change of clothing until such time as it was deemed safe to return him to his work, a glimpse of God's Blue Sky and a breath of pure air."

Given the strain and the persistent suspicion of the prison, the atmosphere charged with passion and hatred, the fear on the part of the prisoners and guards and personal enmity grows rife. Guards have favorites and enemies and occasionally work their personal spite out on prisoners. "God pity the men here whom an officer has no use for or takes a dislike to. His life is a hell and I seen officers stop at nothing to get even with these men. I have personal knowledge of how far an officer will go to frame a man up to get him and inmates helping the officer to do so. The more enmity the officials can create amongst the men, it pleases them the more as by that means they can find out more about the men. Oh, my friend, if you could only see the wheel within wheel of this system, you could then see what one has to contend with."

This atmosphere makes little things seem big, petty instances assume an exaggerated importance. The warden, keeper, and guards, faced with a thousand or more recalcitrant men who seem always to be plotting, to be scheming to break the rules, to bring in contraband, to escape, are driven to depend upon informers "stool pigeons," "prison rats." "This place is crowded with prison rats (informers) stool pigeons."

"There was stool pigeons, otherwise known as tail bearers and tattlers, ready to carry stories true and false to the Principal Keeper and Warden." The officials use them to keep track of every man for: "Apparently the chief duty of the Deputy Warden is to be always spying upon the prisoners and trying to find out if they are breaking any rules or committing any reprehensible act." And the prisoners in turn watch each other and the guards. "Remember, I have spent 18 years of my life behind the big walls, to say nothing of the days and nights spent in jails, and I studied the men I worked, eat, and marched with. We had to do it in the days of the 'lion cap,'

the ball and chain, the brackets, and the lock step." But such an atmosphere is both demoralizing and irritating. . . . "I count my men every 15 or 20 minutes," testified a guard in Sing Sing. To be watched and counted, watched again, to know that the guard is watching every move you make, every place you go, every turn of the head, is exasperating. "However, personal experience is needed to realize the effect upon the nerves, by the consciousness that you are continually under the surveillance of silent guards and officers. Your whole body and soul involuntarily react to this fact. You feel that you, in your turn, must be every minute on guard. If prolonged, this state of tension may become almost unendurable. Even when absolutely sure of your own innocence, the tension is a great strain. When you are made to feel that a guard has been posted expressly to watch you, yourself, then you become aware of inward feelings of resentment, rage and contempt. . . .

"If you knew him, you might trust him. But to endure being constantly looked at and silently watched! Only those who have endured the process know the cost.

"Once I heard a worn-out prisoner cry in utter desperation: 'Two eyes always watching me! I seem to see them always. I seem to feel them even in my sleep'." This is the expression of an innocent outsider[4] who spent three years painting the chapel in a state prison. The prisoner tells the story differently. The prisoner becomes "like a dog that will strike upon the slightest provocation only to show their sorrow afterward when they realize that instead of avenging themselves they have driven a dagger not only into their own heart, but into the heart of every man behind the walls." Under this atmosphere, whispered tales become the source of feuds and cutting scrapes. "An inmate will also stop at nothing to get back at the other fellow. First someone will start a story about another and when it reaches him it is a mile long and when he tries to locate its source, he is told the screw said so, meaning the officer, and then the officer got it from so and so. I have seen so much of this dirty work that I have seen it at times almost go as far as murder."

[4] Miss S. A. Cowles, *The Connecticut State Prison.*

But this hate and fear is still further actuated by the simple and common fact of petty graft. The guards are underpaid and overworked and some of them find it difficult to make both ends meet with the income at their disposal. Under these conditions it is not strange to find that "no matter how strict a prison is or how severe the officials, there will always be found among them some who are crooked, or in other words, that can be reached." This is shown repeatedly to be true in every prison investigation and involves upon occasion not only the guards but the warden himself. Some of the worst prison scandals in Sing Sing prison centered about the graft accepted by wardens from wealthy prisoners for the privileges which they could extend. If this can and does happen with wardens, how much more frequently is it to be expected with guards whose pitiful income lays them open to every temptation.[5] "I ofttimes heard them say that it was more than hard for them to make both ends meet and consequently they took to graft. I know of one Keeper who made an average of $100.00 a month dealing in dope. He had a druggist out of town to whom he would go and buy $3.00 worth of dope (called gum opium) out of this three dollars worth Mr. Keeper would make a profit of $7.00. He had a go-between, a convict who would sell this dope for him, nearly every keeper had his own special line of graft, one keeper would deal in 'crooked letters only' that, if you wanted to smuggle out a letter this keeper would take it out for you for twenty-five cents. Another keeper dealt in tea. He would bring you in a twenty-five cent box of tea for

[5] "When I took office as warden of Sing Sing I was the eighth person to hold the position within ten years. One warden was dismissed in connection with a pardon scandal, one was indicted, and others resigned. My predecessor, the plumber from Yonkers, was dismissed owing to the discovery, by a newspaper reporter, that the warden was giving great liberties to a certain prisoner who was formerly president of a bank in the City of Brooklyn, and who it was claimed had presented the warden with an automobile and had then been appointed chauffeur. It was said that the two used to frequent various pleasure resorts in the neighborhood; and there was even a rumor that the prisoner used to drive down to Brooklyn occasionally and spend Sundays at home. The publication of this story led to the removal of the warden. I found the automobile in the stable when I went to Sing Sing; and it stayed there for a considerable time before it was removed. The former warden disclaimed ownership; the Prison Department would have none of it; and the prisoner who was said to have made the purchase refused to acknowledge it. Finally the former warden put in a claim, which was allowed by the department, and the offending machine was removed."—Thomas Mott Osborne's Manuscript.

fifty cents, the twenty-five cents was his profit." The evidence for this fact is overwhelming.

One could fill pages of testimony, not only from prisoners but from official investigations and from newspapers, that the guards in the past and at present participate in bringing to the prisoners whiskey, dope, and even arms, and taking from the prisoners letters to friends of the criminals. In December, 1927, the Warden and Deputy Warden of the Federal Prison at Atlanta were indicted for accepting graft. On July 15, 1927, two Sing Sing guards were arrested on suspicion and in their possession were found underground letters which they were taking out. That the prison letters are not fabrications is further illustrated by the following from an official statement of the overseers of the Western Penitentiary of Pennsylvania:

"One officer has confessed that he was in the habit of carrying out letters from the prisoners and bringing in contraband articles to them, including liquor. Another officer is in the custody of the police who charge him with knowledge of or participation in the smuggling of the dynamite and revolvers."[6]

We may now proceed with the picture of the prison as it is drawn by the prisoners. This is a description of the Eastern Penitentiary in 1920:

"Truly, the quotation 'To him who hath shall be given,' was exemplified in its highest form during these years (1916-'20), when graft in every form prevailed and was even expected. The Guards carried the Drugs and Liquors in the Prison and disposed of them to the Inmates at so much per treatment." And so the story goes from prison to prison.

" . . . the officials of the prison resort to every known way to graft, both on the inmates and upon the state. Today the prison is run over with dope (Morphine) and it is easier to procure it here than on the outside."

But the graft and the corruption did not only find its outlet in the bringing in of drugs and whiskey but in securing certain of the immunities of the prison life for a price.

"If you had money, or political affiliation, your treatment

[6] Pittsburgh *Gazette*, February 27, 1924, p. 4.

was much different; you were assigned to a bed in the hospital or dormitory, ate the best in the prison and did practically as you willed, without intervention of any of the officials. You were permitted to have anything you wanted sent to you, and to have private, lengthy and unchaperoned visits, this of course, only when you could and would pay the toll demanded; those who could not were shunted to the shops to take such treatment as the guards deemed suitable."

But the worst part of the story must be left untold—because it is unprintable. A glimpse of it may be had in the following and this is from the Missouri State Penitentiary in 1925:

"The boys fifteen, seventeen, eighteen years of age ought to be placed all on one floor. . . . They should be placed in some shop where they would not be required to do a task—for hunger and fear are the prod that forces them on. And men older and wiser take advantage of their helplessness—fill their young minds with filth and contamination, tempt them to become their subjects by holding out food to them when they are hungry, or by doing a part of their work in order to keep them from going to the Punishment Hall." This story is told for every prison for which there are records.

"Regarding the bastardly charge, few of the young boys came in here that did not soon succumb to this. If these dogs trafficking in boys couldn't get them one way they would start them off on dope, and in a few weeks they were slaves and would sell their bodies to obtain the stuff."

We are now in a position to form some judgment of the results of the American prison. "To imprison a normal person in an abnormal atmosphere (which a prison certainly is) and expect that after two, five and even ten years—as the case may be—that he is still normal, is a fallacy that cannot be justified by any process of reason, and to put an abnormal person into an abnormal environment for the same length of time, and to expect to see a normal individual emerge therefrom is preposterous and absurd."

The prison cuts the man off from direct contact with the

world, takes him bodily from the presence of his friends, family, and children and removes him to a distant institution, and after that all attempts to communicate with anyone outside are impeded, restricted, and frequently denied. Visits are permitted once, sometimes twice, a month, but usually only by one and the same person. He may receive no package from home or friends; he is limited in the number of letters that he may write—in some places, one a month, in some, two, rarely more than that. "During good behavior a man might write once each month in his first year. At the end of his first year he received a 'bar' and was entitled to write once every two weeks. At the end of his fifth year he received a 'star' and was entitled to write once each week." The letters were scrutinized, censored and sometimes kept from delivery. In many cases, "each letter is numbered, and only one sheet of paper allowed for a letter." "Have you ever noticed how small I write? I write still smaller at times. That's a trick I learned at 'College' during the 'one-sheet-of-paper-a-month' days." If he gets into trouble, even these precarious contacts with the world are destroyed. He may be denied a visit, denied the right to send or receive mail, denied not only newspapers, but any sort of reading matter. Out of touch with his friends and forgotten, he lies in his cell and waits for a letter. "You cannot realize the sinking feeling a man gets when the man with letters passes him by, especially so when he feels there is some special one that won't fail him."

To further isolate the man from his fellows, the prison undertakes to isolate him from his fellow prisoners. The silence rule may be strictly enforced, and the man may be kept year in and year out without communication. "The silent system reigns supreme throughout the entire institution at all times." And again, if the rules are broken, the prison attempts to isolate the prisoner still further. He may be locked in his cell while his fellows are working. He may be placed in solitary confinement, for weeks and months and, in some cases, years.[7] But he may even be still further isolated—he may be

[7] After the riot in 1929 in Clinton Prison, New York State, 181 men were placed in solitary confinement and kept there for 18 months.

placed in a completely dark cell and shut off from the light of day, from the society of the human beings about him, from anything but himself.[8]

This isolation, this taking of man away from his fellows, this absence of speech, laughter, song and sound, drives the man in upon himself. Living year in and year out in a little cell, frequently in idleness, without any direct communication with the world, without adequate intellectual stimulus, without companionship, and, if illiterate, without even the means to read, tends daily and persistently to drive one in upon oneself. The prison cell is small, it crowds in upon one; the routine is monotonous, the life the same, without change, without variation, without interest—there is nothing to do but lie on one's cot and think and feel—about oneself. "As you know, our material world, the prison cell, is within sight, sound and touch, nothing left to the imagination. There are no magnificent distances, no glorious sunsets, few kind words or cheerful countenances. What is there for the average prisoner to think about but himself? 'Self First' so one learns in the prison environment. The rules and regulations and the system in general encourage this cankerous policy. It is as much a part of the prison world as are the bars and cells." There is no companionship but one's own body, no interest or emotion but that which can be derived from one's own past experience. So the prisoner is driven in upon himself and draws out of his past life those things that were sufficiently deep to have left a memory behind them. "Do you ever realize all that passes through the brain of the average prisoner as he lies upon his

[8] "The 'blind door'," says a prisoner in 1917, ". . . worst torture of all, exists at Federal Prison [Leavenworth] today. A door of oak, 2 ft. thick, is put on top of the barred door of the dungeon described above—all air is shut out, and all light. After 10 or 15 minutes in the blind cell you begin to breathe hard and to experience all the symptoms of suffocation. But the thing you can do is to stretch out on the floor with your mouth at the crack under door (not large enough to pass a match through). After 4 or 5 or 6 hours you are taken out unconscious, usually with every symptom of suffocation or drowning. . . . There is one experience in particular, as to which all who have been in the blind cell agree. As you lie there, with your face to the crack at the bottom of the door, you see the dim reflection of a small electric light bulb in the corridor outside. It is your only connection with the world—and you hold on instinctively to that ray of light—of hope. But at 10 p. m. the light goes off—and all the men say that they feel sure that with the light the air is turned off too. It has a peculiar psychic effect. Then it is that the crisis comes. Some rap for hours for the doctor—make all the noise they can. But no doctor comes."

2 x 4 cot during those long hours between 'light out' and daylight in the morning?"

"I came to Auburn a very young man with a sentence of ten years for a crime I knew absolutely nothing about. I easily and early became reconciled to my fate—and felt a certain measure of pride in the knowledge that all of my fellow prisoners believed as I did 'that some day some one was going to pay.' There was no discord. Everything was in harmony with the thought. Everyone was making a study in his particular line, taking advantage of the incidents that led to their arrest and devising methods to overcome certain elements of chance almost positively certain that some day some one was going to pay and the mind constantly working in the same channel of thought one just keeps living and waiting for the day of his release."

This isolation with its great loneliness and self-consciousness provides every inducement for a break in the rules that make for isolation. If one cannot speak, one may whisper, or use lip language. If one cannot communicate openly, one does so underground. One breaks the rule because one must live, and in the attempt to live one becomes a liar, a hypocrite. The guards and officials know that the rules are being broken, that they cannot enforce them, so they close their eyes, and become hypocrites too—pretending to enforce rules that they know they cannot enforce and punishing those that permit themselves to be caught—making for hypocrisy and bitterness for every man knows that he is being punished for what other men do—and the whole prison knows it too and makes a martyr of the punished prisoner.

"When I entered the Prison in 1912," writes Miss G. A. Cowles, who painted the murals in the Wethersfield, Connecticut prison chapel, "talking was forbidden, at meal times, and it was a prison offense to talk in cell, in corridor, in line, in chapel, at work, or in the yard. Strict silence was to be observed in *all* departments of the Prison. Since then this law has been modified and conversation permitted to the prisoner at meal times. . . .

"Moreover the prohibition of ordinary speech causes the prisoner to practice various forms of illegal communication, and cultivate his powers of deceit. The 'underground route,' as it was called, was openly acknowledged by the officials, who even expected communications to be made in this way. To make ordinary conversation a wrong and to wink at illegal communication gives one the sense of moral confusion.

"The alleged reason for the rule of silence is to prevent collusion among criminals, and to prevent them from talking about crime—a poor reason, according to the officially pronounced success of the underground route, in spreading information."

Every sound, every face, every movement, is subject to suspicion. The guards watch the prisoners and the prisoners watch the guards. The prisoners watch each other and the warden watches them all. Everyone is suspicious of everyone else. The warden employs prisoners to watch the prisoners and even employs "stool pigeons," "rats," to watch the guards. The atmosphere becomes increasingly surcharged with feeling and fear and hate. "He is given a copy of the rules on arrival which provide punishment for slight infractions. He is not allowed to speak or make signs."

"The 'Old Timers' and 'Second Timers' tell him," says an inmate, "tales of how they were treated, that he cannot get justice and gradually the leaven of every prisoner enters his heart 'How can he escape.' He becomes shifty constantly scheming how to outwit his guards and how to make a get away from the Prison.

"Time goes on and he becomes more and more hardened. He has made a confident of some of the prisoners and they promptly report him. Every prisoner is a stool pigeon at heart with the hope of standing in with the officers and often report a fellow prisoner without cause."

The prisoner responds to these influences according to his character. "Yes, it is true that many are anemic or otherwise ill, all are pallid, listless, inert, silent, moody, furtive and resentful, watching the screws (guards) and shrinking at their

approach, thirsting for hot stuff (dope), planning to go back to the old life and with not a shred of hope that starvation can be long warded off by any other manner of life when the grated doors shall open and usher them one by one to freedom." These prison influences tend either to degrade or harden, to destroy the prisoner or to train him to bitter recklessness, to deceit or bravado. "A form of punishment," to quote Miss Cowles again, "which makes a man a slave does not tend, of itself, to lead him to repentance, nor even to inspire him with genuine respect for the law. I saw how the force which was brought to bear upon the individual prisoner crushed him if he was weak. The effect varied with the character. When the prisoner suffered compulsion, through inability to fit the prison system, his response was expressed in attitudes of depression, sullenness, deceit, bravado, resentment, contempt, despair." "If the system succeeds it destroys all the convict's manly qualities, makes him a spineless nonentity, an imbecile, a suicide. If it fails it makes him a confirmed criminal."

Where it does succeed it makes the released prisoner helpless against the tide of the world, unable to make the necessary adjustment. "Things are hard with me now," says an ex-prisoner, "but when you realize I have never been my own boss and all the other handicaps, I guess you know it is a tough proposition. I have been held in restraint so long and ties over me so long that I feel as though I am a man without a country." But it does not always succeed. Men resist breaking as long as they can. They find means of communication and self-expression and find it in the hope of crimes in the future. Writing of Auburn Prison before 1912, a prisoner says, "Prison language (uttered surreptitiously) when any at all is used, is a jargon of slang, profanity and obscenity and its subject—crimes old and prospective, criminals, bouts, fights, pals, gangs, cops, screws, trials, and prison life; prison language is not for ears refined. Some expecting to go back to the old hangouts (rendezvous), others to new ones; and nearly all perfecting themselves in thought and through whispered coaching by prison pals how to locate and beguile suckers (persons

easily duped) and in one way or another wean them from their own and get away with it and also to gain a livelihood by other means disapproved by those who seek to regulate law and order."

No, it does not always succeed. It merely hardens and brutalizes. Depriving the prisoner of all current interest and activity makes what interest there is reach back to the past and into the future, forcing the prisoner to find his pleasure in living over his past experiences in imagination and in projecting his past pleasures and interests into the future. It lays the foundation for a continued criminal career. ". . . I felt that he was responsible for me getting a ten-year bit for something I'd never done; and how I hated that guy! And for three years after I came to prison, I never went to sleep at night without thinking how I was going to croak him after I got out. The electric chair? Hell, what did I care for that? So I used to plan this and plan that, night after night, in my cell."

The mental twist which the prison experience develops makes a return to a criminal career almost inevitable. By denying him an interest in the present day life, it has compelled him to continue into the future the career of the past. "I have known men who were in for seven years with terms waiting them in other institutions after they got out planning new crimes when they were finally released. I have known safe breakers who subscribed to magazines containing all the latest information on the manufacture of safes, the development of tools and appliances for penetrating steel and generally keeping up to date. I have known a counterfeiter (who was in for forgery) practice night after night in order that he might not lose his cunning although he was in for ten years."

But it frequently does more, it embitters and makes for revenge. "Criminals! It's a wonder to me that the men released from institutions of this kind are not murderers upon the slightest provocation, for they kill all the manly instinct in a man, like a caged tiger when it escapes its keeper. . . ." But more than that. It perpetuates the belief that society is corrupt, that people are dishonest, that virtue consists in not being

caught. It sustains the criminal in his philosophy of life. "Seeing all this crookedness going on around me, after being sent to prison to reform, you can see for yourself, why so many men came back after being sent out. There was no other way, being brought up around crooked men in office and politicians we soon got the impression that society were bigger crooks than we were, only they were lucky enough to get away without being caught. Arriving in prison, believing the Warden to be wrong, knowing the officers to be crooked, one can easily see in what frame of mind a man left prison. As far as I was concerned it was with the determination to steal everything I could lay my hands on for I left Elmira after serving my first term with a revenge in my heart towards society and hating everyone and everything, my only ambition in life being to get even."

One may conclude this chapter by noting that we send a man to prison for being a thief, spend much time, effort, money and ingenuity on him, and confirm him in his career before releasing him to the world again.

4

THE RETURN

For the average inmate release from prison is a time of greatest trial. The years of confinement, the suffering, the loss of friends, the hunger of a lonely life, the stifled passions, the deteriorated broken health, all combine to make the step from the prison to the world painful and often doomed to failure. In addition, the wasted years that have given him no skill, and his prison record stand as a persistent obstacle to finding and keeping employment. Many, it is true, leave prison bent on continuing their old criminal careers. Many others, however, are forced to continue their careers of crime because every agency in the community seems to conspire to keep them from earning an honest living.

The long awaited hour of release arrives, and then the tragedy—no friends, no home, no money, no job—only a prison record. "I am going out without any friend or aid, and so far without a job. I find that the problem that now faces me takes more nerve to face than breaking jail—and I have not been getting much nerve food during the past twelve years." The prison casts one into the world again, and frequently—all too frequently—leaves one the alternative of starving or stealing. "When you are discharged, you get twenty-five cents if you done one year or less. If you have done over that, you get a dollar, no matter if its fifty years. If you have done two years or less, you get the same clothes you went in with no matter if they are in rags. I have seen men come out in the winter with a straw hat on and in rags and no overcoat."

Even this does not fully describe the difficulties that the ex-convict has to face. From state prisons, the prisoner often returns to the community from which he was convicted, where his record is known, where the police are apprised of his coming, and where the opportunities for adjustment are often most difficult. " . . . He is dumped in a place where generally his crime was known and where the police are warned of his coming. Having been deprived of drink, often smoking, and other luxuries while in prison, he glories in his freedom and unfortunately too often the $5.00 he received to start life with is spent in drink. Being now again destitute and unable to secure a job, he again has to take to crime."

The prisoner's record is a greater handicap than the uninitiated would assume. The prisoner, estranged from family and friends, returns to the world and when seeking an opportunity to break with his past is often met with sarcasm and derision. "When I look back to the many, many years I spent behind the walls and recall the suffering and misery I have witnessed, I too long to throw myself into the line of the few Christian souls that are slowly but surely making the roads a little smoother for the discharged prisoner. But what am I? But a poor soul fighting the bitter fight to prove beyond doubt that the old saying that 'once a thief always thief' is as rotten as the foundation it is built upon."

The latent hostility, suspicion, and fear of the community express themselves in a great variety of ways—the coldness of friends, the antagonism of neighbors make it difficult to keep one's head up, especially when you have a measure of pride left. "I am home about six months and although I surely do appreciate my freedom, I am very unhappy. You see . . . it is a small city and mostly everybody knows one another and me above all are known to the majority as one to be shunned, and I never thought that when I came back my friends would give me the cold shoulder, but they surely did every time I come across an old time friend. They give me their hand, and look around to see if anybody is watching him talking to me and right away they have to get a car and when they do that I get

a sickly feeling and wish I was never born. I was never a cheap grafter when I was running wild, or took things from poor people . . . I surely do want to be a man and live up to the law as prison life has no attractions for me. . . . Two months ago I had a fair job and pretty good money, and all of a sudden they found out who I was and they told me they was sorry they had to let me go . . . that pretty near knocked me out. I wouldn't mind it if I ever committed a low crime or made people suffer for things I done, and I am sure I could never make anything of myself if I stayed in . . . but I have a mother and small brother to watch out for and it is hard to move some place without the assurance of getting steady employment."

This social ostracism, the sneers and back-biting and contempt often become economic boycotting, refusal to trade. The efforts of the broken body striving to redeem its spirit in the world against a persistent hostility is filled with pathos and all too frequent failure. "Just a few lines hoping they will find you well. Well, I am a Boss now! What do you think of it boy? Well, I took possession of the place yesterday and everything is settled. The place is in a fine location and I think by and by its going to be alright."

But the good people in town were too good. "I'm sending you the clippings of the town's papers so you can see what they say about me. Yes, Boss, it seems that things are not improving at all. Some time a man or two steps in the shop to get shave just for curiosity to see who I am and what do I look like. If you could only hear some of the foolish questions they ask me youd choke them to death yourself, but instead I meet them with a smile and kindness and try to build up a trade. So help me, God, Boss, some day we hardly make enough to eat. Now yesterday was Saturday and between the two of us we only took in five dollars and ninety cents. Gee that's a shame but what can I do, people doesn't come in."

The tale typical of many, many others ends in failure. The failure in this case, as it is so frequently, is not due to the lack of efforts of the individual to attempt to make an honest living

but to the refusal of the community to accept the returned prisoner. "It is a shame the way business is here. You know what I done? I am going even up to the Christian Science meetings so as I can get in with those people to come to get a shave. But no help . . . I am trying every way possible to get in with Peoples. Somedays is awful I dont even get forty or fifty cents, on Saturdays I get three or four dollars, and thats the way me and my nephew have been living; some days we only have one meal each. . . . I don't care much for myself but I don't like to see my kid nephew hungry. I don't know why these peoples will not give me a show?"

But the opposition of the community is only one source of difficulty. This unfriendliness is all too frequently made more difficult by the broken health which so many men take out of prison with them. "At first I intended to go back to the old game but I guess that would hardly be the square thing to do so am going to try to go straight. I will get a job as soon as I am in better health and this cough of mine gets better. No one will hire me yet as they are afraid to take a chance on a chap who coughs most of the time."

The professional criminal takes his misfortune with considerable equanimity—failure and ill health, and indifference of the community seem but a continuation of what he has known all his life long. "Of course you will be pained and surprised to learn that I am in jail, but at that, I guess it will seem quite natural. I am charged with robbery 1st degree and face possible sentence of ninety-nine years . . . for fourteen months I went straight. I surely made good, but as you know old pal, my health went bad. I walked the streets of St. Louis day after day, looking for any kind of a job. I went hungry. I slept out in the cold but the night before I was arrested I slept at the municipal lodging house. The next morning I tried again for a job. I was hungry. I asked lots of people on the streets here for the price of a meal. None would help me. So I could see only one way out you know the result. Talk about hard luck! The store I picked out to hold up was a hat store but as it turned out the only store in the block where the

cops went into to get warm. And so as I was coming out of the place having finished the job, in walked the law to get warm. I felt real bad but I had to laugh at that. . . . Hope you had good time Christmas. Good night and a happy New Year."

Even desperate men break sometimes. Here is a letter from one who had in his day a very bad reputation, and whose attempt at an honest life was made difficult by disease contracted behind prison walls. "I had to get out of my sister's house because they were afraid to get my sickness. I am living in a two dollar furnish room, me & my wife. Its pretty tough. I am too weak to get a job my poor wife went to work for $4.50 a week. I am nearly crazy & I dont know what to do. The most of the time we dont have enough to eat. I wish that God would kill me so it would be all over."

To the ostracism of friends and family and community, to the consequences of ill health, so often contracted in prison, is to be added the persistent suspicion, not to say hostility of the police. This attitude of the police frequently makes the attempt at finding an honest place in the community difficult and even impossible. "I was getting along fine until one day during the early part of June poor Mike . . . entirely unknown to me committed some wrong which landed him behind the bars. The police upon visiting his house found some letters which proved my intimate friendship with Mike and my former prison record whereupon they decided to take me into custody too with the result that I was held for eight days on a fictitious charge, after which time I was discharged in court. It was the first time in my life that I was innocently arrested, and if it had not been for the loyal friendship of Mr. . . . . I believe I would have been handed a 'bit,' as I am of the opinion that the police here control the judges of the lower courts absolutely and they were very anxious to send me away on general principle. However, the judge followed the dictates of his conscience and set me free, for which I am thankful, as it was more than I had at first hoped for. The activities of the police had made it impossible for me to live any longer with the young couple, who's company I enjoyed so much and who's

respect I had gained. Then followed a period of almost unbearable loneliness, doubt, temptation, and mental suffering. But I fought it out, and can truthfully say that I stuck to the right path. Through it all I held on to my position and last week had the satisfaction of being made an asst. foreman which position gives me less tiresome work, but increased responsibilities."

But the suspicion and hostility of the police do not always have such an outcome. Sometimes the mere fact of the prison record may lead to tragic results. "I left Sing Sing one year and two months ago. . . . I was getting along fine and had just married with the intention of starting my own home. A month ago I was on my way home when I was assaulted by a drunken detective for no reason whatsoever, as a result of this beating I was taken to the hospital with twenty-two blackjack marks and lacerations on my scalp, forehead and back and my right eye completely blinded. I spent over one month in the Knickerbocker Hospital and after I left and consulted an eye specialist I find I must go to an eye hospital and undergo an operation on my right eye immediately to save myself from going blind in both eyes. I laid my case before the District Attorney and he intends to take action and yet they tell me my record is a great drawback . . . is a sufficient reason for a detective to knock a man blind? I can prove through my different employers that I endeavored to make good and now with the loss of my eye I doubt if I will ever be able to work at my trade again."

The most persistent handicap, however, is the lack of confidence of employers. That makes it impossible for many a released prisoner to secure a position and makes it difficult to keep one if by some misfortune his previous record is discovered. The evidence is overwhelming in the thousands of letters written to Thomas Mott Osborne that many men who have served prison terms would turn to honest careers if the opportunity for honest employment were not so frequently closed to them. " . . . Every place I go it is the same old story: 'Where did you work last? If I tell them the truth, viz. that I have been

a thief for the past fifteen years why they simply refuse to believe I can make good . . . unless society gives me my chance, how in hell can I be square?" This denial of opportunity affects not only the released prisoner but his family as well. "Every one asks: 'Have you any references?' I show them my discharge. That's the end . . . I don't care for myself. You see, I have a wife and a baby dependent upon me. They, too, have to suffer. . . ."

This difficulty drives men back to crime frequently against their own better judgment and against their own will. They may be too proud to beg, too self-conscious or incapable of finding sources of assistance that would not impair their self-respect and so turn to the old game again. "I may as well be plain and fair with you, the same as I have been with Bill. When Bill asked me the day before I left prison what were my intentions. I told Bill I would try and go straight and I mean every word I state in this letter, and in spite of the four or five bits which I have done sixteen years of my best young life for I am sick and tired of doing time. Don't you think I should be. I am willing to work but it seems its my misfortune in landing a position. So what am I to do? Live I must, and God how I hate to go back to the old game, as you no doubt know what I mean by that." The tone of another letter is a little more ruthless and direct. " . . . if something does not show up real soon why I have one alternative if I am lucky alright if not guess I can take my medicine? . . . when you want to work and cant obtain it and no funds to meet any bills and your married what can you do."

There is this to be noticed about the professional criminal —he has an alternative, he has learned that there are means to food and shelter even if society will not give him an opportunity to earn an honest livelihood. The alternatives presented are sometimes a little perplexing. "I cant secure a position, I have too much pride to beg, I wont kill myself, and I am damned if I'll steal." But some ex-prisoners will take one of the alternatives. If they are too proud to beg they may try to steal with consequences that are sometimes pitiful indeed. "I

have been released from Dannemora Clinton Prison May 31, 1920, and was arrested June 14, 1920, being at liberty one night less two weeks. When I reached home with the ten dollars ($10.00) the State gave me, I found my dearest one to me, Mother confined to bed. I called a Dr. and paid him $4.00 fee in place of his request of $5.00. In my third day of liberty until the night of my arrest I have blistered and walked from down town up town and from up town down town with the extreme desire for an honest position, every place I have entered I was asked for reference and where my last employments. As I told them I was turned down everywhere, not given the chance to prove my sincere wish of becoming an honest and willing worker at anything. As I reached 110th St. Central Park West I got what they call a 'jimmy' and committed burglary . . . I am only out of State Prison two weeks, . . . a twenty year suspended sentence or for life would be my great wish if you could only get it for me."

Underlying the whole problem of adjustment to the world, and more basic than any of the individual factors we have discussed are the fundamental questions of habit, value, personal relations, temperament,—questions that reach deep into the whole scheme of social institutions. A simple human being suffering from a weak heart—too weak to do hard physical work—untrained to any skill, and yet possessed of notions of pride, an obviously sensitive and thoughtful human being finds himself in an unfortunate position and is faced with the question of whether life is worth living. "I have resided with my mother and sisters since my freedom, and for a while was treated with kindness and consideration. Of late, however, they have spoken to me only in snappish terms, and have more than hinted that I had best move to some other place. Now, I have a shred of pride yet in me, and you may be sure that their hostility and covert sneers are hard for me to bear. Quite often the idea of casting away all ideas of honesty occurs to me. My position seems so unbearable that making an end of myself seems the easiest way out. But while I know crime may for a short time stay my hunger and clothe me, the end is destitute

of any jot of glamor or attraction—the end is prison, with its leaden days and monotonous routine. . . . You mustn't think that I enjoy sending such letters as this; I do not, and it took me the greater part of a week to come to a decision as to whether or not I should appeal to you. The desire to get away from present surroundings, and to earn money for clothes (at present, I am wearing the suit, hat and shoes given me the day I was let out of Auburn, and, failing the price, haven't had my hair cut since the latter part of March) induces me to write to you."

But even the hardier spirit, one whose capacity is sufficient to escape difficulties that weaker ones are always stumbling into finds himself confronted with the great task of building new habits and interests and avoiding associations that seem natural and pleasant to one who has experienced them. "I've had many bitter battles with myself, but tho somewhat battered I won out, and as the years passed it required no effort to be right, for I thought right. Now I can see that in some respects at least, where to be nearly safe, I must live a strictly temperate life and shun those who do not, and avoid all places where it might bring me in contact with undesirable citizens." He must do this in spite of every inducement to do the easier and more habitual thing. One who prides himself upon having "made good" writes: " . . . I have lived in hell this past year due to my past. Numerous times I have been called convict and in more ways than one has this been brought to my memory. I see now with clear vision why so many of the boys have to return to the next door to hell, but I can, and am thankful that I have been able to resist the line of least resistance but God knows I have been tempted many a time to follow this line. . . . "

In addition to the inherent difficulty of adjustment is the memory of old habits. "For twelve years I have been laying stone upon stone upon this great rock; and today I feel proud of the achievements accomplished. That it has been a bitter uphill battle is but putting it mildly. Obstacles and barriers have been thrown across my path until I become discouraged

and longed for the old Devil-may-care-life, excitement, fighting, roughness, and money." Sometimes even success in overcoming one's previous habits may prove but temporary. A change of circumstances, a new job may bring old interests back again and the fight to keep from putting on the old character must start over again. An ex-prisoner who could write, "I have been out of the service for over two years. I associate with no gangs and keep regular hours and I feel 100 per cent better off. Looking out for two is harder than looking out for one but if I never got tied up I guess by now I would surely been up to my old tricks, late hours, and seeing how much I could inconvenience the public. Now I have a steady job and have A1 habits." This man joined the police force, and a few months later his wife wrote, "That old officer's job made him lose all of his ambition somehow or other. I think if that fellow doesn't get some work soon he will do something desperate. His mind must clear up in some way or other. Before he took that job he was a prince. He worked hard for two years. We had good times together and I will be glad when things change for the best again. I just cannot make myself understand."

These difficulties of changing from a criminal to an honest career are complicated by any number of human and personal problems. "I have been using the (new) name in my present position and with the few new friends I've made. Just now I see no way out of it. I intend that the children shall continue using their right name and perhaps sometime we can straighten it all out. Do you believe it is wrong for me to use the name under the circumstances?" One common human trend seems to run through them all. The professional criminal is one partly because he has learned to distrust completely the mass of his fellow-men. "When you came to Sing Sing I was in a frame of mind I would rather not think of now. I distrusted everybody and couldn't see why anyone should do any good without a hidden motive." This attitude is, one might almost say, universal in the group of men who have learned to make their living systematically by dishonest means. They trust and believe in no one except possibly the little band with whom

they happen to be associated. What is more they do not expect others to trust them, and yet this confidence from some one seems essential if the changing character is to have some sort of guide post. "Yes, it's eight years now, and I can tell society that I have walked the straight road but for one little incident, which you know happened in Springfield. It's some times been a hard struggle, but don't think for a moment that I am throwing any bull when I say my faith in your sincerity helped me out a whole lot. Even your letter is like a ray of sunshine to me. I read it so many times that my wife tells me to sleep with it."

The feeling that after all and in spite of all, there is someone who still has confidence in you seems to make the greatest difference. "I know how you always felt about me when people told you that I would never be any good. Regardless of the hard things that came up about me I don't think that you ever lost faith in me, and that has helped a lot." And if this confidence expresses itself into willingness to entrust responsibility, it may call forth the very reactions that are essential in the attempt to change over a career. "When the manager gave me the key to the stockroom he was entrusting three hundred thousand dollars worth of stock to my care and he didn't as much as mention the fact to me. I heard that a young man applied for the position yesterday and was asked to furnish a bond. He had references and all that sort of thing but a bond was asked for and required . . . and you can't understand how much it means to me."

Osborne had gradually become conscious of the problems and difficulties that surrounded the treatment of the criminals by society. He had become conscious of the brutalizing effects of an ordinary prison sentence and of the barriers a prison sentence is in any attempt to find a place for an honest livelihood. The prison seemed to serve as an interlude between one crime and another—in fact, it seemed to confirm the criminal in his career and society seemed so organized as to make a change in the criminal's career exceedingly difficult if not impossible. Osborne set out to challenge the whole scheme of penal adminis-

tration not only so as to change the influence of the prison upon the prisoner but so as to change the prisoner before his return to society and in the process change the community's attitude towards the released prisoner.

PART II

THE CHALLENGE

5

THE CHALLENGE

THERE IS a logical setting to the career of Thomas Mott Osborne. He was born and reared in the shadow of Auburn Prison, whose gray towering walls guard the entrance to the city and for more than a hundred years have been its most impressive landmark. As a child he was taken upon a visit within its gates and the memory of it lingered far into the years. "The dark, scowling faces bent over their tasks; the hideous striped clothing, which carried with it an inexplainable sense of shame; the ugly, close-cropped heads and unshaven faces; the horrible sinuous lines of outcast humanity crawling along in the dreadful lockstep; the whole thing aroused such terror in my imagination that I never recovered from the painful impression. All the nightmares and evil dreams of my childhood centered about the figure of the escaped convict."

His active political career served to stimulate an interest in the human beings confined within the prisons. As mayor of the City of Auburn, as Democratic leader of upper New York, as one concerned with the social and political problems of a modern community, he could not escape the questions that revolve around the problems of crime and criminals. His wide contact with all sorts of men, his unusual capacity for friendship, his sympathy with the unfortunate, his ever ready interest in the lowly brought him friendships with those who for one reason or another had been incarcerated as felons. He became convinced that it was "folly to keep criminals locked up for

years at society's expense, and turn them out as bad as they came in—or worse."

His unusual capacity for sympathy and fellowship made him appreciative of the suffering of his prison friends. He could describe a visit to four young boys lodged in a county jail in the following terms: "Four young boys I knew, H., M., S., and Z., were committed to a county jail. I visited them. It was their first experience; and they were, so the lawyers informed me, presumptively innocent. I found them in the usual evil-smelling and ill-lighted iron cage, herding with the usual collection of smoking, swearing vagabonds and criminals; eagerly absorbing all the vice and deviltry that such dregs of a community exude. 'What do you do?' said I. 'We are not allowed to do anything,' answered H. 'We've asked to be allowed to work with those who are breaking stone,' remarked Z., 'but they won't let us.' 'Then you stay around here doing nothing all day?' said I. 'Yes,' replied H., 'we have to run around the table for exercise.' 'Yes,' whispered M., 'and we have been here four weeks now, and we can't get a bath.' 'How about the men who work,' said I; 'do they get baths?' 'No! when a man is through his term and is going out, he gets a bath; but that's all.' "

Long before he became actively interested in prison reform, the friendship of a man confined in Sing Sing gave Osborne contacts not only with Sing Sing but with other state prisons. Something of the quality of these early friendships with men confined in prison is shown by the following letter from a prisoner in Auburn as early as 1910, three years before Osborne began his active prison reform career: "After you had left me last Wednesday I could not help but feel how different you were from other men. A few hours before you had been watching at the bedside of your son and yet, with this gripping at your heart, you had done me a most profound service. Sometimes I think I know you and can understand, and then I discover I don't. Most other men I meet seem just ignorant grown boys and I fancy I can put my finger on the touch-stones of their characters—pride and selfishness, and so rightly or

wrongly I laugh at them. But with you it is so different, I feel that I am just the ignorant grown body, and when I compare you with other men I know, and laugh at—the peanut kind—the difference seems so great that I just cannot understand."

Upon their release these friends used to come to Osborne's house and talk about the prison, its problems, its influence upon character, and about the possibility of directing the corroding passions of the silent prison to some healthier channels. These talks always left a sense of dissatisfaction, of challenge, behind them.

His interest in civic matters led him into contact with the George Junior Republic, with which he became acquainted as far back as 1896, serving as chairman of its board of directors for fifteen years. There he saw the problems of discipline among undisciplined boys treated as a problem in developing a sense of responsibility. The George Junior Republic adopted the method of community organization as a means of cultivating that sense of responsibility which is the essence of character. This contact and the experience resulting from it, supply a background for much of Osborne's thinking and later career. When Mr. George suggested the possibility of using the same method in the administration of prisons, Osborne was skeptical, but under the continuing influence of this experience was gradually led to modify his point of view and to look forward to this as a possible way of handling the disciplinary problem of an adult penal institution.

Those prison friendships and the reflective intervals which they stimulated led Osborne gradually to develop a program of prison administration. It was conjectural and hypothetical, true enough, because no practical application of the theory could then be made, but in essence it was a theory that he later applied to the management of three different institutions, with profoundly revolutionary consequences. As far back as 1904, nine years before he became definitely identified with the prison reform movement, he articulated this theory while speaking before the American Prison Association then meeting in Albany, N. Y. "The prison system endeavors to make men

industrious by driving them to work; to make them virtuous by removing temptation; to make them respect the law by forcing them to obey the edicts of the autocrat; to make them far-sighted by allowing them no chance to exercise foresight; to give them individual initiative by treating them in large groups; in short, to prepare them again for society by placing them in conditions as unlike real society as they could well be made.

"Outside the walls a man must choose between work and idleness, between honesty and crime. Why not let him teach himself these lessons before he goes out? Such things are best learned by experience. . . . So inside your walls you must have courts and laws to protect those who are working from the idle thief. And we may rest assured that the laws would be made and the laws could be enforced. The prison must be an institution where every inmate must have the largest practicable amount of individual freedom, because 'it is liberty that fits men for liberty!'" One thing to be noted in this statement is the philosophy of action. The emphasis is upon experience, upon doing, and not upon preaching, moralizing, instructing, educating, reforming. It is clearly implied here that if one could so arrange the penal system as to get men to do the desirable kind of things, one might ultimately expect them to become desirable men. This as far back as 1904 was a fundamentally significant theory, and it is this theory derived from a different channel which has been an underlying mainspring in much of the educational endeavor in the last twenty-five years.

In spite of this broad interest in the problem and the many contacts that it fed upon, years passed before Osborne stepped from being a comparatively passive to becoming an active participant in the prison reform movement. The busy years, with their multitude of activities; a large business career, mayor of the City of Auburn, member of the State Public Service Commission, and State Conservation Commission, the education of four sons, and an active social life all combined to dim the interest in the prison problem; but through all the years he

kept wondering and conjecturing about it, keeping the question in his mind and in a way preparing for the opportune moment to arrive.

One day in 1912, while confined to his home by illness, he read Donald Lowrie's "My Life in Prison." This book stirred Osborne to his depths. It crystallized all of his previous experience and reflections. The problem became a matter of increasing moment in his life and ultimately came to dominate all of his public career. After that, every time he appeared in public to deliver an address he chose to speak about prisons and prison problems. His unusual gift of speech had made him much sought after as a lecturer, and his continuous stirring of public discussion contributed to raising the whole question of prison reform in the State of New York. When William Sulzer became governor in 1913 he announced that he would attempt the reorganization of the state penal system, and Osborne suggested that he appoint a prison commission. The governor countered by offering Osborne the chairmanship of the commission. So it came about that Thomas Mott Osborne, rich in experience, possessed of broad sympathy and profoundly concerned with basic questions of penal administration, was given the official opportunity to do what he could about it.

The usual course of a prison commission is to investigate, report, and recommend. Ordinarily a large proportion of the recommendations are stillborn, leaving nothing but a ripple of publicity behind them, a ripple that rarely washes the walls of the prison. But in this case the prison commission was headed by a man whose sympathies and interests had been profoundly stirred, and whose previous experience with men and boys gave him a philosophy of life—a philosophy that may be epitomized by the statement that responsibility can only be borne by those trained in its exercise.

In addition, Osborne had both courage and imagination. He was going to investigate the prisons of New York. He was going to do this by being a prisoner himself, even if only for a short period. This idea had matured over many years. He had discussed its feasibility and possibility with friends in and

out of prison, and they all agreed that he would learn something by such an experience that he could not learn any other way. And so, when given responsibility as Chairman of the New York State Prison Reform Commission, he determined to become acquainted with the nature of penal discipline by voluntary incarceration.

Simple as this may seem, it proved startling and challenged the attention of the whole country. Here was a man placed beyond most of his day and generation—rich, educated, a man of broad influence in his state, a recognized political leader in his community, cultured, widely traveled, accepted everywhere as one of the most interesting and sympathetic personalities—suddenly turned convict and by free choice. To do that he secured the consent of the Warden of Auburn prison, Rattigan, and the newly appointed Superintendent of Prisons, Judge Riley. But, while the decision was long in maturing, it was not easy to carry out. There was the criticism of friends, the hostility and ridicule of the press, the minor personal doubts and misgivings, but most of all the fear of being misunderstood by the prisoners themselves. If he was going to prison at all, his only justification would be to give him an insight and understanding of the men and of the influence of the prison upon the men. But, if the prisoners suspected him or doubted him, not only would much valuable information be denied him, but it would destroy the possibility of his securing the confidence of the men, which was essential to any effective program.

Osborne decided, with the advice and consent of the Warden of the prison, boldly to meet that issue by taking the men into his confidence. And so, on a Sunday, the 28th of September, 1913, Thomas Mott Osborne, chairman of the newly appointed Prison Commission, arose in the chapel of the Auburn Prison to tell the prisoners his strange news. There in front of him, guarded by keepers carrying heavy clubs in their hands, were 1400 men, silent, because speaking was not allowed, dressed in their gray striped uniforms, with closely shaved heads, their faces pallid from lack of sunshine, a gray, suspicious, bitter crowd of men. Perhaps an uncertain ripple of expectancy was caused by the unusual spectacle of the chairman of the newly appointed Prison Commission on the platform. Those men knew Osborne by sight. He had some friends among them. He had even talked to them once before when the Prison Commission was appointed, so his appearance was greeted with a certain amount of applause,—the only form of outward expression that they were permitted.

When he rose to speak he read what he had to say to them. Usually Osborne spoke without a written manuscript. It is not a very inspiring speech as one reads it now; it is rather dull. It is stilted and formal in its style. It leads up slowly and painfully to the proposition that the only way he can learn about the prisoners and the influence of the prison upon them is to become a prisoner himself for a while; that he wants to be treated like one of them. He recognizes, of course, that he will not really be a prisoner, that he will not actually go through the mental strain of the man confined within prison walls for years, that the guards will not treat him as they would other prisoners. But, in spite of it all, he believes that he can learn something valuable. And he asks of both the prisoners and the officers to be treated like a regular prisoner. He wants to eat their food, wear their clothes, work side by side with them in their shop, sleep in the same type of cell they sleep in—just be a prisoner, voluntarily it is true, but still a prisoner. "Perhaps many of you will think, as many outside the walls will think, that at best this action is quixotic—another 'fool's errand, by one of the fools.' I shall not argue the matter further. I believe that I fully realize the shortcomings which will attend the experience, yet still I shall undertake it. For somehow, deep down, I have the feeling that after I have really lived among you, marched in your lines, shared your food, gone to the same cells at night, and in the morning looked out at the piece of God's sunlight through the same iron bars—that then, and not until then, can I feel the knowledge which will break down the barriers between my soul and the souls of my brothers."

His audience did not grasp the fact at first. They gaped at him in astonishment, a little bewildered, and then finally it dawned on them. It dawned on them that here was a strange human being who was not afraid of them and who was willing to be one of them so as to know something of their life. When they realized it they gasped and then the response was like an explosion of applause. It was strictly understood by the guards on orders from the Warden, and by the prisoners, that no notice was to be taken of the fact that Osborne was Chairman of the New York State Prison Reform Commission. He was just a prisoner given the name of "Tom Brown," given a number, dressed in the uniform and put to work in the prison shop, marching in lock-step with the striped prison suit, carrying his bucket with the other men, eating the prison fare and submitting in silence to the environment about him. The details of that experience need not be described. Osborne has done it himself with a vividness and sympathy which no second hand can improve.

This experience had one profound influence upon Osborne. It gave him an unshakable conviction that men were men even in prison, just plain human beings—criminals, it is true—but essentially like other people, who could respond to friendship and kindness, hatred and fear, distrust and confidence, just about the way other human beings responded. It also gave him, in addition, a vivid sense of the futility of the whole scheme of prison arrangements—perhaps, more than anything else, the monotony of it, the sheer, deadly monotony of it, and its futility.

To the prisoners, on the other hand, it was a stirring, vivid experience, to some of them the most exciting experience in their lives. The letters that record it palpitate with emotion, almost with hysteria, as if a strange new dawn had touched their embittered existence. And, what is more important, they learned to trust Osborne, and some learned to love him—love him as children love their father, love him even more than children of the same family love each other. From that day, the letters to Osborne were written not to "Mr. Osborne," but

to "Dear Tom," or "Dear Pal" or "Dear Brother" and, very frequently, to "Dear Father."

The prisoners from then on brought their troubles and their problems to him. He became a sort of Messiah to them. One of them calls him a "redeemer of the underworld." It may seem strange that a week's imprisonment should have had that influence, especially on the prisoners, because after all what is a week compared to years, and what is one human being among 1400?

But under the circumstances, under the scheme of the old prison system, its hostility, its silence, its hard, brutal monotony, its lack of sympathy, especially its suspicion and distrust, counted and guarded by armed men—under those conditions, to suddenly find a human being so differently placed from themselves, who could forget distinctions and could become one of them, sent a thrill through the prison, challenging the beliefs of many of even the most hardened men in Auburn prison.

Osborne went through his prison experience, even insisting on going to the punishment cell where for 14 hours, with hands and face unwashed, he lived on bread and water, slept on the hard stone floor and listened to the tales of woe of the other men in the punishment cells near him. One needs to read the chapter in his book describing that experience fully to appreciate its effect upon Osborne's reaction to the whole scheme of penal discipline. The Sunday following his week's imprisonment, Osborne was taken from his cell to the chapel again to address the men assembled. This time he arose to speak not as an outsider, not as Osborne dressed in civilian clothes, not as the Chairman of the Prison Reform Commission; this time he rose to speak as Tom Brown, Number 33,333X, in a gray convict uniform and paler for his confinement; and his audience understood better.

This speech was not written out. It carries an emotional quality and a quality of sympathy which cannot be read without deepest feeling. "The time has now come for me to say goodbye, and really I cannot trust my feelings to say it as I should like to say it.

"Believe me, I shall never forget you. In my sleep at night as well as in my waking hours, I shall hear in imagination the tramp of your feet in the yard, and see the lines of gray marching up and down."[1]

The response of the men was immediate and profound. They cheered as men in prison had never cheered before. They understood and shared his feelings even more than his words. As Osborne himself says: "Had I stood up here and repeated the alphabet or the dictionary, I think it would have been the same."

Within that one week Osborne had done a number of things; he had satisfied his own desire to know what the men were like and what the prison was like from the inside, and in addition had secured the confidence and affection of the prisoners. They poured their feelings into poems and letters containing promises and making suggestions. The following is but a sample of the type of response evoked by his week of voluntary confinement: "You have done more good in the past few days than any other man or woman interested in Prison Reform. You was not ashamed to make yourself one of us (if only for a week); you lived as we live, ate what we ate, and felt the iron hand of discipline. You came among us as man to man and I heartily thank you for it. When you stood in the chapel last Sunday, and talked to us like a father with tears in your eyes and hardly able to speak, I prayed as I never prayed before, and asked God to care for you and watch over you in your coming struggle to better conditions here."

While the prisoners and the responsible prison officials, such as Warden Rattigan and Superintendent Riley, were learning to work together and laying the foundation for mutual confidences so essential to any scheme of coöperation between the prisoners and the prison officials, the press poured ridicule and abuse upon the head of Thomas Mott Osborne. They seemed to insist upon misunderstanding both the motive and the purpose of the step taken to obtain the confidence of the prisoners and to discover their greatest difficulties. It was,

[1] Osborne, T. M., *Within Prison Walls*, pp. 265-266.

according to some, a "foolish," "dilettante," "bizarre," "quixotic" experience, which would give him no more insight into the state of mind of the convict than an equal amount of time spent in a "Turkish Bath." Some papers argued that it would be misleading because the abuse would not take place during his incarceration, that he would not be more enlightened than before. It was ridiculously inadequate. The *Kingston Freeman* said that "if Mr. Thomas Mott Osborne, convict pro tem at Auburn, wanted to know how it feels to be very ill, we suppose he would engage a room in a hospital, have a pretty nurse stand by his bedside and stick a clinical thermometer into his mouth every half hour or so. In this way he would learn exactly how to cure disease and become a great perfector of his race." According to the *Bridgeport Standard* it was "not necessary to wallow in a mud hole to know how a pig feels." Some insisted that it was just a bit of notoriety; "only a crazy man would have perpetrated such a freak." Even such responsible papers as the *New York Times* declared it to be "well-intentioned and yet ill advised." The *New York Tribune* alone among the large metropolitan papers seems to have grasped the undertaking as stated by Osborne himself. Under an editorial heading "A Noteworthy Experiment," it said: "Mr. Osborne is entitled to the highest credit for trying to get to the heart of the question by viewing prison life from the inside. He does not assume that one brief personal experience will solve a problem of very long standing. But undoubtedly it will help him greatly in his work as Chairman of the State Commission on Prison Reform. Intelligence and sympathy may go a long way toward lighting up the dark places in our system of criminal administration and putting to a test the growing conviction that a prisoner need not be consigned, from the time he enters prison, to the social scrap heap. Above all, Mr. Osborne is to be commended for the modesty and sincerity with which he enters upon this noteworthy humanitarian experiment." In spite of the little understanding or sympathy shown by the newspapers, the voluntary imprisonment received nation-wide attention and brought the whole question of the

improvement in our penal system to the surface as it had never been before. Osborne became a national figure and the prison problem a matter of wide interest and discussion. That alone would have justified the week spent behind the prison walls. But it gave Mr. Osborne something more immediate to his purpose—the confidence of the prisoners.

6

THE CONSTITUTIONAL CONVENTION

THE EVENTS of the week which we have just described left the prison in a state of expectancy. No such experience had ever before touched their lives and the prison was filled with an atmosphere of hope—something would come of it. The men seemed to feel that they were called upon to play a rôle in the reshaping of the destiny of the prison and of remodeling the influences which surrounded their lives. Something new, something different, was about to take place and the prisoners felt that whatever was to come their part in the matter would be significant and important. The very prison atmosphere seemed charged with plan and purpose—new ideas and ventures flooded the minds of the men and they prodded each other to new plans and programs. Many years after the event, an ex-prisoner wrote of those first days in Auburn: "We, the inmates, were all too sanguine of success right from the start. The trouble was that each man in his enthusiasm would cudgel his brain in the search for a plan that would eventually prove to be a panacea for all the ills which not only obtained then, but would prove an ultimate cure for any which might come in the future. Enthusiastic, he would divulge his plans to his fellows, expecting their unanimous approval, when lo and behold! he received nothing but dissent and would be met face to face with a 'better plan' of another fellow, who have his discarded just as the first fellow's was. I can look back at that time now, and say to myself: 'We were bad prognosticators but, by the same token, we were enthusiastic and true.' "

Underground letters, stolen conversations, proposals and counter-proposals were circulated, petitions to the Warden were gotten up. The prison population was in a state of ferment. "Hello B.: All the shops are sending in petitions to the Warden asking for the good conduct League so have a heading made out something on the order of the one on the following sheet and have every man in the shop sign; our shop sent in one today signed by every man but one in the shop."

Prisoners pledged their loyalty to Osborne and placed themselves at his disposal. "Dear Tom: We the undersigned, have faithfully promised to one another—(that of course includes you) that from tonight on we stand together, united, never again to be divided, and to do all in our power to strengthen and advance this movement. Whenever in doubt take a look at this." This pledge was signed by four prisoners in Auburn. These four men were destined to play an important part in the development of Osborne's work not only in Auburn but in Sing Sing as well, and one of these later after his discharge, joined Osborne as an assistant in the Portsmouth Naval Prison, and proved himself both loyal and capable.

The initiation of the program came during Osborne's week of confinement at Auburn when one of the prisoners working beside him suggested the formation of a "Good Conduct League" while they were discussing the problems of permitting the men out of their cells on Sundays. Osborne himself records the matter as follows:

" 'You can't ask the officers to give up their day off, and you don't think the men could be trusted by themselves, do you?'

" 'Why not?' says J.

"I look at him inquiringly.

" 'Why look here T!' In his eagerness J. comes around to my side of our working table. 'I know this place through and through. I know these men; I've studied 'em for years. And I tell you that the big majority of these fellows in here will be square with you, if you give 'em a chance. The trouble is, we ain't treated on the level. I could tell you all sorts of frame-ups they give us. Now if you trust a man, he'll try and

do what's right; sure he will. That is, most men will. Of course, there are a few that won't. There are some dirty curs —degenerates—that will make trouble, but there ain't so very many of those.'

" 'Look at that road work,' he continues. 'Haven't the men done fine? How many prisoners have you had out on the roads? About one hundred and thirty. And you ain't had a single runaway yet. And if there should be any runaways, you can just bet we'd show 'em what we think about it.'

" 'Do you really believe, J., that the Superintendent and the Warden could trust you fellows out in the yard on Sunday afternoons in summer?'

" 'Sure they could,' responds J., his face beginning to flush with pleasure at the thought. 'And there could be a band concert, and we'd have a fine time. And it would be a good sight better for us than being locked in our cells all day. We'd have fewer fights on Monday, I know that.'

" 'Yes, it would certainly be an improvement on spending the afternoon in your cells,' I remark. 'Then in rainy weather you could march to the chapel and have some sort of lecture or debate. . . . But how about the discipline? Would you let everybody out into the yard? What about those bad actors who don't know how to behave? Won't they quarrel and fight and try to escape?'

" 'But don't you see, Tom, that they couldn't do that without putting the whole thing on the bum, and depriving the rest of us of our privileges? You needn't be afraid we couldn't handle those fellows all right. Or why not let out only those men who have a good conduct bar? That's it,' he continues, enthusiastically warming up to the subject, 'that's it Tom, a Good Conduct League. And give the privilege of Sunday afternoons to the members of the League. I'll tell you, Tom! you know last year we got up an Anti-Swearing League here in this shop, and we had a penalty for every oath or dirty word. The forfeits were paid in matches. You know matches are pretty scarce here, don't you? Well, we had a grand success with that League. But this Good Conduct League would be a much

bigger thing. It would be just great. And go! Sure it'll go.' J. took the position that the men could be trusted to assume responsibility, and the better elements in the prison would see to it that the irresponsible ones would not destroy their newly won privileges."

Osborne, therefore, left the prison with an idea, perhaps not very concrete, perhaps not very clearly formulated, but an idea that the men might be given responsibility of some sort—that certain privileges might be granted to them, and that perhaps certain powers of discipline for their own enforcement might be extended to them. J. was going to write Osborne about it and Jack did. The very day that Osborne left the prison, on Monday morning, October 6th, 1913, he received a letter from J. M. suggesting the organization of the "Tom Brown Honor League."

Upon his release from Auburn Prison Osborne made a hurried business trip to Europe, being away for about a month. During his absence the ferment in the prison continued and on his return the men were ready for a new adventure, a new step in the attempt to reconstruct the century-old bastile and bend it to better ends and purposes. After discussion between himself, the Warden, and some of the prisoners it was agreed that the next step was the calling of a Constitutional Convention, through popular election within the prison. The following election notice speaks for itself:

. . . ELECTION NOTICE!

For the purpose of carrying out the idea of the formation of a League among the inmates of Auburn Prison, an election for delegates or committeemen to represent each shop or company will be held on

FRIDAY AFTERNOON, DECEMBER 26TH, 1913

Each shop will be allowed half an hour in which to cast its vote and blank ballots will be supplied on which each man may write the name of the delegates or committeemen he wishes to vote for. The voting will be secret and the men will retain their ballots until such time on FRIDAY AFTERNOON as a ballot box shall be brought into the shop or place of work. He will then deposit the ballot in this box.

The delegates or committeemen who have been elected to represent the shop or company will have a meeting SUNDAY, DECEMBER 28, 1913, at 4 o'clock in the afternoon, at which time a full discussion will be allowed on the question of the formation of the League, the designation of a name, the selection of officers and the adoption of a plan of procedure.

The election proved an exciting one. Elections may be passive affairs where men are allowed to talk over every move and where they have no guards standing over them. But in an institution where silence had reigned, where men had never been consulted about their wishes and had been punished for even minor infractions by physical torture, an election was a strange adventure. Here, for the first time in any institution they were given permission to elect a committee for the discussion of the problems of the prisoners. Ballots were supplied for the prisoners. Each shop was allotted a number of delegates proportionate to its size. Guards carried the ballot boxes from shop to shop and each shop was allowed half an hour in which to vote. The count was close and exciting; forty-nine men were to be elected, but one hundred and ninety were voted for.

Two days later, on the 28th of December, these forty-nine delegates—forty-nine criminals—were assembled in the chapel. The minutes of the meeting report laconically that "The meeting was called to order at 2:45 P.M. by Warden Rattigan, who informed the men that they had his permission to meet in secret, that no officer would be present." The Warden and the guards retired. The men elected Osborne chairman of the meeting—and he was left alone with forty-nine prisoners. This, too, may seem an incidental fact, but that was the first time in over one hundred years of Auburn prison that forty-nine men were permitted together without guards, and

encouraged to discuss in freedom the problems of the institution in which they were confined.

Osborne's own feelings are indicated by the first remark he made after being chosen to preside over this strange constitutional convention: "I have to rub my eyes to find out exactly where I am. Things seem to be moving so fast, I don't know but some of us may be left behind."

The formal organization of the delegates immediately raised the question of what they were to do? What was to be the scope of their discussion? Osborne suggested that they had three definite questions to decide:

1. Who was to belong to the organization for which they were formulating a constitution?
2. What was the organization to do?
3. What machinery of government should it have?

The most crucial issues, perhaps, that immediately presented themselves revolved around the qualifications for membership in the community organization. It had been originally suggested that only good-conduct men should be allowed to join. Men who had been punished by the prison officers were to be excluded. It was to be a sort of aristocracy of virtue within prison walls, and the right of citizenship was to be decided by the prison guards. Reasonable as that might seem to the uninitiated, it met with unanimous opposition. The prisoners were not prepared to accept the evidence of a man's character as indicated by his disciplinary record, said one delegate ". . . there are many men here in prison who are reported who should not be reported, and they get reported right along, and there are many men among us who never get reported who should be reported."

If they were going to have an organization it would have to include all the prisoners because official punishment was no proof of moral turpitude. Citizenship was to be determined by the fact that one was a prisoner and not by the fact that one was a good prisoner in the eyes of the authorities. "I come from a company that all of us are undergoing punishment at the present time. . . . They sent me up here with instructions

of putting it before the committee that every man, regardless of what his past conduct has been, be admitted to membership." In accord with this attitude, one delegate argued ". . . let everybody come in regardless of what their past has been . . . give them all a chance." "We are," insisted another prisoner, "no better than any one else." "And if they don't abide by the rules they can be expelled."

This position led to the logical conclusion that all men, even those then undergoing punishment, were to be made eligible for membership. A unanimous motion was therefore adopted "that a committee of one be appointed to wait on the Warden and take up with him the matter of suspension of punishments, so that all men who join the League may do so on an equal footing."

It was, therefore, to be a democratic organization. It was also to decide for itself who did or did not have the necessary qualifications for citizenship in this prison democracy. The discussion of the basis of citizenship brought up another phase of the matter. Good standing within the prison had, until then, been determined by the prison officials. In the future good standing was to be determined by the organized prison community. In the future it would be the result of group judgment—of the judgment of his fellows. Osborne expressed that view by saying: "I want to say that when I was called upon to consider the question of this League it seemed to me that it would be better to have those who had attained a certain status for good conduct form this League. Then it would be a sort of object or ambition for others to come in. I have changed my mind about that since and I will tell you why. This League, if it is to be worth anything, is to be your League. Any good standing that you men have so far is the result of the officers of the prison, and while we do not say it is without its value, we hope that it will be supplemented by some standards of your own. In other words, I am in hopes that membership in this League will stand for more than good conduct bars before we get through, because it will represent the opinion of the men themselves and the acts of the men themselves."

Having come to an agreement on membership, it was now necessary to discuss the scope of the activities that the prisoners as an organized community might hope to exercise. That question, however, was no sooner raised than answered. The prisoners' organization could do nothing but what it was permitted to do by the Warden. Whatever it might do—whatever the activities it might ultimately embrace—whatever powers it might ultimately exercise—all derived from powers delegated by the Warden and exercised at his will and with his consent. It could do what the prison administration permitted it to do and no more.

It became obvious that there were certain things that the prison administration could never permit them to do and that such powers as the organized prison community might ultimately achieve could only come after gradual experimentation. The prisoners would have to prove their right to power every inch of the way and would always be dependent upon the consent of the prison administration. This fact is important as it explains, in a considerable way, the success of the prison community organization. The fact that it was always on trial was a factor in its record of good behavior and achievement. The danger of loss for the mass of the prisoners was too great for them to permit any one individual to sacrifice the community for his own selfish interest. If the community organization had failed its failure would, under the circumstances, have denoted a failure to justify its existence in the eyes of the prison authorities. Here was democracy on trail and with a vengence. "Our rules must be within the prison rules and we must proceed along these lines to meet the approval of the prison officials . . . must be reasonably safe and show good judgment before they endorse them."

That statement by one of the prisoners epitomizes the project as it was conceived by the prisoners. Having agreed that all the men in the prison, regardless of their previous record, and regardless of their standing within the prison, were eligible to membership, and having agreed that the powers of this organization were derived from consent by the Warden and dependent upon his good-will—it was now necessary to work out some scheme of government which would fit the special needs of the prison community.

This problem evoked the most serious and perhaps the most interesting discussion on the part of the prisoners' constitutional convention. And it reveals the whole problem of the prisoners' attitude towards society and towards the prison officials better, perhaps, than any other available document. If the organization was going to operate; if it was going to exercise any functions, it would need authority and would have to delegate this authority to some prisoners. . . . Here was the first difficulty. The mere mention of the word "Lieutenant" raised a storm that nearly broke up the Convention. Some of the men had experienced the authority of other prisoners, especially in Elmira Reformatory, which is operated in a semi-military fashion, and would have none of it. A prisoner exercising power was not only distasteful to them, but by experience they knew that it led to the appointment of "stool pigeons," favorites of the guards, to positions of influence. They knew by experience that such a system led to all manner of favoritism and abuse. They did not trust the judgments of the guards or the men they selected. It would, as a matter of fact, merely continue the present system of control by the guards and make the stool pigeon system official, as one of the delegates said ". . . the guard in my shop has already picked his 'stool pigeon' for lieutenant."

The first problem, therefore, was to arrive at some method of delegating power to a prisoner without making that prisoner the tool of the guard in the shops. The prisoners would have to trust him. It is interesting to observe that, in all of this discussion, Osborne always was prepared to go further than the prisoners. The prisoners were willing enough to have privileges, but they shrank from either assuming or entrusting responsibility to other prisoners and were frankly afraid that the situation would get out of hand. One prisoner expressed this by saying: "There are a lot of men here who are not capable of self control. If I was capable of self-control at all times I

would not be here. The one thing that places me here was lack of self-control under certain conditions . . . this thing must be worked out if it is to be successful, under conditions, to insure the safety of the prison, as well as the inmates and of those who are working in our behalf." And went on to suggest that the guards of the prison would have to be around all of the time whenever the men were enjoying any of the privileges that might come to them from membership in an organized community.

But this raised another serious question, the attitude of the guards to this undertaking. It was put clearly enough by one of the delegates to the convention: "I do not want any more privileges if it is going to extend the hours of the keepers. They feel disgruntled enough now, and the success of this organization depends upon their goodwill and support of the keeper. Now we have got to face these things. It is all right for us to say he is not in this thing, and we don't want to support him, but there he is with the blue coat and that stick. They constitute authority and we have got to work in concert with them because he is part of our life and his attitude towards everything that is to be done for us must be considered."

Osborne met this difficulty by arguing that the prison contains a strong public opinion, and if that public opinion could be harnessed and given organized expression it would solve the problem. It would make possible the delegation of power to chosen individuals representative of the interest of the community and secure the enforcement of order by the agents of the community and in harmony with its own desires. He argued: "What is in my mind, and I think in the mind of everybody, is the force of public opinion. That is one of the things I came here to find out,—whether there was any public opinion. I found it. There is some of it distorted, in many ways, but it is here, plentifully. The feeling which binds you together against the keeper is public opinion. The feeling which says that no man shall 'snitch' on another is public opinion, somewhat distorted. If it could be turned in the right channel it is all right. It is exceedingly strong among you

men, only it doesn't have a chance for healthy expression, and gets lots of chance for unhealthy expression. Now I want it to have a chance for healthy expression and I think it can be gained through the League. In other words I know it can."

This idea of harnessing the general interest and attitude of the prisoners against the trouble-maker rather than for him had in fact been expressed before. No one, however, had given it a place as the basis of the organization that the prisoners might develop. In the early part of the discussion one of the delegates rose and said: "I feel that the men that are to compose the League will be capable of handling anything that may come up in the line of disorder and agree with delegate N. that we have a committee to look after this. Let us suppose that the men come into the chapel when a fight is started. Are you going to stand idly by and let the thing go on? Are you nine hundred or twelve hundred men that join the League going to let these two men run an opposition movement of their own and keep you from the privileges which may be extended to you and destroy the hope for future privilege, or are you going to join in to stop such a disturbance!" The point at issue became clear gradually. It slowly dawned upon the men that the public opinion of the prison might become the great force for good discipline. One of the delegates expressed it by saying: "I don't think any of them are going to fall down. . . . It has been mentioned that somebody may have a grudge against some fellow. He will stop and think. He will say *I will not only get myself in trouble*, but I am going to get all those men down on me." And that was the crux of the matter. Once the men recognized and gave vocal expression to this the rest was comparatively simple. If public opinion was against the trouble-maker rather than for him, then public opinion would support the prisoner chosen to suppress and discipline the trouble-maker.

Simple and clear as this was it ran into another snag. The criminal in and out of prison detests a "snitch." Any one who will report a man to the authorities is one who is looked upon by the underworld as the lowest of creatures—a "stool pigeon."

It was put bluntly enough by one of the delegates: "If a man commits a crime down here, it don't make any difference where he commits the crime, whether here or outside, the Law is going to try him. We had an example here a while ago. I want to tell you the truth, but I don't want to be called upon to tell what I know of the same. I want to be honest, but I will say that I would not report any one." Osborne replied: "If you fellows are not going to take responsibility, then the thing is killed in the beginning. Just as I tell you, with the privilege comes the responsibility and the two things go together. It is one of two things. You are either going to be ruled by Arbitrary Power, or else you are going to rule yourself and assist those whom you select. In other words, are you going to be held as slaves, or are you going to be treated as men? You must take the responsibility of men and one of these responsibilities consists in seeing that the rest of you, that every one of you, sees that the others behave."

With the issue thus drawn another delegate suggested that "To guard against one man reporting another [to the prison authorities], *let the men provide their own punishment* . . ." and then went on to argue that if each man who joined the League signed a pledge of good behavior any misconduct on his part would imply agreement for punishment by the community which he joined voluntarily. That, however, only solved the difficulty half way. It might be possible to give the organized prison community power to punish minor infractions of the rules, but when it came to a serious crime the state would step in and demand trial before a Court of Law. Then what? And as one of the delegates put it: "If I reported this assault would the authorities, when the trial came off, want to subpoena me as a witness and would I have to be instrumental in sending a man back to prison? This viewpoint is to be taken from the standpoint of the criminal or thiefs here. We have all come here for something, and there has always been a feeling against any one who would send a man back to prison especially."

Osborne cleared his point by pointing out that, in case of a

serious crime, the State stepped in anyway and under any system. That was out of the hands of the prisoners altogether. Within their reach, however, was the discipline and punishment for violations of the rules in the prison. If the men have an organization then if "They get into a serious fight, whom have they offended? They have not offended the Warden, they have offended you." If a man is reported under those conditions he would be reported to the prisoners' organization and could be disciplined by the prisoners' organization through deprivation of such privileges as the organization might enjoy. As the delegates expressed it: Del. W.—"Suppose I am elected as a delegate from my own company; suppose one of the men get into a fight. I must report him, and this is not going to make him feel as good towards me as he did. I will cause him to lose time." Del. B.—"He is not going to lose time on account of what you do." Del. W.—"You suspend him from the organization." The Chairman—"If they do not live up to their own rules." Del. C.—"When they find out that they are not getting reported to the Principal Keeper, or losing time, it will be different."

This discussion and classification of the underlying principles did not solve all the basic problems in the way of the development of a responsible government. The question of the delegation of power to one prisoner by another was difficult to adjust and kept cropping up all through the debates. The men balked at it, feared it. Finally this difficulty was compromised by calling the men delegated with power "Sergeant-at-Arms." One of the prisoners said: "I have been listening to the discussion and have been thinking of it. My idea is this, that we should elect a Sergeant-at-Arms, such a man as is elected by all parliamentary bodies . . . and a certain number to act as assistant Sergeants-at-Arms, to be in accordance with all established rules of society and to protect all meetings, whether the meetings be in the yard or in the chapel. And that we have no talk about 'stool pigeons.'"

From this it followed easily enough that if there was any trouble the men would have to be arrested, and if necessary,

expelled from the League. To this there could be no objection, because, as one delegate pointed out: "What objection can we men have when organized societies of free men outside place themselves under a Sergeant-at-Arms." That settled the matter. It was only necessary to provide that the Sergeant-at-Arms should be elected by the company he represents, and subject to recall, if the men who elected him felt that he was abusing his power. The importance of this was indicated when one of the delegates pointed out that "The best feature of this Sergeant-at-Arms is this. The company will elect the delegates. Naturally they will select the best man they have in the company, and these men will be delegates and also assistant Sergeants-at-Arms. And the men will, of course, be satisfied with them because they elected them."

The form of organization developed was simple enough. A governing body of forty-nine delegates to be elected by popular vote by the different companies on the same basis that the convention had been chosen. Of the forty-nine, nine were to be elected by the delegates as an executive board. There were to be no permanent chairmen. The other forty delegates were to be broken up into five grievance committees to act in rotation, when any grievance came up. These delegates in addition to being members of the grievance committees were also to act as assistant Sergeants-at-Arms, while the executive committee was to select the Sergeant-at-Arms who was to be in general control of peace and order among the prisoners, with power to deputize an assistant sergeant in case of emergency. Delegates were to hold office for six months. In case of transfer, discharge, recall or inability to serve, the governing board could call a special election in the shop that had lost its delegate. With this general scheme the Constitutional Convention went before the assembled prisoners for its approval and acceptance.

During all of this time that the Constitutional Convention was meeting the prison was in a state of great excitement. All sorts of rumors were flying back and forth, and at the same time a great deal of intense educational work was going on. The guards in the shops generally permitted the delegates to report

to their men the nature of the discussion that was taking place and the general ideas that were being propagated. This prepared the men to receive the report of the Constitutional Convention. It should also be noted here, although the question will be further discussed later, that the Constitutional Convention considered the whole problem of prison discipline. They discussed the specific, as well as the general, questions that the men were to assume responsibility for. It became perfectly clear that the organized community would in some way have to attempt to handle the problems of violence, escape, immorality, and "dope," which are the four most serious problems that any prison has to deal with. And it was the consensus of opinion that the problems which formerly had been the concern of the Warden and his officials had now become the big problems of the prison community.

On January 11, therefore, all the prisoners were again called together in the chapel to hear the report of their Constitutional Convention. They sat with hands folded, their faces pale and solemn, with the guards standing about, listening to the report on self-government in prison to be made up by and for prisoners. The most eloquent comment of the proceeding is the simple record of the meeting by the Secretary.

"The Chairman then stated that he would read the By-Laws and that after the reading of the By-Laws he would be ready to answer any question that the men might put to him. The Chairman then read the By-Laws. On request of one of the men it was decided to allow the men the privilege of talking for ten minutes in order to discuss the question. After a short discussion between the men the meeting was again called to order. Several of the men arose and stated their opinions regarding the policies of the League. On motion of one of the men a vote of thanks was ordered to be conveyed to the Warden for allowing the men the privilege of forming the League. By a unanimous vote of acclamation, the By-Laws were adopted."

Then the Constitutional Convention of this strange democracy came to an end. A new election was called for Thursday,

the 15 of January, 1914, to elect delegates for the next six months. And "after an hour's discussion the meeting adjourned, the men all rising and singing one verse of 'My Country 'Tis of Thee.'"

On the following day, that is, on January 12, 1914, membership blanks were distributed among the men, and thirteen hundred and fifteen prisoners joined the organization and thus became citizens of the first prison democracy. From this membership the poll list was prepared for the election that was to take place on Thursday the 15th for the election of officers for the first six months. On Thursday, by permission of the Warden, the election began at 12:45 P.M. and was finished at 3:30. The prisoners in each shop were called together, and individually were handed a specially prepared ballot. After voting each prisoner had his name checked off the poll list. When all the men in the shops had voted the ballot box was sealed and taken up to the front office. When the voting was finished two guards, assisted by two prisoners as tellers, counted the ballots. Forty-nine were to be elected and over a hundred were voted for. Elections were very close, and much interest was displayed over the outcome.

With the election over, there was only the ceremony of the installation of officers to be gone through before this incipient prison democracy was to be launched upon its strange career. On the Sunday after the election of delegates the men were again brought to the chapel. It was still formally the same prison routine—nothing had changed externally, the guards were still in control, the silence rule had, as yet, not been abrogated, men were still being sent to the cooler for petty offences . . . but there was a changed atmosphere in the prison. They all felt the dawn of a new day. Quite a ceremony was made of the installation. After the prisoners were seated the elected delegates of the different companies marched in two by two, and their constituents cheered.

The important part of that day's ceremony was the actual installation of the officers elected by the prisoners. When the appropriate moment arrived, Warden Charles F. Rattigan addressed the men as follows: "Under the By-Laws adopted by this body there are forty-nine delegates duly elected to represent you. It is provided that the Warden of the Institution administer the pledge to the Delegates. Will the Delegates please rise?" The forty-nine delegates stood up, each man having pinned on his vest the colors of the League, Green and White, made up in the shape of a small bow. The Delegates were requested to raise their right hands while the Warden read the oath of office as follows:

> You solemnly promise that you will do all in your power to promote in every way the true welfare of the men confined in Auburn Prison; that you will cheerfully obey and endeavor faithfully to have others obey the Rules and Regulations of the duly constituted prison authorities and that you will endeavor in every way to promote friendly feeling, good conduct, and fair dealing among both officers and men to the end that each man after serving the briefest possible term of imprisonment may go forth with renewed strength and courage to face the world again. All this you promise faithfully to endeavor. So help you God.

The forty-nine delegates responded "Yes." And so organization was finally and officially launched, the men were deeply moved by this spectacle. Some of them could barely keep from shouting in ecstacy.

7

SUN AND GRASS

THE SOLEMN installation ceremonies we have just described provided official and formal sanction to the strange experiment in prison democracy. The inmates organized as a community were now free to attempt to build up a government within the walls that would serve their needs. It was dangerous and delicate treading. It was so new, so different from anything that had ever been attempted that every actor involved literally held his breath expecting each new step to end in a catastrophe.

The first official action of the elected delegates was to organize the government. An executive board of nine members, as provided by the Constitution, was elected. This board in turn elected a young Brooklyn gang leader as Sergeant-at-Arms. The other forty delegates were broken up into five grievance committees. On the fourth of February the grievance committee had its first case . . . a fight. The organization was thus moving rapidly to a test of its position in the prison. One of the first questions that needed settling was the kind of trial to be held. There was a demand for a legal defense in court, for repetition in the prison of the formal organization of the outside judicial machinery. Such a complicated system was, however, seen to be unnecessary and undesirable. The accused prisoners brought before the grievance committee on charges of fighting "lied like troopers." Witnesses were available and brought out the facts. The men changed their testimony and told what had happened . . . telling the truth and convicting themselves of the charge against them. One

was dismissed from office of delegate and both were suspended from the League. In view of their attitude, and in view of the fact that the first general meeting of the League was to take place, the last part of the sentence was remitted.

The machinery of the organization was set going. All of this was preliminary. The prisoners' organization was still to have its first real test. That came on February 12, 1914. On that day the inmates of Auburn prison met for the first time as an organization and upon their own responsibility and under their own officers. They again marched into the chapel and this time came not with guards, but with their own officers. The responsible official was not the principal keeper but the Sergeant-at-Arms, who had been chosen as disciplinary officer of the League. Of this young leader of the Auburn Prison Community, Canada Blackie, one of the most forceful and tragic figures in American prison history had written to Osborne: "It's too bad you did not meet him earlier in life. You could have moulded him into a president, or better, for he had the stuff in him that men are made of." It was under this boy's direction that the Auburn prisoners were assembling together under their own officers for the first time in the history of Auburn Prison.

The men seated themselves in their seats not in silence, but like ordinary human beings in any assembly, talking to each other as men do when they are together, laughing, and listening to the program provided by Osborne, mainly music, and thus for the first time in the history of Auburn Prison, or of any prison in the country, 1400 men met together in one room under their own officers, without any guards, with the freedom accorded to an ordinary assemblage of men. For 104 years Sunday had been the gray day of the week when every man was locked up all day long in his little cell and here on February 12, 1914, these men came together, under their own organization, to listen to the program of their own choosing.

With the program over the men returned to their cells under their own delegates, just as they had left them—better discipline and better humor than that old gray prison, that for

more than a century had been as silent as a grave, had ever seen. That evening the lights went out for a few seconds. Not a whisper was heard from the men in their cells. Those who know the American prison know that such an exhibition of self-control is almost unbelievable. When the lights go out the men rave and yell and screech. But on this night, at least, not a sound. One of the prisoners remarked "I would not have believed it possible," nor would any one else. This, however, was only the beginning.

The men had now won the right to organize, the right to meet at least once a week in the chapel under their own governing body, and the right to discipline, by suspension and expulsion, members of their organization who abused the privileges accorded them. The Sunday meeting was becoming a regular affair. On the 22nd of February the men gave a minstrel show prepared by themselves, and on March 26th the prisoners repeated this performance for the benefit of the prison guards, their friends and families. In other words, the guards were now the guests of the prisoners . . . entertained by them. Eight hundred tickets had been issued to the civil employees of the prison and they were nearly all used. The Secretary reports the incident as follows: "The performance was started at 8 o'clock P.M. and it was the first time in the history of Auburn Prison that an evening entertainment was given. The following is a copy of the invitation which was sent out:

> The Mutual Welfare League of Auburn Prison extends to you an invitation to be present at an entertainment to be given by the inmates to the officers and employees of the institution and their families, and friends on Thursday evening, March 26th, 1914, at 7:45 P.M. in the Assembly Room of the Institution. Admission by tickets only. This entertainment is given for the officers and employees of the institution to show our appreciation of the coöperation of the official force and to establish more cordial relations between them and the Mutual Welfare League in the hope of bringing about the betterment of conditions for the men confined in prison, so that after their release from prison they may be able to take their proper places in the outside world.

"During the entertainment the Clerk addressed the audience and asked for their coöperation in the work of the Mutual Welfare League. The evening was a very pleasant one for the guests and their comforts were looked after by the members of the Board of Delegates, several of whom acted as ushers. This marked the beginning of a new spirit among both officers and men and will be long remembered."

But in spite of all the good feeling that was being developed, friction between the prison administration and the prisoners continued. The laws of the League provided that the men might be punished for violation of the rules of the prisoners' organization. But they did not provide that the prisoners' disciplinary procedure should be the only one. As a matter of fact the old machinery of the prison was still grinding its regular routine. Prisoners were now being punished by both the Warden and the Grievance Committees. They were being punished twice rather than once. Discontent developed. Men began to grumble against inmate officers. The situation was heading towards a crisis. The Warden, after discussion with Osborne, agreed to face the issue by surrendering control over discipline within the prison, to the prisoners, excepting in only five cases: (1) Assault upon an officer; (2) Deadly assault upon another inmate; (3) Refusal to work; (4) Strike; and, (5) Attempt to escape.

With these reservations the prisoners were offered complete control of discipline. But they were not prepared to accept it. The responsibility was too great, and the dislike and suspicion that had arisen from the double punishments all contributed to a feeling of hesitancy. The outcome of it was a mass meeting of all the prisoners for a discussion of whether or not the prison community as such should accept responsibility for discipline within the prison walls. And an interesting mass meeting it was, too. Here they were, fourteen hundred prisoners, assembled in chapel, under their own officers, with only two outsiders

present, Osborne and a member of the Board of Parole, and discussing from two to six P.M. whether or not the prisoners as a body should take over the function that for over a hundred years had reposed in the hands of the prison officials . . . the enforcement of discipline in the prison. They argued back and forth the question whether or not they would assume responsibility for regulating violations, and inflicting punishment. The fact that such a discussion was possible was, in itself, amazing. But so far had the community spirit advanced that it took place without any evil results.

This was the first real mass meeting within the prison. And as such set a precedent for the future. Even the dry report of the Secretary gives the spirit of the meeting:

"On motion of Delegate S. the Secretary was instructed to put before the members of the League the proposition of the Warden of the institution with regards to the League handling certain cases of infractions of the rules. The motion was duly seconded. The Secretary then stated what his understanding of the proposition was as follows: 'That the Warden is agreeable to have a Detention room fitted up where men who are charged with minor infractions of the rules of the prison would be sent to await the action of the Grievance Committee of the League. It was proposed to have a Grievance Committee meet every day at nine in the morning and one in the afternoon to hear all such cases as were turned over to the League for their attention. This brought out the question of reports and it was argued on both sides that this method would tend to degrade the men in the eyes of their fellow men. The above action would necessitate a member of the League reporting a man if he saw him doing anything that would be detrimental to the interests of the League or to the whole body of men. Such report to be made to the Delegate in case the Delegate did not see the violation himself. This was supposed to cover anything that would tend to show that the men were not capable to handle the privileges extended to them.'

"On motion duly made and seconded it was decided to allow the members of the League a free discussion on the matter and all who had anything to say were requested to step up to the middle of the chapel and on motion they were allowed five minutes in which to present their side of the argument. After considerable discussion, lasting up to six o'clock the Chairman then put the question: 'The proposition, as I understand it, is that the League accepts the proposition made by the Warden to deal with all minor cases of discipline. Are you ready for the question?' 'All in favor signify by saying 'aye.' Contrary 'No.' The ayes came from nearly every man in the chapel, there being but three or four nos. THE CHAIRMAN: The proposition meets with the approval of the League. On motion the meeting is adjourned at 6:15 P.M. Something unheard of in the history of Auburn Prison."

With this troublesome question out of the way the League was ready to assume other tasks. Summer was rapidly approaching and while the Sunday afternoons in chapel were beneficial and deeply appreciated by the men, it became perfectly clear that the men would have to be given the privilege of the yard. That had never been done before. The men in Auburn prison, in all its history, had never been allowed out in the yard in a body and the possibilities involved were grave indeed. As one of the prisoners put it during the discussion "It might be an awful thing to let fourteen hundred men out in the yard." But the test would have to be made. And as Memorial Day came along plans were made for Athletic contests in the yard between the prisoners from the North and South Wings. The question of the guards was a serious one. A day of holiday meant a day at home for the guards. This was officially solved for the prison authorities by the sudden placing of the prison under quarantine, due to the outbreak of an "epidemic of Scarlatina." The guards were not allowed to go home. They had to stay in quarantine. So when Memorial Day arrived they were there.

That the risks were great and that the men themselves were not sure of what was going to happen when all of the prisoners were turned loose for the first time to meet . . . friends but also enemies is indicated by the following letter from a pris-

oner, written nearly ten years after the event. "I will never forget the first day we had yard liberty at Auburn. I was there that day . . . when T. G., the oldest 'screw' in Auburn at that time, stood by my side, an 'old timer' and said: 'Good God S., who would ever believe this a few years ago.' That was all T. said but it was enough. He meant by that, that heretofore the 'outside world' as well as the 'inside world' would believe nothing but old grudges, sores, and unpleasantries, would be wiped out within the next hour . . . so soon as J. found T., or B. found B., . . . and by heavens, I believed as G. did. Well, I kept my eyes opened and if a battle royal started I sure would have sent a few to the Hospital with broken skulls. For I had found an iron bolt in front of the boiler shop and would have put it to use. But, thanks to a level headed crew headed by M. and D., assisted by fifty percent of the Boys, peace and harmony was the order of the day, and so it continued during my stay in Auburn."

The quarantine remained, with the quarantine the guards, and the men asked for an hour in the yard after work. The Doctor agreed that it would "be good for the men's health," the keepers reported better discipline, the night officers quieter nights in the cell blocks with more restful sleep. There seemed no good reason why the men should not have their hour in the yard after work, and so they were allowed out every afternoon during this period. But the epidemic came to an end, the quarantine was lifted, the guards went home to their families, and the prisoners were marched back to their cells. The taste of the yard, however, was too good to be denied again, and with some change in the schedule of the officers, the prisoners were given their yard privileges again. In the meantime other things were changing. The strained relations between the officers and men were disappearing, the prisoners were acquiring experience in self-government and gradually assuming wider powers and functions.

We may bring this chapter to a close by quoting two letters, one written by a guard and the other by a prisoner. The guard writes to Osborne: "As you have requested the officers to write

you and make suggestions I would like to intrude on your time for a few minutes. I have a few suggestions for your consideration, which I believe would result in bettering the spirit of the prisoners. I wish to say, however, that as far as my shop is concerned the men seem to be quite well satisfied; and as far as I can learn from the Company Delegate, there are a very few complaints. The men have been given a great many privileges that they never had before and, so far as I can see, without any serious impairment of discipline. The esprit de corps is excellent and in my judgment, with but very few exceptions (some of which must be expected) the men are putting forth their best endeavors to make the new movement a success. I also wish to say that during my sixteen years' experience, both in Elmira Reformatory and at Auburn Prison, it has never been so pleasant for me as it is now.

"Now, what I had to suggest is this: Sundays allow the delegates to handle the men at all turn-outs except in the march to the bucket-ground. Allow the Delegates to march the men to breakfast, Chapel and dinner, and, later on, if this system proves successful, permit the Delegates to march the men to the bucket-ground. If the Delegates can successfully take the men to Chapel on Sunday afternoons they can do so at all turn-outs mentioned. I would also suggest that the men be allowed to converse in quiet tones in the mess-hall on Sundays, and at Chapel when services were not in process. I want to say before going further that there is too much importance attached to this talking proposition and I can see no harm in it if kept within proper bounds. If men are disposed to talk they will find a way. Every officer knows this and it is much better to allow them to talk under certain restrictions, than it is to have them 'beating' the officers at every opportunity and thereby injuring their character, and making sneaks of them.

"I would also suggest that the Delegates be awarded some little prize, such as a medal for say—a month for the Delegate whose company is the most orderly and does the best marching for the month. I know from my own experience how these little trophys are prized and how they are worked for.

Another thing, which I wish to mention, and which you know all about, is this exhilirating beverage known as tea and coffee which is served at meals. I wish to urge upon you to do what you can to improve the tea and coffee. Another thing, instead of sending men to their cells at night with a few slices of bread, after working all the afternoon in the shops, why not give them a beef sandwich, a piece of bologna, a piece of cheese, or something along these lines. The state should also furnish syrup for their bread; a great many prisons do. I am satisfied that the food is the most important factor in keeping the men contented and I am sure that if these few suggestions were put into practice the state would be a winner in the long run."

So the guard could write: "It has never been so pleasant for me as it is now"; and the following letter from a Prisoner tells the prisoners' side of the story. The author is Canada Blackie, whose tragic story has already been told in detail by Mr. Osborne and Mrs. Field. The letter is written to Donald Lowrie, after Canada Blackie's release from his dark cell, where he had been kept for nearly two years, keeping his reason by throwing the buttons from his clothing against the wall and then crawling on his hands and knees hunting for them. This is what he wrote on the day of his release from the dark cell:

Auburn Prison
June 3, 1914.

"Dear Friend Don: The above is the date of my new birthday. After five years of living death in solitary. I have been resurrected again;—making my second time on earth, as it were. So you see I was right when I said: 'A man can come back.' On the evening of the third Mr. Osborne came to my door and as the Officer who accompanied him inserted the key to spring my lock, Mr. Osborne said 'Get your coat and cap, old fellow, I want you to come with me and see something worth while.' Knowing that the men had recently been given the liberty of the yard, I, of course, immediately divined the kindness about to be bestowed, I at first felt inclined to say that I could not accept the invitation, knowing though that it was extended in all kindness. My reason for wanting to refuse was

because I felt that I would feel so keenly the embarrassment that comes to one when suddenly placed among his fellowmen after so long an absence. Mr. Osborne would not, however, take no for an answer and kindly insisted that I should put on my coat, he helping me with it, and chatting pleasantly all the time. This I knew was to put me at ease. That is another of the many fine characteristics this big man possesses, Don—he makes one feel at home with him right from the start.

"After traversing the corridor of the isolation building, we came to the double locked doors—two of them—which lead directly into the main prison yard. As we stepped into the pure air I felt as though I wanted to bite chunks out of it; but the first deep inhale made me so dizzy that I actually believe I would have staggered had I not taken myself into firm control. On rounding the end of the cloth shop, we came into full view of the most wonderful, as well as beautiful, sight I have ever seen in prison—or outside either, for that matter. I hardly know how to describe this sight; but picture to yourself, if you possibly can, fourteen hundred men turned loose in a beautiful park. For years previous to this good work now being promoted by Mr. Osborne and the Prison Officials, these same men whom I now see running in and out among beautiful flower-beds and playing like a troop of innocent boys out of school, had been harnessed as it were to the machines in their respective shops without even the privilege of saying good night or good morning to their nearest neighbor. But what a wonderful change has come to pass. Instead of the prison pallor and haunted look which once predominated, I now notice smiling eyes, and that clean look which exhilirating exercise in the pure air always brings to the face.

"When Mr. Osborne and I reached the lower end of the park he invited me to stand where we could get a full view of everything. Among the first things I noticed was a ring of the boys formed around something, I could not see what. Mr. Osborne, in answer to my question, said it was a party of Italian lads waltzing. Just then some one stepped out of the ring, leaving a space through which I could see the boys dancing to

their hearts' content. And now my attention was drawn toward a young fellow who was stepping up briskly to shake hands and congratulate me on my new lease on life.

"Just a word about B. He is an exceptionally bright young fellow, as his rank of Sergeant-at-Arms of the Mutual Welfare League denotes. B. is very fond of athletic sports, and is no novice in the manly art. He is also, I've told, a warm friend of T. S.—I congratulate S. Several of the boys are now waiting to greet me. B. noticing this, turns to chat with Mr. Osborne so as to give them their turn. We are quite a crowd by this time, every one laughing and joking. Some one suggests that we walk up to the other end of the park. B. hearing this, says: 'yes, come on, old man, it will do you good.' I glance over to Mr. Osborne. He smilingly nods consent. So away we go, he joining the party also. On the way up the walk, I shake hands with many of the boys, who come running up to extend a kind greeting. Some birthday, eh, Don? All along the line we pass bunches of the fellows, some dancing, others playing stringed instruments, and out on the lawn are hundreds throwing hand ball. Arriving at the upper end of the park, we all go over to lounge on the lawn. I wish I could convey to you the feeling that came to me as I felt the green yielding grass under my feet. I felt as though I wanted to roll right over; and when you stop to consider that I have not had any grass to stretch out on for over twelve years, you can readily understand my feelings.

"After spending a very happy evening, the bugle sounded assembly. Mr. Osborne, who hunted me up said, 'Come along, old chap, I want you to see how nice the boys march in.' By the time we reached the steps of one of the buildings from which we had an excellent view of everything, the men were in their respective places. On both sides of the park the men had formed in double columns on the smooth concrete walks. This gives each man a full view of the beautiful flower beds and Old Glory floating in her place at the top of the pole. When the men are all in place, there comes a sudden hush, and then from away up on the extreme right-hand corner from

where we stand comes the sweet strains of 'The Star Spangled Banner' and as the flag dips her 'Good Night, boys,' and is slowly lowered, each inmate and officer bares his head in all honor to her colors. The music ceases, and I hear in a soft voice, 'All right J.,' and J. an inmate and delegate of the League, just as softly gives his command, 'Bout face.' His company turns as one man; and then another soft 'Forward, march,' and away they swing into their cell halls in true military style. After watching several companies run in, Mr. Osborne and I started back to where I belong. In doing this we have to pass between two lines of hundreds of men. As we reach about mid-way, the boys start a hand clapping. They all recognize the kindness Mr. Osborne has bestowed upon me, and show him their appreciation in this manner; to me their hearty 'Good night, J.' 'Cheer up, old man' coming from all down the line, was good to hear. Arriving at my quarters, Mr. Osborne extends his hand and bids me a pleasant 'Good night' and thus ends my birthday into a new and I hope better life. Big man? You bet D. Tell it to all the good folks out there, won't you?

"Oh, yes! I nearly forgot a very important event. As Mr. Osborne and I were talking, a young fellow came running up and said: 'Mr. Osborne, I wish you would try to understand about that coat. Truly I meant no harm.' Mr. Osborne turned a smiling face to the lad and said: 'It's all right, my boy, I know.' The young fellow thanked him and then scampered back to his play. Truly this man holds us all in the palm of his hand. The incident of the coat must have been trivial, left it where it should not be, or something like that—but that young fellow's sense of honor compelled him to make an apology; and I thought, if they think the little things important enough to ask forgiveness for, it's a certainty that they will be very careful and hesitate before committing anything serious. And that young fellow's attitude, *I feel sure*, expressed the sentiment of all now domiciled in this old battered ship of state, which is at last being steered into calm waters by the most efficient of pilots.

"Tell E. M. to continue making good, for every one of us so-called bad men who go out and do make good are the most important factors in helping 'The Cause.' I have passed your book to many and those who never met M. only in your book all unite and join me in saying he is a Prince. And—get this softly, old fellow, they say the same of you. With you on the Pacific Coast and our big man on the Atlantic, this good work is going to spread like a prairie fire. We in Auburn are being very closely watched now, and speculation is rife as to the outcome of the endeavor. But I am positive it will be a success, as the men realize that if it is, it will not be long before every prison in the country shall take it up.

"Well, I must close now. Sometime I will tell you how Mr. Osborne has left his beautiful home, loved ones, etc., and voluntarily allowed himself to be quarantined here for perhaps weeks. We are having a few cases of scarlet fever, but the doctors have it well under check. Still no one can come or go. He knew this was about to happen, but left everything beautiful behind, so as to be right here in touch with his good work. Well, I am tired, so will close and turn in. I hope I have not tired you also, D., with all this, but it's my birthday, old fellow, and I wanted to share it with you. Good-night, D., write as often as you can.

Very sincerely yours,
J."

This summarizes the first results of Osborne's work. In the five months, the hard, unbending penal system which for over a hundred years had known no rule but force, no law but that of the guard, no voice but that of the official, and no discipline but that which was imposed from above, had been changed to make the prisoners participants in the responsibility for good government inside the prison with profound effects upon the lives, character, health, and temper of the men in Auburn, and with a lasting influence upon the whole scheme of penal administration.

PART III

THE GREAT ADVENTURE

8

WARDEN OF SING SING

THE STRANGE ADVENTURE at Auburn roused country-wide interest and attention. The doings in the prison were front page news. Some of the leading actors in the drama—even among the prisoners—achieved wide fame. Mr. Osborne himself became an international figure and from the first stirred a controversy that ranged from wild acclaim to bitter ridicule. The good news that came from Auburn roused the hope that a new dawn had at last touched the prison walls, that a new way of dealing with an old and cankerous problem had at last been found, that something effective in the way of a new start in penal administration had at last been made and that from this new system something might ultimately flow over into our dealing with the broader problem of crime itself.

In the prison at least the old routine seemed to have become unnecessary. Here at last was a prison administration that did not rely upon the old cruelties, the old suppressions, the old embittering and debasing practices. These were gone, and, it seemed, gone forever. The prisoners were doing better than could have been anticipated. Discipline was better than before, the very atmosphere of the place seemed changed. There was good humor and good cheer. There was optimism and activity. Men were allowed to talk and to play, to laugh and to sing, to gather in groups in the yard and to walk about. They could not only play baseball and pitch horseshoes, but in general behave within the prison like ordinary human beings.

A curious and unexpected freedom and self-restraint had developed.

In spite of the cynicism and derision of those addicted to the ancient order, the convicted men at Auburn went from one moral victory to another. The very guards became converted to the new way of handling the institution. A profound spiritual change seemed to have been worked in the very fibre of the old prison. Such an outcome could not be kept from the world. It spread abroad and awakened profound interest and hope.

If such things could take place in Auburn, why not in other prisons? That question was asked not only by the prisoners but by officials and by socially-minded citizens. If it was possible in Auburn why not in Sing Sing, and if in Sing Sing, why not in other prisons? Sing Sing had but recently been through a series of one of its periodic disturbances, riots, and fires. The warden was charged with graft and was forced to resign. The old regime seemed to be breaking down under its own difficulties. It was natural, therefore, that an attempt should have been made to adapt to Sing Sing, some of those changes which seemed to have had such unexpected results at Auburn.

Under these general influences the then Sing Sing warden who was later forced to resign under charges of malfeasance in office, without fully acquainting himself with the character of the organization at Auburn, gave the prisoners a number of the privileges that had been won by the men at Auburn. He gave them the right to form an organization. The step taken at Sing Sing was measurably arbitrary, it did not grow out of an effort by the prisoners, and did not involve the assumption of responsibility by the men. Their lot was made easier but they were not given the instrumentality that would force them to develop those judgments and practices that were the basic reason for the privileges extended to the men at Auburn. The difficulties of the warden in Sing Sing, and the persistent accusations of dishonesty forced him out of office and Governor Glynn, who was a Democrat and who was soon to retire from office, offered the post to Thomas Mott Osborne.

The Decision

Osborne hesitated to accept. Sing Sing prison had a glamor to it, true enough, but the difficulties were too numerous and serious to make the post easy. In all of this time, Osborne had worked in Auburn and with the Auburn prison officials he had done so in what amounted to a private capacity. It was true that he had been the Chairman of the New York State Prison Reform Commission, but with the passing of Governor Sulzer the Commission had ceased to exist and his work was that of a private citizen. The acceptance of the Sing Sing wardenship would compel him to surrender this freedom that he had enjoyed.

Then, too, it had been a feeling on the part of Osborne and on the part of the prisoners who had stood by him in the working out of the Auburn prison reforms that the next place to attack was not Sing Sing, but Clinton. Clinton prison is known as the "Klondike," "The Siberia," of the New York State penal system. The mere fact that it had the reputation of being a hard prison to manage, and that it was reputed to hold the most desperate criminals made it desirable as a source of experiment. The fact that it had the "long timers," "the lifers," made it, from the point of view of the prisoners as well as from the point of view of Osborne, the most promising experimental material. Experience had made it clear that the greatest difficulties were to be expected, not from the hardened criminals—the highway men, the murderers—but from the petty thieves, and the "highbrow" criminals—the men who had not the tradition of gang loyalty. With all of these considerations in mind, Osborne hesitated to accept the Sing Sing wardenship. And when it was announced that Osborne's name was being considered, he telegraphed to Superintendent Riley (November 12, 1913): ". . . please do not consider me as a candidate under any circumstances." Superintendent Riley, however, would not accept that as a final refusal and insisted that Osborne come to Albany immediately as he wished to "present reasons why you should accept wardenship."

Under these conditions, Osborne did the characteristic

thing. He called together his best friends among the prisoners in Auburn prison, some of them had been in Sing Sing and knew the situation there, and put the matter up to them. What did they think of it? Would prison reform in New York State be best served if Osborne accepted the offer of Warden at Sing Sing? There certainly was no unanimity on the subject. The men argued back and forth for nearly a day and a half. Those that opposed Osborne's acceptance argued, and time proved them right, that the Sing Sing Wardenship was an impossible matter, that Osborne "ran the risk of being 'framed up,'" that the new-comers would make the situation difficult and that the local politicians would find a means of undermining his hold upon the prison. Those, on the other hand, who favored Osborne taking the Sing Sing prison, insisted that there were enough "old timers" and "square guys" in Sing Sing to protect the situation. The final vote showed eighteen for and seven against his taking the Sing Sing post. After this discussion, and feeling that the superintendent who was urging him to accept the position would support him, he felt that he might undertake the task.

Interestingly enough Warden Charles F. Rattigan, under whose general responsibility Osborne had developed the whole scheme of penal administration which he was now being asked to take to Sing Sing, took the same attitude as those prisoners who opposed his accepting the Sing Sing wardenship. Osborne quotes Rattigan as saying: "I cannot understand for the life of me why you want to consider that Sing Sing proposition. You know enough of New York politics to realize what the job of warden is down there. It is perfectly 'impossible.'"

While this debate was going back and forth Osborne received a "crooked" telegram from one of the inmates at Sing Sing who had recently been transferred there from Auburn and in whom Osborne had much confidence. "For God's sake," read the telegram, "take the wardenship. All the boys anxious to have you. Petition ready to be mailed." And this telegram from one of his Sing Sing friends contributed much to his final decision to accept the wardenship.

Speaking on November 15 at Schenectady, Osborne said that he would accept the position providing the prisoners wanted him. This let loose a good deal of public ridicule, but, as Osborne says: "I was trying to drive home a lesson learned not only from my acquaintance with prisoners but from my experience as a manufacturer that you can not get the best results from men unless you have their respect and confidence." He argued simply enough. If he could be assured the confidence and support of the prisoners, and if he was sure of the moral and official coöperation of the superintendent of prisons, the local politicians, as well as the few dishonest guards, could be successfully controlled. Added to this general assurance came the promised support of the newly elected Governor Charles S. Whitman, who was reported as saying that Thomas Mott Osborne was a close personal friend of his, that he had the greatest respect for his ability, that it was a pity that the people of New York did not have the use of his services. As one of the papers put it, "it seemed clear that the appointment would be very acceptable to him and that Osborne would be retained as the head of Sing Sing under the new administration."

Before finally accepting, Osborne had an interview with the newly elected governor and was assured of his coöperation. With every evidence of official support, and with a feeling of confidence in the coöperation of the men, Osborne finally, on November 19, 1914, formally accepted the position, saying in a letter to Superintendent Riley ". . . my delay in giving you a definite answer has been caused only by my doubts as to whether I could best serve the cause of prison reform by accepting an official position."

On November 19 Osborne made his first public appearance in Sing Sing prison. The men had been expecting him and the very atmosphere was charged with electricity. The retiring head of the prison was leaving under a cloud of public scandal, and charges of malfeasance in office. In 1913, a year before Osborne came to Sing Sing, a local grand jury had condemned the prison and had indicted the warden in one of the bitterest and scorching public documents. It was against this local

prison background that Osborne was entering as the new warden.

At his own request, Osborne appeared before the assembled prisoners in the dining hall. He climbed upon an improvised platform—a table at the front of the hall. Here in front of him were 1,496 prisoners. They were all there, all facing him, white faces in a sea of gray, expectant, filled with hope. All about were the guards—some 60 of them facing the prisoners—with the usual prison clubs in their hands, watching the men to see that nothing violent happened. There was a tenseness about the scene which made it long remembered. What Osborne had to say was of little significance because he merely repeated what he had so often said before to the men in Auburn. It was significant only because it was being said in a new place and under different circumstances. The message was the same, however. He spoke fully and frankly: "Unless I can do you some good there is no earthly reason for me to come here. . . . Everything which leads to the formation of character and control of yourself so that when you get out of here you will stay out, is the good I am after, not a temporary pleasant feeling." He was going to be warden, but only on one condition—and that was that he could deal fairly and honestly with the men. He wished to govern with their consent and coöperation. He would not depend upon stool pigeons. If his continuance at the prison was made dependent upon the hypocrisy and false testimony of undercover information, if he had to rely upon "prison rats" he did not want the job. "I think the job of an officer is a peculiarly thankless and difficult one; and I ask your help for the officers. They have struggled with a system which I believe and you believe with me has been entirely wrong. I have always detested that thing known as 'stool pigeon' . . . if my authority has to depend upon that particular kind of hypocrisy . . . the lies, the deception, and all those words that spell stool pigeon, I say to you men that I do not want the job. I will not keep it unless we can keep things open and above board."

From that he went to what lay closest to his heart—the

exercise of responsibility by the prisoners. The prisoners would have to keep in view the responsibility that was to be reposed in them; they would have to see to it that things went right. He was received by acclaim and cheered to the echo. There was a sense of a new day in Sing Sing prison from then on and it has measurably persisted to this date. Whatever might be true of his other promised support—that of the prisoners was his. He had begun as he might have wished to begin with a free, full, and public declaration of a new policy for the old prison, a policy that the prisoners agreed with.

First Days

On the 30th day of November, 1914, Osborne returned to the grim old prison on the Hudson and prepared to take over the office of warden. Sing Sing was then—as the resort of a great city's felons—widely renowned for its incessant scandals, riots, and fires. It was soon to be famous the world over as the center of perhaps the most remarkable experiment in the attempt to reconstruct human behavior. It was soon to become the center of attention in the State of New York and the doings of Sing Sing and of its prisoners were for months to occupy more space on the front pages of our large city newspapers than were the doings of the State legislature. It was also to cost Osborne very dearly, nearly cost his fortune, his character, and very nearly his liberty. But that is another story and left over for later discussion.

Like all great prisons in the United States, Sing Sing had about it an atmosphere of suspicion. Watchfulness and fear are the dominant notes in a prison setting. Fear of the prisoners by the guards, fear of the guards by the prisoners, seemed to saturate every breath that men took. Even the warden's residence had its every closet padlocked, its every drawer bolted. The fear of cunning, of dishonesty, of double-dealing, of destruction, lurked in every breath. To Osborne the whole atmosphere was repulsive. Come what may, at least in his own residence, he was going to have things open and above board. He would lock no drawers and keep his closets open. If he

could not trust his own house servants he could not trust any one—and he could not work at all. So he began by first ridding his own house of all evidence of fear and suspicion and distrust. In all this time as warden he never lost anything from his house but once. Thirty dollars disappeared temporarily and were later returned from the tailor shop.

"What is the first thing I ought to do tomorrow?" asked Osborne of his valet.

"Go down into the mess hall and find out what they are having for breakfast."

"Yes, I thought of doing that."

"And go alone. Don't take the P.K. or Mr. Johnson or any of the screws. Show them you are the boss."

And so the first day began. He began by going to the mess hall and tasting what the men had for breakfast, by visiting the shops, the death house, the cell block. He began by going down to the yard and freely mixing with the men, becoming acquainted with the prison and its atmosphere. Everywhere he was received with the best of will, with enthusiasm. Instead of the incendiary fires and riots that had so often in the past marked the coming of a new warden, there was a spirit of friendliness and kindness even. The New York Times noted that "there were no incendiary fires and no strikes . . . all marks of coming and going of wardens in the past."

Osborne's advent as warden of Sing Sing was a matter of much public interest and many friends called to wish him success, while "reporters swooped down upon the prison in droves." To them Osborne declared that the prison was open at any time. It was the right of the citizens of the state to know what was going on in their institutions. "As a matter of fact I believe that many, if not most of the iniquities which characterized the old prison system followed from its secrecy and seclusion."

Osborne began from the first day a consistent attack upon the problems of the prison. The food, the hospital, cleanliness, discipline, all received immediate attention. On the second day of his wardenship, Osborne asked the executive committee

of the Golden Rule Brotherhood, an organization from above formed by the previous warden in imitation of the work that had been done at Auburn, but without the essential of the assumption of responsibility by the men, to draft a plan for a prison court to be presided over by the members of the executive board as judges. The Auburn experience had given Osborne a keen sense of the value of such an institution as an agency of public morale, and as an instrument of relieving the administration of the onus of punishing men for minor infractions of the rules. On December the fifth the spokesman for the prisoners presented to the warden, fifteen specific requests for changes in the prison rules. To these Osborne replied the next day—Sunday, December the sixth—within a week after he had become warden of Sing Sing.

Like the day on which Osborne had first addressed the prisoners in the mess hall, this day became a memorable event in the history of Sing Sing. It was in a sense the day of a new charter for the men in the old prison and may be said to have become, for Sing Sing at least, a new code in penal administration. On that day Osborne assembled the prisoners in the chapel to discuss the fifteen almost revolutionary demands that had been submitted to him the night before. The first fact to be noted is the recognition of a right by the prisoners to make a series of requests for changes in the prison rules. That in itself was a profound innovation. Secondly, and more daring was Osborne's request that all the guards leave the chapel after the prisoners had assembled. It was the first time in the history of Sing Sing, perhaps in the history of prison administration, that the warden of a prison permitted himself to remain alone for hours with hundreds of convicted criminals, collectively guilty of all the crimes on the statute books.

He dismissed the guards so as to be able to carry on the discussion in freedom with the men and without that sense of restraint that would have been inevitable in the presence of forty uniformed prison guards, armed with heavy loaded canes. Instead of the guards were the chosen representatives of the prisoners themselves with the Sergeant-at-arms standing at

Osborne's right and facing the men. This was a revolution in fact and not merely in theory. In Sing Sing prison this incident was more than passing strange. Less than two years before, no warden ever went into the prison yard without first putting a loaded pistol in his pocket and it was only within a year that the men had mutinied and set fire to the shops. And here within this strange setting the men met as men and talked of their needs, concessions were made and requests were refused in full freedom and the prisoners cheered themselves hoarse. They even cheered the reasons given for refusing some of the demands made by them.

Next morning the principal keeper puzzled in the warden's office that not a single man had been reported for punishment in the last twenty-four hours. He shook his head doubtfully. It had never happened before. It had not happened in the twenty-eight years of his service at the old prison. It was beyond understanding.

On the day previous the representatives of the prison inmates had prepared a statement embodying the suggestion of a prisoners' court, in the following letter:

December 5, 1914.

In accordance with your suggestion the Executive Board of the Golden Rule Brotherhood has formulated the following system for the trying of inmates on all charges. . . .

The Court shall consist of the Executive Board of the Golden Rule Brotherhood which shall choose its chairman at each meeting.

The Court shall sit daily in the chapel from 3 to 4 P.M. If further time is required the Court shall sit from 2 to 4 P.M.

The inmate against whom the report is made, may take charge of his own case, or may be represented by a friend selected by himself, and may have such witnesses called as he may desire, who shall be produced in court by the Sergeant-at-Arms. The institution shall be represented by an officer, designated by the warden, who shall be a spectator only, and take no part in the proceedings, and whose sole duty shall be to appeal the case to the warden if in said officer's judgment justice so required. The inmate may also appeal the case to the warden if dissatisfied with the decision of the court.

All questions shall be decided by a concurrence of at least three members of the court—no court shall be held with less than four members present.

The Executive Board shall keep such records of its proceedings as may be necessary.

The Court may warn and caution the inmate, or may suspend him for a stated time from any or all privileges of the Brotherhood, and while so suspended he shall cease to enjoy his grade privileges, and shall wear on his arm a "bulls eye" the color of his grade disc.

If you will grant us the privilege of putting this system in operation, the Golden Rule Brotherhood will assume the responsibility for its results, and we believe this will relieve you of a great amount of detail work, while at the same time, it will give the inmates an insight into the principles of and a genuine participation in real self-government. We are prepared to put this system in effect at once if this meets with your approval.

The suggestion contained in this letter was later included as one of the fifteen demands and was without question the most important of the requests made by the men. "We ask that the old system of discipline be materially altered, and that the executive committee of the brotherhood sitting as a court shall be allowed to examine all minor cases of discipline and determine if practicable the nature and extent of the penalties to be inflicted for violation of the prison rules or the rules of the brotherhood."

Osborne replied that he would not only grant the request but grant more than the men asked. He would turn over *all* cases of discipline to the court with the right of appeal to the Warden's Court in cases of dispute as to the justice of the sentence, the Warden's Court to consist of the Warden, the Principal Keeper, and the Prison Physician. It is to be noted

that Osborne here extended the powers of the court beyond that which had been granted to the men in Auburn. In Auburn the discipline over attempted escapes, deadly assault upon an inmate or assault upon a guard, refusal to work and strikes were retained by the warden. Here all cases of discipline were to be handled by the prisoners as a court of first instance with right of appeal. The men cheered and shouted and cried in delight and approval. It is interesting to note in this connection that Osborne at first delegated a keeper to represent the warden's interest at the court. This keeper had no powers and took no part in the court procedure and only appealed those cases that seemed to impinge upon the authority of the warden. After a while it was noticed that his services were not required as there was always some one sufficiently alive to the situation to carry the case to the warden and the officer's services were discontinued.

The other requests made by the men were of minor importance, but taken together were significant and far-reaching in their consequence. The men asked that the moving pictures which had been recently introduced into the prison should be shown on Sunday rather than Saturday afternoon; that visitors for the prisoners should be allowed on Sundays as many of the prisoners could not receive visitors during week days as the members of their families could not afford to take a day off from their work; that the men be allowed to write letters to whom they deemed necessary rather than only to those whose names were on the correspondence lists; that they should be allowed to purchase postage stamps from the correspondence department with their own money already on deposit rather than to have to depend upon friends and relatives to supply such stamps; that special letters be distributed to men who have no stamps when they are going out on parole, in case of sickness, death, or other emergency; that men should be allowed to retain daily papers rather than be compelled to return them to the chaplain's office; that men should be allowed to expend whatever money they have on deposit for those things already allowed by the rules of the prison even if the name of the

sender of the money is not indicated; that they should be allowed to receive gray sweaters and shoes from the outside; that no two men should be doubled up in the same cell unless they are father and son or brothers and then only by special request; that the dormitory places should be given first of all to those suffering from epilepsy, heart trouble, those who are crippled and aged; that the lights in the dormitory and cell block be allowed to burn till ten P.M. instead of being turned out at 9:30 so that those who wish could read another half an hour; that steps be taken to relieve the excessive conditions of dust and lint in the mattress shop. To the great delight of the men all of these demands were granted by Mr. Osborne.

The men further demanded that the screens be removed in the visiting room as they could not under present conditions even touch the hand of a visiting wife or mother, and that they should be allowed Sunday newspapers. These last two requests were denied. In addition to denying these last two requests he made certain demands of his own in return for the privileges granted. He asked that on their part the men should show better discipline, better marching, greater cleanliness, less noise in the cell block at night so as not to disturb those who were trying to read, better work and longer hours on Saturday afternoon in view of the fact that the moving pictures were now to be shown on Sunday afternoons instead. He further appealed to the men for coöperation with the elected prison officials and the regular prison guards. The meetings broke up quietly and in the greatest good humor. And, as already indicated, no infraction of the rules were reported on that day. Mr. Osborne also announced the immediate establishment of the inmate courts. In a few hours the whole history of the prison had been changed and life became very much more worth the living for the men within the prison walls. They were mainly little things—but within a prison as perhaps nowhere else—it is the little thing that counts. Life is so cramped and drab that these little things determine the character and the quality of the existence of prison inmates.

These changes too assured Osborne the support of the men confined within Sing Sing prison.

Christmas and a New Year in Sing Sing

As if by magic touch, the atmosphere at Sing Sing was transformed. Instead of the old suspicions and hardness, a sort of friendliness began to manifest itself. The relationship between the guards and the prisoners was transformed. The old fears were gradually broken down and a sort of mutual goodwill between the prison officials and the prisoners took its place. When Christmas approached these new influences found occasion to express themselves and Sing Sing for the first time in its history really enjoyed its Christmas.

The new spirit that had spread over the institution was indicated by a resolution taken by the Sing Sing prison guards.

Ossining, N. Y. December 19, 1914.

Dear Sir:

The keepers and guards of Sing Sing Prison, in mass meeting recently assembled, desiring to give expression of their deep appreciation of the great personal sacrifice you have made and are making in your efforts to remedy the existing conditions in that prison, now disheartening and revolting both to them and the inmates and particularly grateful for the practical plans you are inaugurating, which they perceive, will work to the benefit of the keepers and guards as well as to the inmates, have extended you a vote of thanks therefore and pledge you their loyalty.

Sincerely and Loyally,

John J. Farrel,
Secretary of Meeting.

The change in the spirit in Sing Sing was not only manifested by the prisoners—there had not been a single serious violation of the rules in nearly a month, and by the guards in their expression of approval and coöperation with the new administration but outsiders as well. To give some token of their appreciation, outside friends of Osborne raised a Christmas

fund and the nearly 1600 prisoners were all given some little gift. With the money collected candy, oranges, nuts, raisins, and cigars were purchased. And each prisoner was given some sweets—sweets which men in prison almost never taste and for which there is an almost incredible hunger. The warden's household betook itself to distribute the gifts at night and "there was a human touch in everything. The warden, though himself not a smoker, sent a box of cigarettes to every prisoner. They were labeled 'Tom Brown,' the name under which Mr. Osborne spent a week in a cell at Auburn. 'Have one,' said a prisoner to the warden's guest who had handed him the box, 'it makes me feel like a regular warden myself to be able to offer a man a good smoke.'

"The old cell house has seen some unusual sights, and one was added to the list when three friends of the warden on Christmas eve came upon a pair of coarse prison socks hung outside the grated door cell. Inside a gray-haired old man lay asleep. Next morning he found an orange, a few nuts, and a couple of cigars, and he shared his amazement with a guard to whom he said that he didn't know that he had a friend left 'outside.'"

A holiday atmosphere spread over the prison. In the warden's absence the prisoners had transformed the warden's quarters into a "veritable bower with two Christmas trees" and there were merry greetings and smiles on all hands. In the afternoon the premiere of a play by Owen Davis soon to be produced on Broadway by William A. Brady was given before the men. As the Chapel, which could only hold half of the prisoners, was the place that had been transformed into a stage it was necessary to repeat the play so that all of the men could see it. The play was a great hit "and as one mingled with the crowd—serious faces now lighted up—it seemed as though the zest of life had suddenly flooded in." Between the acts of the first performance a surprise was given by Mr. Osborne in the form of a framed copy of engrossed resolutions. "The applause had just begun to die out from exhaustion at the end of the big smash of the third act . . . when the curtain parted

and President Corper (of the Brotherhood) again stepped to the footlights to say:

'Is Warden Os . . . '

That's as far as he got for the moment. Never in David Belasco's entire career was he greeted with such roof splitting cheers as those that exploded from the prisoners when the new warden's name was mentioned. . . . The minute he stepped to the footlights bedlam broke loose. . . ." While he was still speaking to the men in the Chapel he was handed a telegram from the prisoners at Auburn prison (Auburn where riot, murder, and arson now run loose) saying: "Just having dinner everybody present but you." The men loved him and they showed it. Miss Alice Brady, who played the leading role, had the following to say about her experience: "What impressed me most was the good will existing in the prison toward the warden. I should be a very happy girl if I could make my audience like me as well as Warden Osborne's audiences like him. The warden said he hated to leave Auburn, but he thought he would have as pleasant an experience at Sing Sing; and the men roared good-naturedly at him: 'You bet you will, Tom Brown.' It would make me dry up in my lines if they yelled 'Righto Mary Smith.' "

The day was drawing to a close. The plays were over and the players were gone with the cheers of the prisoners "ringing in their ears." The prison was locked up for the night. Everything about Sing Sing had become subdued—doubly so after a full day of merrymaking. As Mr. Osborne and two friends settled down to dinner there was nothing to be seen but the blinking electric lights in the frosty air outside the prison. It was a restful and quiet hour. " . . . suddenly the notes of a violin and small organ were heard; whence they came we could not tell, the very air about us seemed to condense into melody. Then the sweet voices of singers—lowered to a soft whisper—in that loveliest of old Christmas carols 'Holy Night! Silent Night!' We could none of us speak. Instinctively we closed our eyes and listened, one at least of the three at the warden's table will confess that for a moment it was not easy to swallow,"

wrote Graham Taylor. It was a surprise to the warden engineered by the cook of the prison. Christmas spirit was indeed in the air.

But the day was not done even then. The men in the dormitory sent word that they wished the warden would pay them a visit. There some of them entertained him with song, others chatted and shook hands, and finally they insisted upon a speech. Of all those who contributed to the Christmas fund the most generous was a prisoner. He had won a hundred dollars for the best criticism of the play presented and insisted on turning it over to the prisoner's fund. Thus Christmas day 1914 came to an end in Sing Sing—a contrast with the past and a revelation of what might be in the future.

Between Christmas and New Years further steps were taken to change the old Sing Sing into the new. The knit shop had always been known as the most troublesome shop in the prison. The work was tedious, the prisoners mainly young. The shop always had a dozen or more disciplinary cases a day and sometimes serious assaults. In addition to the foreman there were two or three guards to look after the men. Osborne therefore began with this shop in trying to change the morale of the prison. From the beginning the men had always been marched to and from their work by the armed guards who watched over them during the day. Three days after Christmas Osborne walked into the shop, stopped the machinery and made a short speech to the men. He was going to give them an opportunity to prove that they did not deserve the reputation they had. He was going to distinguish them from the other companies. When going to and from work they would march under their own elected delegates and not as the other companies did, with prison guards in charge. The men cheered as pleased children and that afternoon the whole prison population watched the strange sight of the worst company in the prison coming in from work under the leadership of their two delegates, one marching in front, one in the rear of the company. And such marching was never seen in Sing Sing before.

Osborne followed this step by another and a bolder one—

he returned to the shop the next morning and told the men how pleased he was with their performance and that to show the confidence he had in them he would withdraw the prison guards from the shop and leave only the civilian foreman and the elected delegates in charge. "For," said Osborne to the men, "while I was told that you were a troublesome company you have made no trouble for me and I do not expect any. If I take the guards out there won't be any one to make trouble for and so there won't be any." There was a moment of tense silence "an audible gasp—as of men suddenly plunged into cold water" and then laughter—good natured roaring laughter that shook the rafters. The guards came out. The next day the delegates from the company came and requested that one of the guards taken from the shop be returned as foreman. They liked him and thought him square and would be glad to have him as assistant foreman. He returned as assistant foreman after discarding his uniform as prison guard.

Osborne left on the night of the 31st of December to spend New Years at home with his family in Auburn, to be gone for three days. On his return he was met by grins on all sides and just before the noon hour he was asked to come down into the yard. As the noon whistle blew and the men came marching out of their shops there was not a prison guard in sight. The nearly 1600 men came swinging down the prison yard under their own elected delegates, all prisoners. And when they had turned into the mess hall Osborne was asked to step in. There too, not a single guard was to be seen. The men were eating their noon day meal, all in one big room and not a single guard in sight, only the elected Sergeant-at-Arms and his assistants. As Osborne walked in the men cheered and laughed, pleased with themselves as little children might be.

On New Years Day, while Osborne was away spending the day with his family, Mr. Johnson, who was the assistant warden, received the following message: "The brotherhood desires to give Mr. Osborne the surprise of his life on Monday morning when he returns from Auburn, by having all companies march to and from the mess hall in custody of their delegates."

To make the surprise complete some one suggested that the guards be also taken from the mess hall. Later that afternoon one of the prisoners who cleaned the warden's clothing paused a minute in the door as he passed by and said: "What did you think of that surprise, warden, wasn't that a dandy New Year's present?" So ended an eventful week and so began a new year in Sing Sing. And all of this had been accomplished in just exactly one month's time.

9

THE COMMUNITY OF SING SING

THE GOOD FELLOWSHIP created by the events of Christmas week persisted on into the new year. Sing Sing prison gradually took on the aspect of a community, of a school. The men themselves began to talk about it as "the college for the remaking of men." Some called it the "University of Sing Sing." While Osborne was given the credit for the changes that were being manifested, he himself used to say: "No, it is the men who are doing it." And in a measure it was true. The men took Sing Sing seriously and attempted to bend the old prison to new purposes—to new ends. Leadership was developed in a hundred different ways and the old prison became as full of participating activity as a "bee hive."

THE SCREWS

The removal of the guards from the Knit Shop merely set the example for the other shops in the prison. Soon after New Years the guards were removed from the Shoe Shop, from the Tailor Shop, and gradually from all the rest. In some instances the guards discarded their uniforms and became civilian foremen, in others prisoners who had spent many years in the same shop were appointed assistant foremen. The discipline in the shops was thus gradually left to the elected delegates chosen by the prisoners themselves. The removal of the guards seemed to have a good influence upon the morale of the inmates. Civilian foremen were reported as saying that if the guards were ever replaced they would resign their positions.

The guards thus relieved assumed the function of ordinary policemen and had regular beats—visiting the shops, walking around the yard. Much of the tension which arises from the constant surveillance by a uniformed guard sitting on a high stool, constantly watching the men below him to see that nothing happened, was dissipated. This change also made possible a reorganization of the hours of labor of the guards. They used to work in two shifts of ten and fourteen hours respectively. Because of the responsibilities for order and the discipline that were taken over by the men, it became possible to rearrange the hours of labor of the guards so as to give them an eight hour day and to change two into three shifts.

The changed atmosphere in Sing Sing was indicated by the fact that on one occasion when the prisoners gave a reception and entertainment to the prison guards and their friends, Osborne expressed the feeling that "this also is something new in the history of prisons, that the guards and the officers of an institution of this kind, and their friends as well, should be welcomed by an organization of prisoners. It is a very good omen that you and I . . . the officers of the institution . . . should be on such good terms with the men placed here to guard. Let me tell you men and women, that while the new system has freed the prisoners, it has also freed the guards; they are no longer the hated screws of the old system—they are friends trying to help these men to try and take their proper places in society outside." The meaning of this change was expressed by Frederick Dorner, the Principal Keeper, speaking in Carnegie Hall on February 14, 1916, when he said: "Under the old system I felt it my duty to be harsh and severe. I was trained to it; I knew no better. But it used to get on my nerves; and when I went home I scolded the children and kicked the dog, and my wife said I wasn't fit to live with. Now it is all different; I enjoy my work at the prison; everyone about me is pleasant and smiling; there is no more cruelty—there is kindness. So now when I go home I go with a happy heart, at peace with the world. I don't worry about the prison;

I feel sure that everything there is going all right; and I tell you my wife appreciates the change more than anyone."

Knitting

In January a distinctly new and unexpected activity developed in Sing Sing and later in Auburn prison. Through the efforts of Mrs. Schelling, who was connected with the Polish Relief Committee, a knitting class was established in Sing Sing prison. It began with twenty-five prisoners and grew rapidly to include more than 150. Men who had no other occupation after work met at night and knitted socks, shawls, scarfs, gloves, caps, and sweaters for the war sufferers. Mrs. Schelling supplied the materials and the needles. The knitting class used to meet in one of the classrooms. While these 150 prisoners were engaged in knitting, a number of Italian prisoners formed themselves into a mandolin and guitar club to entertain the knitters. And so every evening after work well over 150 men found occupation by trying to relieve the war sufferers in Europe. One of the prisoners remarked that "It's a real comfort to be doing something for those who are more unfortunate than ourselves." While Osborne tells of one old prisoner sitting in the yard against one of the cell blocks and busily engaged in knitting remarking with a twinkle in his eye: "Gee warden, when I get home won't my old wife be surprised?" This was an odd adventure, but illustrates as well as any other, what was happening in Sing Sing prison. This work was later carried to Auburn prison as well. In the years 1915-1916, 64,000 knitted garments were shipped to the Polish Relief Committee as a result of the work of these prisoners.

Choral Society

Another and equally unique adventure was the organization of a choral society. Osborne was an accomplished musician and one of his persistent hobbies had always been the organization and the training of amateur theatrical groups. The mere posting of a notice that a choral society was to be organized brought out some 250 volunteers. It was arranged for them to meet in the chapel every Thursday night. Osborne

himself undertook the training of the chorus—although the pressure of work later forced him to surrender the undertaking and compelled the hiring of a professional music master to carry it on. The singers were an unselected lot, their point of common interest being a love of music. Ex-stevedores, yeggmen, pickpockets, blacksmiths, bookkeepers, robbers, bankers, lawyers, and murderers gathered to sing such songs as they could together under the leadership of their warden. It was no easy task to shape these untrained voices into some sort of common harmony—and the task of grouping the men into tenors, baritones, basses, was itself an important and difficult achievement. And so every Thursday evening 250 men used to gather for the one purpose of singing—that was purpose enough to the warden and to the men. It kept them out of their cells. It kept them occupied. It gave them opportunity to throw what emotional tension they had into song, and a more cheerful and contented lot of prisoners was hard to discover anywhere in the prison. It also gave them that interest and discipline which comes from any creative coöperative adventure. Their most popular songs were the simple old folk songs—"The Owl and the Pussy Cat," "Three Blind Mice," and others of a similar nature. This too was strange for a prison. But Sing Sing was becoming one of the most highly organized coöperative communities in the country. Each new undertaking was making it that much less of a prison, and that much more of a community.

The Band

An activity of a similar order was the reorganization of the prison band. The band had been revived previously by Warden Clancy but under the stimulus of Osborne who, as we have already said, was a music lover, the band became a really distinctive organization. One of Osborne's friends presented the band with a new set of musical instruments and under the leadership of an Italian life prisoner, Tony Di Genova, who was not only a musical genius, but an excellent leader, the band became an outstanding feature of the new Sing Sing. He could

not only play all the instruments himself but he could teach them to others as well. The members of the band were relieved of all other duties, a band room was fitted up above the power house and Tony dedicated himself to the whipping of his men into a real band. He proved a hard task master, and kept his men playing and practicing most of the day. They ultimately rendered classical pieces with fine spirit and skill and those who knew Sing Sing in the days of Osborne can still recall the prison band's rendition of the "Overture of William Tell," "Poet and Peasant" or the famous march "Under the Double Eagle." Each afternoon as the men marched from their shops, the band would play a marching song. It added much to the spirit of the prisoners and much to their morale.

The difficulties of a prison band are peculiar. The discharge of a pivotal player may seriously cripple, if not disrupt the band. Tony was temperamental and Osborne tells of his coming to him one day in great distress complaining that "Band all gone to Hell Warden." He would have to give it up. He wished to be transferred to some other work. Upon inquiry as to what was the matter Tony complained that the first oboe was being released. The second oboe, according to Tony, was "no good." After some flattery on the part of Osborne, and after holding forth the promise that after all a good oboe player might be admitted to Sing Sing any day, Tony gradually consented to continue the band but remarked upon leaving, "All right, Warden; I go on with the band." He started to leave the office. At the door he turned: "I go on with the band, Warden—but I take no more but lifers. I take no *more but lifers.*"

Education

Coincident with these changes there appeared a spontaneous educational movement in Sing Sing. True enough, there had long been a formal school for illiterates carried on at State expense. But as usual in such prison schools, it was formal, poorly equipped, poorly officered, and without spirit. What now developed was something very different. Something indigenous, if the word be permitted, to the prison itself. It

grew out of the special needs and possibilities of the peculiar environment that the prison provided. The leadership for this movement came from the prisoners themselves. A prisoner popularly known as "Doc" Maier asked for permission to establish a "Mutual Welfare Institute." He had a single ambition and the energy and ability to carry it out. Every man in Sing Sing would soon be studying something that was useful and interesting to him. His teaching staff he would draw from among the prisoners themselves. The work would be done after work hours—the population of Sing Sing would soon all be going to school. He never quite succeeded in getting all of the prisoners to enroll in his institute, but he did succeed in securing an enrollment that covered something between seventy and eighty per cent of the inmates.

There was no limit on the subject matter. If a prisoner wished to study and if another prisoner could be found who could teach that particular subject, the two were brought together in teacher-pupil relationship, and the class was set going. One of the early reports of "Doc" Maiers reads as follows:

> Dear Mr. Osborne: As Chairman of the Educational Committee, I beg leave to submit to your personal revising the following recapitulation of the actual work performed by my committee in organizing the NIGHT-SCHOOL.
>
> A Spanish Class in which 35 men are enrolled. Following the lines laid down by CORTINA who donated 50 copies of "Spanish in 20 Lessons," we have procured a native for this class with surprisingly beneficial results. ATTENDANCE 90%.
>
> A class in Mathematics with 30 pupils. This class was organized for a threefold purpose. First: as a foundation for the Commercial Class, 2nd: as a base for the Electrical Class, and thirdly, as a means toward mental discipline, *Systematically* teaching the men to think constructively. This class meets three times a week. A two hour session is set aside for English Composition. Attendance 100%.
>
> A Commercial Class with 20 pupils. It is the purpose

of this class to instruct the men in Bookkeeping, Commercial Arithmetic, Accounting and Commercial Law. Attendance 80%.

A Stenography Class with 35 pupils. This class will later take up Typewriting. Attendance 95%.

A class in Mechanical Drawing with 12 pupils. In this class men are drilled in drafting plans; first, in plane subjects and later Machinery, etc. *Attendance* 100%.

A class in Telegraphy consisting of 23 men. We have for teachers two professional telegraphers and the pupils are progressing rapidly. Mr. McNamara, a civilian visitor connected with the Western Union Telegraph Co., highly commended the way the men were being instructed. *Attendance* 100%.

A class in Italian, subdivided in three sections. Section 1, for those who have a fair knowledge of the tongue; they are getting a general course of instruction such as given in the schools. Section 2 is composed of those who know how to read and write a little; they are taught how to read and write correctly, and thus acquire a little style. Section 3, is composed of the illiterates; they are drilled in the alphabet and gradually worked up to words of one syllable, idioms, etc., until they are ready for section 2. Enrolled 45 men. *Attendance* 90%.

We have also examined 200 applicants for the Automobile class and have divided them into grades and sections so that a more perfect and equal time of instruction may be devoted to this enormously big and popular class. We only await the arrival of the material.

We are contemplating the formation of other classes of great importance; for instance, a lecture course for the men in the Shoe Shops, in order to bring the efficiency of that particular shop to a higher standard, and at the same time to get men to become proficient in their respective trades.

It may appear strange that no classes in Manual Training have been started, the chief reason being the lack of space and material to work with. The first reason forced

us to restrict the admission of pupils desirous to take up the various studies.

Our school board, consisting of all the teachers and instructors meeting every Sunday afternoon, is formulating such a plan which we will submit to you for approval in our next monthly review.

Respectfully submitted,

DAVID MAIER,
Chairman Educational Committee.

To this program were later added classes in algebra, plane geometry, architectural drawing, French, German, and a barber's school. In addition, special classes were started from time to time as requests for them were made. One such class was a course in Dante. It developed that there was a good Dante scholar in Sing Sing and a number of Italians who wished to take advantage of his presence. So these were brought together and a class organized.

The students later built a special school building in the yard—after regular work hours—as there was not room enough in the regular school rooms to hold all of the classes. In fact, the prison assumed much of the atmosphere of a large school, with prisoners poring over their books in odd hours, with papers and pencils, and compositions to write, and lessons to do. And all of this work was done by the prisoners, under their own leadership and with their own resources, not taxing the state for an extra penny. The school staff assumed the proportions of a faculty with regular meetings and with broad discussions of educational policy and educational methods. It was a free giving by a community to its better ends. "All employees of the Mutual Welfare Institute perform their duties in connection with work for the State in addition to the time we give to the school. We consider it an honor to be connected with the school, and welcome the privilege of being permitted to serve our fellow inmates in this way." Here again was a constructive effort calling for constructive interests and converging to changing Sing Sing prison into the "University of Sing Sing."

Activities

What was happening in Sing Sing is clearly indicated by the activities we have just described. But these were, after all, only a fraction of the broad range of effort, plan, and function that was being projected within the prison. An almost illimitable amount of energy and activity, leadership and project was developed. It seemed as if there were innumerable committees—and at times it seemed as if every one was serving on some committee or other. Life took on purpose. The prisoners developed concern about the prison and its problems. Prisoners, in addition to their regular duties to the state, had duties to the community—duties involving time, energy, thought—duties developing differences of opinion and leading to broad discussions of policy and method.

In addition to the educational committee, the chorus, the knitting class, the courts, the executive board, the police force, there were standing committees on sanitation, athletics, entertainment, dietary, kitchen, finances, ways and means, reception of visitors, religious services, reception of new prisoners, employment, fire company, prison grave yard, a bank, and a parole board. These were of the more permanent committees in the prison. Every new occasion would require a special committee and one would be organized. The committee on sanitation undertook to clean up Sing Sing. Not an easy task with its moist dark cells, but heroic efforts were put forth to keep the place clean, to keep litter from being scattered, to keep the cell block, the shops, the yard, in presentable form. The athletic committee arranged for outside baseball teams to visit Sing Sing, it arranged for all sorts of athletic activities within the prison—purchased the necessary equipment, organized competition between teams from one shop or cell block with those of another. The kitchen committee set itself to prevent thefts from the kitchen, to keep the kitchen clean, and to help in the preparation of and selection of the bill of fare for the men.

The committees on finance and ways and means concerned themselves with the raising of the funds for the various activities of the prison community as well as for the finances called for by special occasions. The visitors' committee performed in rotation the important service of taking visitors about the prison and explaining the various activities of the place to them. This committee was important because visitors frequently contributed to the funds of the Mutual Welfare League upon which these varied activities depended. This was a distinctly new departure—a prisoner acting as guide for visitors. In one case Judge Gibbs from the Bronx found himself being taken about by a prisoner who impressed him a good deal. When the time for his departure arrived the Judge said: "And how much time have you got to serve, young man?" The guide replied: "You ought to know Judge as it was you who gave me twenty-five years."

The committees on religious services—there were three or four of these, one each for the different churches represented within the prison—occupied themselves with helping the ministers of the various creeds in keeping track of their members and helping with the church services. The committee on the reception of new prisoners used to meet all new-comers and explain in detail what Sing Sing was trying to do and to attempt, if possible, to bring them within the new spirit of the place. The entertainment committee was in some ways the most important. It arranged and organized all amateur theatricals, which, given a few times during the year brought outsiders to the prison at a stated price and provided funds for the prison community. It looked after the moving pictures and brought to Sing Sing outside lecturers, musicians, and entertainers. Among others that this committee succeeded in bringing to Sing Sing were the Kneisel Quartet, Mischa Elman, David and Clara Mannes, and their ensemble, Marguerite Hall, and David Bisphan.

The employment committee, financed by a collection from the prisoners themselves, attempted to aid released prisoners to find employment. It is of interest to observe that the committee would meet and discuss the question whether or not it was willing to recommend this particular man for a position or

not. The issue involved was always whether or not the man could be trusted to make good—for too many failures would ultimately destroy the value of the committee's efforts. Here was an inducement, not only for care and discrimination in giving a recommendation, but also the means of placing a direct responsibility upon the men being released—a responsibility to the friends they left behind.

The committee on grave yards attempted the pathetic task of beautifying the prison grave yard—known among the prisoners as gallery twenty-five. They later raised some money and paid for the decent burial of prisoners dying within the prison and had them buried by an outside undertaker. In some instances where the family wished to give the prisoner a decent burial at home, but was too poor to pay for the shipment of the body, the prisoners raised and supplied the funds for that purpose.

The fire company one evening proved its value to the prison and served as an extreme example of what the discipline of the community had become. One evening at about 6:30 when the men were gathered in the chapel for a moving picture the lights suddenly blew out. One-half of the prison population were out of their cells. The guards had gone home. The prisoners' organization was in charge. George Hudson—the sergeant-at-arms—raised his voice, the prisoners knew it well, from the back of the hall and said so as to be heard by all: "A fuse has blown out. The show will start up in a minute. In the meantime some of you fellows raise your voices and hear yourself sing. How about 'A Hot Time in the Old Town Tonight?'" The thousand men in the chapel filled the place with song, and George Hudson, who knew that a fire was burning below, rushed downstairs, grabbed a lantern, and returning to the chapel made his way to the stage with the lantern in his hand. The men quieted down and he said in a clear, calm voice: "If you hear an old woman yell 'fire' don't throw fits. There *is* a fire down below, but no danger if you will keep your heads. I want you to march quietly out of the chapel with your delegates; the members of the fire department to report

at once in the Principal Keeper's office and the rest of you go direct to your cells and to the dormitory. Now you all know what the Mutual Welfare League expects of you."

The men shuffled quietly out of the chapel through the dim mess hall, lit up by one or two lanterns, while the fire company and some volunteers who had been handpicked by the Sergeant-at-Arms turned to fighting the fire in the basement. They fought that fire for an hour and a half. The guards called from their homes by the prison siren arrived to watch the yard against attempted escapes. But no escapes were attempted, and the incident passed off without any outward trouble. It was generally conceded that the prisoners' discipline and organization had saved the building and that it had proven itself under the greatest possible strain and temptation. It is doubtful whether such an incident can be duplicated in all of American penal history.

In an attempt to develop a sense of individual responsibility and saving, as well as to lay the foundation for a system of future compensation for work in the prison, Osborne introduced a system of token coins. The plan was to ultimately raise, by public subscription, enough money to convert this token coin into real money. While the system did not last long enough to become an established institution because of Osborne's final withdrawal from the prison, it did develop some interesting activities. Every prisoner received nine dollars a week. From this he was expected to pay for his cell, for his board, for his clothing. It soon developed that when men had to pay for what they used, they began to save the things they had. If not hungry they would not enter the mess hall, as a meal, breakfast and lunch, cost fifteen cents, while dinner cost twenty-five. Osborne, in describing this new departure says the following:

"No sooner was the money in circulation than I had two petitions for permission to start a bank. One of them gave a list of seven proposed directors, with a statement of their qualifications. One candidate's claim rested upon his 'oratorical ability' while another's was set down as his 'moral influence in

the community.' Upon investigation, I found that the latter was serving his seventh term, beginning with the children's institution; nevertheless his influence on the community was undoubtedly good. The bank was chartered and was soon in active operation. Money was deposited and drawn out when needed; the depositors supplied with pass books; men were taught the use of saving institutions and how to economize. It was only a crude beginning, but it had in it the seed of a good system of adequate remuneration for prison workers. It was simple and practical; but there was needed a fund to redeem the token currency; and that I had every reason to believe might be secured through the exertions of the generous friends of Sing Sing and the League. Had it been possible to try the system out for a year or two it would have proved one of the most interesting and valuable experiments in penology.

"In a statement issued by the bank on May 2, 1916, seven months after it had been opened, it showed 1,030 depositors; total deposits of $31,424.41, or an average of $30.50 to each depositor's credit."

Justice and Mercy

In spite of the new spirit within the prison there always hovered over the institution the shadow of tragedy—death by electrocution for men convicted of murder. When Osborne came there he found nineteen men confined in the death house and for whom he, as warden, had to set the final hour of execution. He was, as warden, legally held responsible for the carrying out of the sentence of the court. Sensitive and humane as he was, this was an excruciating task. He was also opposed to capital punishment on theoretical grounds—that it was not as it is claimed to be, a deterrent against crime. Under these circumstances every time he had to face the experience of officially sealing the fate of another human being he suffered the greatest of personal misgivings and emotional tension. On one occasion he had been forced to set the date for three executions. The effort led him to make an appeal to the governor for clemency. It is best to let Osborne tell the whole thing in his own words:

"Toward midnight of February 21st, five days before the date set for the execution, I sat at my desk writing a letter to the Governor. It was a tactless thing to do; for as warden of a prison I was expected to have no personal interest in any of the human beings under my charge. I ought also to have known that a successful District Attorney, like Charles S. Whitman, would not be apt to have misgivings about the wisdom of the death penalty. I ought to have considered that I was imperilling my own position and forfeiting the respect of many 'practical' people by my 'sentimentality.' Any one of these things should have stayed my hand. But I was torn in mind and body; and the thought of those three men in the death-house, who in five days more would be shocked into eternity, drove me on.

"I determined to write the letter—even if I did not send it. Then it came into my mind that Whitman was the son of a clergyman; and I thought of his mother and mine as young school-girls together; and I said to myself: 'In any event, he will understand.' So I wrote:

Sing Sing Prison,
Ossining, N. Y.
Sunday, February, 21, 1915.

My Dear Governor:

According to the law, some day this week must be set as the date of the execution of three men—Robert Kane, Oscar Vogt and Vincenzo Campanelli. I have set the latest practicable date, Friday, the 26th, in the hope that before that time you may see fit to commute to life imprisonment the sentence of these men; or, at least, postpone the date of their execution until the Legislature may act upon the bill now before it to abolish the death penalty.

I have seen in the papers a statement that you are in favor of retaining capital punishment, believing it to be a deterrent. It is manifestly impossible to prove that it is not; but it is equally impossible to prove that it is. There must be some statistics available from states and countries that have abolished capital punishment to throw consider-

able light upon the subject. Will you not help in securing these figures so as to see on which side the balance of truth lies? Your long and eminently successful experience as a prosecuting officer should not blind you to the fact that these grave matters of crime and punishment have other sides than those usually seen in the district attorney's office. You have done your duty conscientiously and successfully in such an office; but you are now governor of the state with a broader outlook. Would it not be just and right before the state continues to deprive men of life to make a further and careful re-examination of the whole ground?

There are those of us who place the matter upon a ground which we believe is higher than that reached by statistics; we believe that killing is contrary to the law of God; whether it be killing by an individual, acting singly, or by many individuals, acting collectively. We believe that capital punishment has a seriously brutalizing effect upon the community at large, for when society does a man to death it is not you as governor, nor I as warden, nor even the electrician who turns on the death current who is responsible; it is every man in the community who utters no protest against the killing.

I cannot, even at the risk of violating official proprieties, keep silent. I must voice my protest as a citizen and beg of you to assist in removing the stain of sin from the state—the sin of violating the clear and explicit command of God: 'Thou shalt not kill.'

Consider this: That there is and can be but one possible redress for sin and crime;—retribution. For evil done, an equal amount of good can alone balance the evil. When we send a man out of the world we prevent him from doing the good that might make the balance even; we send him before God with the crime upon his soul, giving him no chance to do the good that might be placed to the credit side of his account Is that fair? Is that in accordance with any sane idea of God's will? Does it reflect in the slightest degree the teachings of the Savior?

"As I reached this point in my letter a door suddenly opened; some one came in, silently laid on the desk before me an envelope, and retired. I opened it and read an eloquent appeal to the people of the State of New York from the three men about whom I was writing to the Governor.

"It was now after midnight; every one was in bed but myself. I paced the room. What could I do in the matter? I decided to finish and send my letter to the Governor and enclose the one which had just reached me. So I wrote on:

> Even while I am writing this, there reached me from the death-house a letter to the public from the three men who are about to die—a letter so manly, so moving, so frank in its acknowledgment of guilt and unselfish in its appeal for other unfortunates that I am sending it to you by special messenger with a request that I be allowed to give it to the newspapers at once. It emphasizes what I have already written. Give to these men a chance to 'make good.' Give them a chance to show that even though they be condemned to life imprisonment, they can still make their lives a sacrifice to their fellowmen. A genuine sacrifice to God, not a blood offering to a heathen idol.
>
> Governor, if you can not see your way clear at the present time to commute the sentences of these men to life imprisonment, at least give them a month's stay, that there may be time to examine carefully into the case of each and determine if mercy would not serve the state better than the severity of the law.
>
> As your fellow-citizen, I ask this of you—of you who by the voice of your fellow-citizens have been called to the seat from whence alone can be extended that mercy which is an attribute of God himself.

"Enclosed I sent a copy of the appeal of the three condemned men. I transcribe it now from the original which lies before me.

> Can you recall a single instance in all your life, where the horror of the death penalty stayed the hand of a murderer?

We know we never gave it a thought. Murder is mostly the result of two great human passions, that of uncontrolable and insane jealousy, or a devouring anger roused by the demon drink, both of which so blur the human mind for the instant as to make the person temporarily insane. Jealousy and anger roused by drink were the causes of the tragedies in which we three men were involved. If this is to be our last word, we send it forth in the hope that if it avails us nothing, it may perchance aid some brother who may fall by the wayside. In conclusion, we offer up our prayers that you will not cast us aside into utter darkness by disregarding our plea from the shadows of the grave. We admit our sins to God and pray for forgiveness at the hands of our brothers and the Almighty.

VINCENZO CAMPANELLI.
ROBERT KANE.
OSCAR VOGT.

"The governor declined to interfere and the sentence had to be carried out, and refused permission to give their appeal to the public.

"I carried to the three men the information that all their efforts on their behalf had failed and that their appeal would not be published; promising them, at the same time, that their bodies should receive decent burial. On the brink of death they wrote me letters which are almost too personal to print . . . "

Three doomed men in the death house of Sing Sing appeal to the people of the State of New York. The three undersigned men doomed to die in the early morning of February 26, in the death chamber of Sing Sing, make this appeal from the brink of the grave. Are you as members of this commonwealth justified in taking human life because we did? Did two wrongs ever make a right? There is not one of us who would not willingly die, if it would restore to life those who died by our hands. Owing to our acts, remorse, sorrow, ignominy and shame have been our companions by day and through the long, sleepless nights. We realize keenly that we will suffer least by our own death, for we know full well that some day, sometime, all of us must pass beyond that mysterious veil of eternity from whose bourne no traveler has ever returned. We make this appeal to you not so much to save our lives, but because our ignominious death strikes beyond the grave and will bring sorrow, woe and care to those near and dear to us and who will suffer most by our untimely end.

"Picture this! Think of this!

Then, if you can, by word and pen demand from your representative at Albany that capital punishment, this relic of ancient times, this stain of humanity, be wiped from the statute books. Only a few months ago our president appealed to the people of this country of all nationalities to attend their various places of worship, there to pray and plead to the Almighty, that the legal murder, carnage and slaughter in Europe might cease. Is the cause for our destruction any greater than that between nation and nation now engaged in bloody warfare? Therefore, we appeal to you, not only to pray for us but to demand the abolishment of legal murder. If we believed that our slaughter would act as a deterrent to future murders, we would willingly render up our lives to society, if it would erase from human nature the cases which tended to our crime.

* * * * * *

"Up in a little room, in the third story of the warden's house, lay tossing on his narrow cot a man stricken with mortal disease. In the cold gray dawn, as the hour of execution approached Canada Blackie became more and more restless. His faithful friend and biographer, Mrs. Field, coming to his bedside, heard him praying; and immediately afterwards wrote down, so that it might not be forgotten, this eloquent cry from the lips of the man who was himself so soon to die:

O God, if I could only be taken instead of those three young men in the full vigor of their strength! There is

work for them to do on this earth, even behind the bars, while my course is run. The sand in my hour-glass has only a few grains left, and they are rapidly slipping through. But—thy will be done! And if they are to go and I am to stay, even for a little while, may it be for some great and high purpose. O God, in spite of the past, make the life of each man within the walls count for something! May the passing out of these three brave souls today mean also the passing out of that old medieval law of capital punishment. Bless all my pals everywhere.

"The evening of February 25th I spent at Princeton University; and early the following morning the three men, one by one, were taken, and bound, and slain—as per schedule."

Canada Blackie's days were drawing to a close. The story of how Osborne had taken him from a dark cell at Auburn prison, where he had been confined for nearly two and a half years, has already been told. He had contracted tuberculosis in this dungeon and was gradually wearing away. In Auburn he had become as an inmate perhaps the most powerful single influence for good among the prisoners—he was the prison idol. He proved intelligent and strong and remained faithful to Osborne and to the Prison League to the end.

Osborne had transferred Blackie to Sing Sing in his last days of illness and two prisoner friends were brought along to nurse him in his last days. His death cast a shadow over the prison. Services were held for him in Sing Sing and his body was then shipped to Auburn prison where he had spent many years as the worst and most feared prisoner. There he was given a public funeral with all the prisoners attending. It proved a very impressive and sad occasion. In a letter to Blackie's sister, Osborne wrote:

"Your letter of April 3d is received; and I deeply appreciate your kindness in writing. I assure you that it was a privilege to have known your brother so well, and I don't think there is anyone's influence that will be more powerful for reforming the prison than his. Do not blame yourself for not investigating; it was far better that you should not know, for

the knowledge that you would know would have added to his suffering, and there would have been nothing that you could have done to help him. It is one of those cases which was impossible for anyone to help until just the right moment had come in the life of the man—it came to John last June! And since then his life has been really filled with usefulness and contentment, which is better than real happiness—happiness in the sense not of enjoyment, but the high sense of doing good to others. He often talked of you, and never seemed to have lost his feeling of strong affection. John was a strong man—of great ability. What a pity that he could not have been fairly treated and wisely directed many years ago? But since that was not to be we should all rejoice that he 'found himself' before the end. If you could have seen the wonderful respect and admiration that the men at Auburn Prison showed last Sunday in his memory you would have felt proud of your brother. I am enclosing a page torn from one of the Auburn daily papers, which speaks of the service."

Something of what Canada Blackie meant to the prisoners is indicated by the following poem:

The Tale of Canada Blackie

I'll tell you the tale of Canada Blackie; a yegman tried and true;
Ne'er threw a chum, be he purple or scum, and a gamester through and through,
A firm, strong jaw, clear flashing eyes, a mass of raven hair,
He tossed his breath in the face of death and lived in the land of dare.

He's a lifer now, in that cold, gray pile, his only hope the grave,
An unmarked mound in the prison ground; a prayer to God to save,
But I loved his smile as he told of hopes for the helpless ones inside—
And his plan to repent for a life misspent in the days before he died.

'There's still some good in the worst of us,' was the way he started in.
There's none too far from Heaven's bar to be purged from earthly sin.
In my own wild way I played the game and fought where stakes were high—
Now to do some good for my Brotherhood is my hope before I die.

I only ask that those outside have a heart for fallen men,
That they'll lend a hand to a sinful band that tries to be right again
That they do unto us as the Dear God did to the thief upon the tree
For the spirit is done on the first faint dawn when men cease to be.

'Just give the boy a chance again to bring out what is good;
Don't cast him down with a hardened frown to the worthless Brotherhood
But end each day with an effort done to aid the man who's sad.
If this I do each long day through I'll go to the end and be glad.'

L'ENVOI

Here's my hand to Canada Blackie, and a hope that he's my friend;
For a man his style is well worth while to cherish until the end.
And when his judgment passeth, be he murderer, yegg or thief—
As he stands alone before the Throne, dear Christ, please hear my brief.

By Products

Not even the tragedy of electrocution and death stayed for long the spirit that had developed in Sing Sing. Osborne's work attracted wide attention. The newspapers were filled with the doings in Sing Sing. Osborne's personal following

in the community increased rapidly and he was being taxed to his full energy by demands for public appearances. Churches, Y. M. C. A.'s, civic organizations, women's clubs, universities—he was everywhere in demand. Being a fluent and eloquent speaker and absorbed with the detail of the doings at Sing Sing he held his audiences spell-bound for hours at a time. It required a good deal of energy in addition to his services as warden, but he counted the gain worth the effort. The conversion that was needed was that of the community outside of the prison. The inmates were already with him. It was the public with its past traditions and prejudices that needed to be brought up with the possibilities of a prison that was a community—that was training men for a return to the community. Under these conditions Osborne invited visitors to come and see Sing Sing—see it freely and fully and have as their guides prisoners from whom they could learn the truth in a frank and free discussion. The result was that never a day passed without many visitors coming to see for themselves. On one day there was a record of over two hundred and fifty visitors—the entire membership of the Brooklyn City Club made the trip. All sorts of people came—including Samuel Gompers, Henry Ford, Billy Sunday, and Tim Sullivan and all who came left and marveled at the thing Sing Sing had become.

One of the most interesting by-products of the change was the attitude of the released prisoners. It has always been the custom for released prisoners to shun the prison. Here, on the other hand, the released men began to show a sort of pride in their institution. They would return for a visit to the warden, or to their friends. Some of them even organized an outside branch of the Mutual Welfare League. They wore their prison organization buttons with a sort of pride—the way college men wear their fraternity pins. Once or twice a year these released prisoners used to meet together and give Osborne a public dinner and tell of their new lot in life and of the success and failures that they had met with in trying to set their feet straight in the world again. Many failed, but many succeeded. And even more striking, an attempt was made to draw the New

York Chief of Police—Colonel Arthur Woods—into the movement of helping the men adjust to the world again.

These varied activities and movements had their repercussion within the prison itself and led to changes in attitude that must be described as nothing short of what we popularly call conversion.

"I suddenly awoke to find that a new order of things had taken place. I did not welcome it and yet in a very short time the New Movement started to bear fruit in the form of ex-prisoners coming back to us with messages from the people outside the prison walls, messages that gave one hope for a new life, which consequently changed the very thought of the old prison. It affected me, I saw the possibilities of a clean honest life and happiness that I never knew and started to work for the movement. I was so carried away with what I saw and heard that for the first time in five years got up the courage and wrote home answering the question that they never dared ask.

"You may ask Mr. Osborne if it takes courage to write one's Mother, and say 'That her boy has promised to act right, think right, and become the good citizen she has always hoped and prayed he would be.'

"Should you ask that question, I would answer 'under conditions that existed for the last two years of my incarceration, the man that denies his loved ones that bit of consolation is not worthy of being called the son of any one. While under the old system, as I knew it, the very thought that some day some one was going to pay gave one the fortitude to live on in silence."

An equally significant and even more striking illustration of what was happening is the following letter from a Sing Sing prisoner to one recently released:

Dear old ——:

Your dandy letter received this a.m. I was so pleased with it that I phoned up to Dr. Glueck and asked him if I could bring your letter. He said to come ahead and when I got there he was with Timmy and Dr. Barry. They all read it and was more than pleased. In fact, one would think from their expressions that you was a sort of a son of one of the nobility or a son of our President. The fact of the matter is that we all know that one of the best dips in the country *is going straight.* You never had a chance. Now you have a great one and YOU WILL MAKE GOOD. The hell with Kelly. Keep away now from that kind of a mob looking for him. You have a brain, now use it in the right way. If you fall down, the hell with you. Here you are 36 years of age, $1000 a year, the whole world before you, the scum behind. In five years you will be a $10,000 man and good, square, dough too. You ought to have seen the glow on Dr. Glueck's face this morning when he was reading your letter. The only remark he made was, "—— will make good." He has faith in you and now I feel as though you are more than a brother to me, ——, son don't be angry and think, well, —— ought to 'practice what he preaches.' I am sincere, you and your chance now means a great deal to all the Hebrews not only doing time here but all over the U. S. I mean this—if you fall down, it will discourage your benefactors even more than you imagine.

Your luck is our luck, your success will be ours, we, your friends in stir wish you all the luck you wish yourself, and in doing that we are wishing ourselves luck. The pictures will be done for you shortly. At present I am knocking out a few dollars doing Christmas cards and designs for outsiders. As soon as I get a chance I will do some nice things for your room. In a few months we will be writing your ROOMS or your APARTMENTS. Glad you received the bum dough o.k. Let me know if you want any more. If only you know how much depended on you now! Well, ——, I want you to know that my heart is in this letter. I know you have the right stuff in you. Now let some of it come out. Work hard, keep regular hours, and above all know that you are in the minds of some wonderful people who will help us through your success. God bless you.

A year had rolled around and the prisoners decided to celebrate the first anniversary of Osborne's coming. The following condensed newspaper report is sufficient evidence of what the year had meant to the men in Sing Sing:

" 'Tom Brown Day,' the first anniversary of the coming to Sing Sing Prison as Warden of Thomas M. Osborne, was celebrated today. For twelve minutes the prisoners cheered him and shouted their good wishes.

" 'Good old Tom Brown!' they shouted again and again."

The sports lasted until supper time, and there were many kinds of events including a greased pig hunt, the greased pole, the three-legged race, and the fifty-yard dash.

It is difficult to attempt a measure of the achievements of these activities in detail. One can only describe what took place and suggest some of the personal and general results that were obvious to all observers. Two specific measures there may be had: the record of fighting within the prison and the amount of insanity. On both of these counts there was a great reduction in violence as well as in mental distortion. In the case of injuries resulting from fights that were sufficiently serious to require hospital treatment, there was a drop of cases as compared with the previous of over 60 per cent. In the case of insanity the record is even more remarkable in spite of an increasing prison population and therefore greater crowding. The number of men transferred for insanity to the Dannemora State Hospital was reduced by one-half. The following table will give the record:

Year	Prison Population	Number Transferred As Insane
1912	1,488	32
1913	1,442	48
1914	1,446	27
1915	5,401	19

A similar record was made for escapes. In the first thirteen months of Osborne's administration there were three escapes. For the years previous: there were ten escapes in 1913, six in 1912, four in 1911, seventeen in 1910, and nineteen in 1909.

The Bureau of Municipal Research of New York City, in summarizing its investigation of Sing Sing, stated the situation as follows:

"It is . . . profoundly interesting to find that the first and greatest reason given by the convicts for their loyalty to the League is the opportunity that it confers upon them to express themselves in action, and the responsibilities which go with their new privileges. . . . In the League they step back into democracy and feel themselves to be self-determining units."

And it was of this same prison that two years earlier Frank Marshal White had written:

"The fact is that the prison edifice on the Hudson at Ossining is so many square feet of hell on earth. . . . Last year one man in each ninety-five in Sing Sing went mad."

Edwin Markham expressed the esteem and appreciation of Osborne's friends and admirers in and out of prison when he wrote:

Our Believing Thomas

For years the brute they saw,
Only the fang and claw,
At Ossining.
The lash, the chain, the cell;
The dark, lone, silent hell—
Only the crime, the misery, the shame,
Were there before believing Thomas came
To Ossining.

But now the man they seek,
Now to the spirit speak,
At Ossining.
The patience and the trust;
The inward voice "Thou must!"
The kindly word instead of iron blame—
These rule since our believing Thomas came
To Ossining.

Yes, now the man they find,
And with affection blind,
At Ossining.
And there a brother-band
Holds up both heart and hand;
And justice too that in Love's working name
Dwells there since our believing Thomas came
To Ossining.

No man has lost his chance
To conquer circumstance
At Ossining.
"Fling the dead Past away:
We stand upon Today!"
This was the faith that leaped to living flame
In that great hour believing Thomas came
To Ossining.

Honor the dare and deed
That sow the golden seed,
At Ossining.
Where each one has a friend
Unfailing to the end—
A father and friend that every man may claim
Since our beloved, believing Thomas came
To Ossining.

10

DEMOCRACY

SING SING prison, it is clear enough, has become a community. A community behind prison walls, guarded by armed guards, but yet a community with the problems, the needs, the conflict of motive and ambition, that is, the essence of community life. That such a development should be possible within the confines of a prison is an interesting and significant fact. Why and how it was possible becomes a matter of deepest interest. In this chapter we propose to undertake an examination and description of the forces that underlay the growth of community activity in Sing Sing.

To begin with, a prison is an isolated world set off and apart from the rest of society. Entrance and exit are both sharply restricted. No one may enter the community except by command of the courts, and no one may leave except as his time has expired. In other words, a prison is a selected community—composed of men who have been differentiated from their fellows by some reason of ill-will or mishap, by some freak of fortune or some act of violence. The prisoners are, therefore, outcasts from society.

These outcasts are, however, human beings possessed of all the demands, needs and possibilities of human beings. Being a criminal does not deprive one of the basic characteristics of human beings—the hunger, the appetites, the whims, the prejudices, the sorrows, and the joys of men. The prisoners differ from each other as sharply as other men differ in their needs

and in their possibilities. The point of interest is that the difference which has made convicts of them is not a basic difference—they do not cease being able to respond to the ordinary impulses that dominate and direct the activity of men outside of prison. It is doubtful whether, taken on the average, apart from the acts that made them criminals, and the possible exaggeration of certain impulses, the criminals differ as much from the men in the street as they differ from each other. This is merely to say that the prison consists of a group of artificially selected men who are capable of behaving as other men would under the same circumstances.

The simple recognition of this fact makes what happened at Sing Sing an ordinary and understandable by-product of a new set of stimuli and new activity. If it were not that, it would not be ordinary, but extraordinary; it would belong to the field of magic. What Osborne did was to accept the prisoners as one might accept ordinary men and to treat them as such. This, of course, distinguishes Osborne's work from the usual method of penal administration. The way of the old order in prison is based on the assumption that convicts are different from ordinary human beings, and that they cannot be treated as ordinary human beings would be under the same circumstances. Osborne repudiated this doctrine and the results justified his faith in the common human nature of the men in prison. Osborne himself expressed this general point of view by saying "I have often said . . . that there was more human nature in Sing Sing than in any other place that I knew, and that was because human nature expressed itself naturally under these conditions."

Osborne said human nature expressed itself naturally under prison conditions. Under what conditions? What are the special conditions that bring—if you will—a greater naturalness to the activity of men in prison if given freedom to express themselves? This makes necessary an analysis and description of the special character of the prison community. The first condition, of course, is the isolation of the population. Its contacts are sharply confined within the walls of the prison. It is something like a little remote community that has no egress to the larger world and tends to feed on its own doings. That is important in many ways. It is especially important in shaping public opinion within the prison. All that happens within the prison is of immediate and direct concern to all of the prisoners because the small size of the community and its isolation make every word and every act reverberate within the wall and touch the lives of all the men.

That makes all talk-gossip, scandal, gesture, and social pressure a matter of the greatest significance. Perhaps nowhere else in the world is there a place where gossip-talk, public opinion, makes itself felt more than in the prison. It is that which has made the unruly prisoner under the old régime the hero of the prison. It is that which, if it can be harnessed as it was under the Mutual Welfare League, makes social behavior a demand of the prison community.

This pressure of isolation, this compulsion to feed on itself which isolation imposes, is made the more insistent by the great physical proximity in which the prisoners are compelled to live. There is, practically speaking, no privacy in the prison. Men are herded like sheep. The prison structure—with its little cells opening on a long and wide corridor—makes every sound and every movement matters of public knowledge to the other men. One cannot walk in his cell, one cannot talk or whisper, one cannot cough or sigh, without impinging on the personality of other prisoners—every gesture, almost every movement of the body, is a communicating agency, a public demonstration of character, of strength or weakness, of good or bad faith. There are no secrets in the prison, from the prisoners. There may be, and there are, secrets from the officials, but not from the prisoners. Add to this the fact that the little cells are often occupied by two, and sometimes by three, men and you have a picture that indicates the closeness of physical association. Men eat, sleep, work, play, laugh, and weep, and attend to the needs of nature, all in each other's presence. What secrets there may be between them must be so deeply hidden as to make no physical imprint upon the behavior of the individuals involved.

Under such conditions of close physical proximity, the pressure for socialized action is almost inescapable. One must conform if one is to continue living. The irritating elements in human nature must be and are submerged, or the end is war.

The psychological impact of this close physical proximity is heightened by the curious equalitarianism of the prison. There is perhaps no community of men whose life is poorer, more drab, and less tinged with color and interest in the whole wide world. There is, however, no other community where men live on such a plane of equality. They have nothing to distinguish them. They all occupy similar cells, wear the same type of clothing, eat the same food, sit at the same tables with the same people day in and day out for years, rise at the same hour in the morning, retire the same time at night, are watched by the same keepers, and governed by the same rules; there is no distinction between them. Life holds little, but what it does hold they all share. The physical proximity and the equal drabness of their lives, the confined surroundings in which they live, and the insistent importance of little things—for there are no big ones—give them a unity of interest that is not to be duplicated in the outside world. If anywhere, it seems to be true here, that "the interest of one is the concern of all."

In addition to the equalitarianism which rules their lives, there is the striking fact of lack of conflict for a living. Here men do not have to compete for worldly goods. There is no fear of tomorrow. There is no fear of hunger, of cold, or of lack of shelter. All of their physical needs are provided for. Men need not struggle and strive to earn a penny; there is no compulsion to develop that niggardliness, that stinginess, that caution, and the guile which men in the outside world so often display in conquering a place of economic security for themselves. Here the days run on without strife, without economic worry, and without fear of an anxiety for daily bread. What they have is little enough, but they have it given them without the asking. It is one case where men need not live by the sweat of their brow. This lack of conflict means a certain sociability and a certain ease; men can share the little things they have.

They may be said to enjoy their poverty in common. But all of this simply goes to make the prison into a community where a common rule for the common good becomes easy rather than hard to apply, and where public opinion can easily be on the side of the common needs. They are so closely bound together in their desperate poverty, isolation, and their physical proximity that transgression against the group is automatically punished as if by an irresistible judgment. It is this that explains the common hatred of the stool-pigeon, the snitch, and the tale-bearer. He is the recognized enemy of the community and of every member within the community. That is, after all, the essence of public judgment.

Again there is the fact that all of the men within the prison are governed by the same authority. And this authority is direct, immediate, imperative, and inescapable. The Warden and his guards rule the lives of the men, not in the indirect distant manner of government in the outside world, but directly and physically. That gives the prisoners a common center upon which to pin their affection or their hatred. Their lives are so pivoted that all that takes place is traceable to the direct authority that is constantly impinging upon their personality. The food they eat, the clothes they wear, the rules they live by, the little pleasures they may be denied or granted, the indignities and abuse they suffer, and the cruelties they are made to endure, all visibly emanate from the same immediate and obvious source. It gives the prison community a definite object on which to hang its hopes and upon which to visit its hatred. The warden is the all-mighty. From him all pleasures and benefits, and all ills and sorrows are derived. Given the intensity of the situation, the men are inclined to credit the warden even with things for which he is not responsible. A man stabbed in the back for a personal grudge may easily convert the occasion into a hatred of the Warden by assuming and believing that the Warden instigated the act—especially if he has some imaginary reason to believe himself an object of suspicion and fear by the authorities. All of this only goes to unite the community in its attitudes and beliefs. If these forces

can be harnessed to the common good, it becomes easy rather than difficult to convert the prison into a community. It has many of the elements that make community life a real possibility.

One of these elements is but the converse of the lack of competitive effort. Men have no occasion in prison to work for their own selfish interests to the same extent that they have in the outside world. That merely gives them time to work for the interests of the group if such work is made available. True enough, men seek activity and occupation, men keep busy if they are alive, and the things they keep busy at are the things of which their group approves. This is true in prison, even more than out, because the group is so intensely inter-related. That makes the individual who runs the gauntlet of official disfavor to achieve popularity—or still better, the man who expresses the resistance of the group by running against official disfavor and thus achieves popularity—the very same person who is converted into the best servant of the community. That explains why the leaders of the "rough necks" in Auburn and Sing Sing became, one might almost say, great popular leaders for the common good. They were the incorrigible ones under the old system. They became the moral and physical agents of community life under a changed system of rules. The reasons that made leaders of them in one case were the same that made them leaders in the other. What had changed was the situation. Activity led through different channels to different ends. The individuals were the same. That is true of such men as Canada Blackie.

One other element needs to be mentioned. Much of the prison population has been reared in a world of conflict and passion, of fear and hatred. But, by the same token, it has been reared in a world of simple gang-loyalty. Organized crime would be impossible without gang-loyalty. Not merely the activities of criminals, not merely their safety from the police, not merely their liberty, but also their very life depends upon the loyalty of the small gang with which they live. Like soldiers at war—and the criminal may be described as warring

on society—they look upon treason to the enemy as the greatest of crimes. Honesty among thieves is thus no idle virtue. It is a rule of life for it is the one means to life. Without it the very existence of criminal gangs would be impossible. "The ethics of my profession," said one prisoner to Mr. Osborne "are based upon the rule that you must never squeal upon a pal."

The import of all this for our purpose is simple enough. The men bring these habits and interests to the prison with them. While it is true that not all criminals have this basis of their existence, it is still true that many have it and that the worst criminals from the point of view of society are frequently those whose sense of loyalty to their group is greatest. It is the reason why men done to death frequently refuse to tell upon their aggressors, for the police are looked upon as the common enemy. It was the essence of this common gang-loyalty and common distrust of the community at large that led one widely known New York gangster, when in a dying condition in a New York City hospital, to reply, when the police asked for his attackers: "If I die, I will forgive them. If I live, I will get them." In short, there are men in prison who are imbued with the capacity to trust and be trusted. If this can be harnessed to the prison community—and Osborne has shown that it can be—there is here a real leaven for community government and community responsibility.

Government

The process by which Osborne harnessed these factors within the prison and placed them at the service of community organization has already been indicated. He did it, first, by capturing the imagination of the prison population in Auburn by his week of voluntary confinement. He did it, secondly, by winning the affection and the confidence of the men. His going into the prison was a dramatic gesture. It was, however, more than that. It was faith. Osborne believed in the common humanity of men and lived up to that faith. The incidents in the process need not be described again. What he succeeded in doing was to awaken within the prisoners a readiness to play a new game within the prison walls.

The resulting machinery with which the new game was to be played proved simple enough. A general election—with the shops as an electoral district—gave the basis for a constitutional convention. This constitutional convention, representing all of the prisoners in Auburn prison, after long and detailed discussion of the problems and difficulties involved, and of the prejudices that needed to be overcome and the machinery that needed to be devised, set up a system of government. This system of government again was simple. At its base was the insistence that all men within the prison, regardless of their record, should be taken into the prison community on an equal footing. All the records of past conduct within the prison were to be disregarded, as the prisoners refused to recognize the moral worth of the judgment imposed by the prison authorities.

Secondly, the shop which had been the basis for the election of the delegates to the constitutional convention continued as the base for the electoral unit of government. The delegates, roughly speaking two men for each shop or company, were to be popularly elected, subject to recall by a majority of the men, and voting was to be universal for all of the men who first agreed to become citizens of the community, and practically all did. These elected delegates thus became the government of the prison community. In case of great crisis or broad decision, general meetings were held for free and public discussion of the basic principles and rules involved. Thirdly, the Board of Delegates, as the governing body was called, elected from among its members an executive board of nine that was in direct charge of the activities of the community. This executive board in turn selected a Sergeant-at-Arms who was given the freedom to select his own deputies and who assumed responsibility for discipline and order. The Sergeant-at-Arms was, of course, removable by the executive board; the executive board was, in turn, removable by the board of delegates, and the delegates themselves were not only subject to recall by their constituents, but subject to removal by the governing body of the prison. The whole machinery of the

government had to stand the test of popular approval at regular elections.

The executive board also set up judicial machinery for the handling of disciplinary cases as they arose within the prison. In essence, this system of government first developed in Auburn and later was copied at Sing Sing and still later at Portsmouth Naval Prison. In each case, minor changes were made to meet the special conditions that prevailed in these different institutions and to meet the needs that experience made insistent.

Such machinery as we have described is, after all, very simple. It had, and must have, the consent and approval of the men if it is to work with any degree of effectiveness. It must, beyond any suspicion of a doubt, be above-board and honest. There must be no interference in the choice of delegates or in the selection of the executive and administrative agencies. Differences of opinion between the Warden and the community must be thrashed out in the open. The Warden must accept the judgment of the men. He may, and Osborne did, hold the men to high standards by insisting that the men must select inmates whom they trusted, but at the same time inmates whom he could trust. With this as a basis of common confidence and understanding, and with the machinery we have indicated, the work done in the three prisons was carried out. The structure we have sketched was, after all, only a skeleton. This skeleton took on form and content from the things it did and the responsibilities it assumed. What it did and how it did it we will now proceed to discuss and describe. The executive board and the courts were the basic institutions of this prison democracy.

The Executive Board

The Executive Board of nine prisoners who were elected to office by the board of delegates became the real power of government within the prison community. We have already indicated that this board appointed the Sergeant-at-Arms. That was perhaps its most important function, as upon the character and ability of the Sergeant-at-Arms depended the effective dis-

cipline of the community. But that, after all, was only one of its many and important functions. It appointed all committees and designated their chairmen. It received the reports of these committees, removed and replaced members upon them. It ordered and supervised special elections in the different shops, and this was an office of considerable importance. The release, transfer, resignation, recall, or suspension of a delegate left a shop without representation in the board of delegates. To fill this gap it was essential to call for and supervise a special election. It acted upon recalls and upon occasion declared such demands for recall ineffective for lack of sufficient signatures. In one case it declared an election in the hospital company illegal because one prisoner was denied his vote. It must be remembered that all changes made were with the consent of the authorities and that the special committees appointed were for the purpose of consulting the Warden, Principal Keeper, or some other official.

The special committees that the executive committee in Auburn appointed at different times were, among others, the following: a committee on spoons in the gravy bowls; on enameling the buckets; on hair clippers; on mail distribution; on the rule that a man writing a letter for another had to give his own as well as the name of the man for whom the letter was composed; on wash kits, and on washing state sheets every two weeks; on request of an idle company that wanted to break stone; on request of the Machine Shop company for the removal of a certain prisoner; on broken buckets; on a special entertainment for the mayors who were to visit the prison; on request that the doctor examine all the men in the idle companies and remove those that were ill to the invalid company and put the others to work; on request that deputy rearrange work so as to make it more instructive and useful; on cleanliness of the cots; on individual shaving cups for all shops; on method of serving food in invalid companies; on burned-out electric lights; on substitution of agate cups for tin cups; on appropriate music for all occasions; on new razors for cloth shop; on special shoes for foundry men; on securing hot food

in dining room; on seeing doctor in regard to a certain prisoner; on question of feeding the men working at night; on mittens for men working on the outside; on request that pillow cases and bed sheets be numbered so that each man will receive his own again from the laundry; on request that ill prisoners be moved from their cells to the cots; on request of invalid company that wished their cells painted and cleaned; on repairs in galleries; on suggestion that a sink large enough to accommodate twelve men be placed in kitchen; on underwear for men who really need it—especially those working outside; on request that light be installed in cane and broom shops; on old clothes for working men; on suggestion that barber shop be built in lower furniture shop; on aprons for men in chair and broom shops; on permission to raise a fund to hire a lawyer; on suggestion that a window be cut in back of chapel; on complaint against certain prisoner; on giving show to officers and friends; on suggestion that members of Lower Form have reasons for removing delegate explained to them; on socks for men in foundry; on raising fund for cork leg for a guard.

These are but a few of the great variety of activities for which special committees had to be appointed, consultations had with officials, resolutions taken, reports made, and action recorded. It was government by discussion, consultation, and compromise.

Of a somewhat different type were certain activities of investigation which the executive board developed. In addition to the appointment of the court and the appointment of the Sergeant-at-Arms, the executive committee in Auburn undertook to investigate conditions in companies upon receiving information that trouble was brewing. Thus in the case of coal-heavers' company, the Bulletin printed by the prisoners reports that "A motion was made and seconded to call the members of the coal-heavers company together to discuss conditions in that company. The members of the executive committee called the company together and after listening to the discussion on the part of several members of the company recommended the removal of Brother W. in the interest of peace and harmony. It

also extended to Captain Kling a vote of thanks for what he is doing for the League."

Similar action was at different times taken in the Weave Shop, the Cloth Shop, the Cabinet Shop, the Bake Shop, as well as in others. An extension of these activities and influences may be seen in the request by the Principal Keeper to the executive board that it inform the men in Captain Shoemaker's Company that he intended to put them to work and that he expected them to meet him half way. The clerk was asked to carry the message to the company and brought back the news that "The men promised to do what was right." Still more interesting perhaps of the range of activities that was developed through the agency of self-government was the request by the executive board that the Warden appoint a committee of five officers to meet with a committee of five members of the Executive Board to discuss the conditions in the prison. We have perhaps already overburdened the reader with too much detail of the activities by the executive board of the prisoners' organization. On the other hand, it is these activities and their range that indicate the vitality and the significance of the institution that had developed.

The Courts

Next in importance to the Executive Board came the Courts. These were best developed in Sing Sing and may serve as a model. The courts proved most important because they directly determined the nature of the cases that were to be disciplined and the form that discipline was to assume. The basic problem of a prison—beyond and above all others—is the problem of discipline. It is there that the greatest difficulties lie and it is the handling of the discipline that determines the character of the prison administration. It sets the tone—the mode. It creates the atmosphere and gives the institution its morale. The courts therefore were pivotal and upon their success or failure depended the success or failure of the whole scheme of community organization. Unless the prison community accepted the prison judicial machinery in good faith, as an agency of justice, nothing was possible. This simple fact

arises from the fundamental truth expressed by one of the prisoners when he said: "Men, all men, detest and deplore hypocrisy and deceit even though they be men whom the law has found necessary to stigmatize with the name of felon. Truth and justice, after all, will appeal as strongly to men in prison as to those who never had the misfortune to be sequestered within prison walls." It was upon the acceptance by the prisoners of the justice and honesty of their own judicial machinery that the whole scheme was made to rest.

In Sing Sing the inmate court was composed of five judges, appointed by the executive board for five months each, one being appointed each month with no right of immediate reappointment. There is at least one case of a prisoner who refused to serve as judge. O. K. P. C. resigned soon after his appointment saying: "After forty-seven years of being judged I cannot judge others and order them punished." To this court which met every afternoon after work were brought all cases of breach of discipline that arose in the prison. The court met in the chapel and was open to the public, that is, to the prison community and to visitors from the outside. The cases were prepared in advance and the Sergeant-at-Arms brought the defendants and the witnesses before the bar. There were no lawyers, no prosecuting attorneys, no legal formula, and no precedents. The plaintiff—either a guard, but frequently a delegate, or a sergeant, or a prisoner—would state his case. The defendant would then be asked for his side and examined. The witnesses would be examined by the judges. Everything was direct, simple, and to the point. One day a judge from Brooklyn, after watching the proceedings of the Sing Sing courts remarked to one of the inmates: "I was very much interested to notice that apparently you have no code of law and no rules of procedure." The prisoner replied: "No, your honor. In this court we try to manage things by common sense." The decision, when rendered, was subject to appeal. The appeal might be made by the state, i.e., the Warden's representative, the community, through the Sergeant who was compelled to maintain the dignity of his position, the accuser,

the defendant, any one of the witnesses, or even by any one of the spectators. Any one who felt that justice had not been done was free to appeal the case to the Warden's court, which was composed of the Warden, the Principal Keeper, and the Doctor. This, like the inmate court, was held in the chapel, and was open to the public. The judges who had presided in the inmate court were there to explain and defend their decision; the other participants were present as they were concerned in the outcome. The public was always there. There were always anywhere from two to three hundred men present during the court sessions. In a case of interest, many more would appear to see the case tried. That is, the community participated in the court procedure and in its own way passed judgment on each participant and upon the court's justice. It automatically made the problem of discipline a matter of broad public activity and public concern. The visitors were often friends of the participants on one or the other side of the case. But frequently they were also simply interested members of the community. As one prisoner remarked: "It is the best show in town." The prisoners in the case revealed their character to the world and the world passed judgment upon them. A breach of the rules instead of being, as it was in the past, a private matter between the offender and the prison officials, now became a matter between the offender and the community, with the prisoners' law-enforcing machinery and the prisoners' court representing the opinion of the community at large.

When appealed, the cases served many useful purposes. Appeal gave the culprit a sense that he had had a fair trial. It compelled the judges to defend their decision in public before the Warden and before the community on grounds that would appeal to both; the interests of the Warden and the prison community thus united against the law-breaker. It gave the Warden an opportunity to know what was going on and an opportunity to lay down fundamental rules of policy which should govern not only the action of the prisoners but of the law-enforcing machinery. And it compelled the Warden to behave in a manner which the prison community would recognize as

just and fair. More important than that, it removed the Warden from being the direct source of discipline and turned the sense of grievance against the court and the inmates' police, instead of focusing it upon the Warden. The importance of this can hardly be overemphasized. The Warden stepped in between the irate community and its victim and pleaded for justice to the culprit. The Warden could thus act in public as the friend and defender of the aggrieved. It automatically changed the position of the Warden in relation to the problem of discipline. It made his authority no less. It made it more pervading, but changed the plane of his behavior from a secret, arbitrary, and personal infliction of punishment to one of a public defense of the broad interest of the community at large. The Warden *per se* thus came to stand for justice in the best sense of the word. The character of the inmate court at Sing Sing is indicated by the fact that the guards who at first demurred to testify before a group of prisoners and be examined by them, soon learned to defer to the judgment of the prisoners' court and to treat its members with deference and respect. That was a great moral victory for all concerned and was an unusual bit of evidence of the very real force for good discipline which these courts represented.

Sentence by the court involved suspension from the League for a greater or lesser period of time, depending on the nature of the charge. Suspension automatically removed the prisoner from the rights of citizenship within the prison community. These rights may be summarized here so as to give point to the power of the court. A member of the Mutual Welfare League had yard privileges after work and during the noon hour. He could also be out on Saturday afternoons and on Sundays and holidays. He could attend school, play what games he could in the yard, and attend the moving pictures or other entertainments. He had freedom to write all the letters he wanted. He could benefit from the change in the rules governing expenditure of money for purchase of things in the prison store. He was a member of the community with a right to vote. He walked to and from his work under the leadership

of his own elected delegates. He could be a candidate for office, he could vote, and he could be a member of a committee. He was free to mingle with others and to behave like any other human being within the confines of the prison.

The loss of citizenship automatically deprived him of these prerogatives. He thus reverted back to the status of an old-time prisoner with no rights except those that the men had previously enjoyed. He was automatically deprived of all yard privileges. He could attend no shows, play no games, and have no part in the free life of the community. In the morning, when the members of his company went to work with their own elected delegates in charge, he was marched behind by a prison keeper. A prison keeper called for him after work and took him to his cell, to be locked up while the rest of his friends stayed out in the yard. After supper, when the men were unlocked and let out of their cells to go to attend the various activities that had developed he was forced to stay locked up in his. On Saturdays and Sundays when he could hear the shouts and yells from the yard where the men were watching a baseball team he had to stay in his cell. And, worst of all, he did not get the sympathy of his companions. Instead of being a hero as was the case in the old days, he had become a nuisance. They said: "What is the matter with him anyway—the fool." One day a particularly rough gangster who had turned over a new leaf remarked to Osborne: "Say Warden if every one in this place was like you and me wouldn't this be a wonderful place to live in?" The way of the transgressor is hard indeed when there is no sympathy for him from his friends. Because it was his prison companions who had carried the charge through, the result was that the man was lonely indeed. It did not take long for a man to appeal for mercy. This led, especially in Auburn, to development of a parole board, with powers to recommend parole for the men to the executive board. And those found worthy were paroled, usually in charge of their company delegates. Osborne says that there was not a single record during his incumbency of Sing Sing, of a man appearing twice before the court, or of a man violating

the prison rules while under sentence and thus laying himself open to judgment, not by the court, but by the prison officials as of old.

It is interesting to examine the cases that came before the courts. These cases show clearly the basic problems of discipline that arise in the prison. There were brought before the courts cases of fighting, assault, refusal to work, writing licentious notes, licentious conduct, being outside the shop without permission, smoking at work, leaving place in mess hall without permission, spitting in chapel (the man explained that he had forgotten to rid himself of his chew of tobacco and did not know what to do), impertinence, making unmentionable remarks about the League, threatening to "kick the teeth out of the delegates," insolence to foremen, creating disturbance, shooting craps, using letter paper belonging to another, conduct unbecoming a member, conduct unbecoming a delegate, refusing to testify, lying to the court, threatening witnesses, fighting with dangerous weapon, smoking in line after bugle call. In addition to the ordinary discipline that we have already indicated, the court sometimes took different action. In one case it asked the doctor to examine the man because he appeared "simple," in another it made the same request to find out if the man was really unable to work. In some cases it asked the Deputy Warden to remove the man from a certain shop as he could not get along there. In one case it asked the warden to lock a man up and dispose of him as he saw fit. In one case it asked that certain two men should be kept separated at all times. In general, however, the ordinary punishment of suspension was sufficient to enforce the discipline of the court. A good contemporary description of the courts is the following.

"The dispatch and precision with which this court transacts its business is amazing. It is only a little less amazing when one reflects that two of the judges, at least, would be marked as able lawyers in any court room. Two of the number are life-termers; that is, they were exiled from society for murder. Another, perhaps the ablest lawyer in the prison . . . is serving a long period for grand larcency. One reports no more

than dispassionate facts in recording that the fairness, the force, the dignity, and the ability of this man's conduct of a trial would grace any bench. His sincerity is real.

"An Italian prisoner is brought to the bar. By the Warden's office and the Brotherhood's Sergeant-at-Arms the case has already been prepared. The judges, with a preliminary knowledge of the facts, examine the culprit. It appears that he refused to obey the morning summons of his keeper to leave his cell for work in his shop. Evidence shows that owing to some slip in the machinery he was practically without shoes; also that the keeper more or less approved of the prisoner's action as a means of attracting attention to his needs. Although his prosecution is not vigorously pressed, the man receives from the court a disciplinary, though sympathetic, verdict. And in a minority opinion one of the judges reprimands him for breaking the prison's fundamental law,—obedience,—whatever the circumstances and however condoned by authority.

"The shame-faced defendant, the sympathetic but stern-faced judges, the simple earnestness of the business, have banished every doubt of their genuineness. Whatever they may be, they are not mock courts in Sing Sing.

"On some days the appeal court meets in the same place. On this particular occasion, six cases are on the calendar. The Warden is the presiding judge, and on his right and left respectively sit the prison physician and the Principal Keeper. Delegates of the Brotherhood act as officers of the court. Transcribed proceedings of the trial court are in the hands of the appeal judges, and, in order, the appellant and a member of the trial court are heard.

"Of the six cases mentioned, it is worth noting that only two were appealed by the representative of the state. In one, the lower court's verdict was upheld, and in another decision was reserved, pending further consideration. The first case heard is typical of those in which the sentenced men appeal to the Warden's court on the ground that the judges have been too severe.

"Convict No. XX, one of the shoe-shop gang, is called to

the bar. He was found guilty, it appears, of stealing a bag of sugar from another prisoner, and sentenced by the trial court to thirty days' suspension from 'Grade A,' (prisoners with first class records and advantages thereof), and the privileges of the Brotherhood. He appealed to the Warden. 'My record is good, Warden,' he asserts, 'and I ask you to clear me of this stigma. It was not proved that I took the sugar, and I ask to be given the benefit of the doubt.' On cross-examination he tells this story:

" 'Another man took the sugar. He couldn't afford to be caught. The bag was passed to me. It was found on me. I am willing to take the responsibility, but the whole thing was a joke, anyway. There was no proof that I took the sugar, and I am entitled to the benefit of the doubt.'

"Opportunity was given the man to clear himself by divulging the name of the other convict. He declined to do so. One of the trial judges was called to review the findings. Clearly and dispassionately he covered the case. Complete proof had not been adduced, he said, but circumstantial evidence, which he sketched, laid on the defendant an overwhelming proof of guilt. He thought the verdict should stand. The prisoner appealed again and the Warden pondered. After conferring with his associates, he turned to the man at the bar. Like the big audience of convicts in the court room, the accused man waits intently. He might have been awaiting that verdict which shut him off from the world.

"Warden Osborne spoke sympathetically. He admitted the spirit of self-sacrifice which inspired the convict, if his story was true. But if he persisted in shielding his comrade he must be willing to bear the burden. The trial court was therefore upheld and the sentence stood.

"And so it went. Another convict came to the bar. This time the appeal was from the state. The man had been found guilty of fighting in his shop. He and his assailant had received the same sentence; thirty-five days' suspension from 'Grade A' and Brotherhood privileges. The representative of the state appealed for a distinction in the sentences against this

man for greater culpability. He was heard and his almost tearful description of the occurrence was convincing. The judge from the trial court ably reviewed the case. The Warden's court conferred and the state's appeal was refused. Again the Brotherhood's Court was upheld.

"Every man in the court room was convinced that all the evidence had been weighed without prejudice. The feeling in the court room was that everything was 'on the square.' The feeling throughout Sing Sing Prison today is that everything is 'on the square,' or rapidly approaching that condition."

Discipline

At best the human material in prison is recalcitrant. It does not bend easily. The criminal career tends to shape human habit in unsocial grooves and it is a herculean task to re-direct human energy and interest into newer channels, to supply new needs, new interests, new points of view. The old penal system does not attempt to do that. It accepts the criminal as he is, attempts to suppress his activities while in prison, and then returns him to the world to carry on with his past equipment, plus such by-products in hate and callousness as has accrued from confinement. The institution itself limits its own energies to governing the men without their consent and without their coöperation. In doing that, it builds a scheme of rule and law that, taken together, tend to suppress all natural activity on the part of the men within the prison. The reason for that lies in the disciplinary difficulties that the convict population represents. These difficulties arise from four major problems: violence, escapes, narcotics, and immorality. The way of the older prison is an attempted denial of all activity, all freedom, all easy access to other men. In suppression and isolation the old penal system seeks the means of obviating these difficulties.

Measured by its achievements, the older disciplinary rule of the prison stands condemned. There is no evidence that any prison has succeeded in eliminating violence, in preventing escapes, in stopping the flow of narcotics, in suppressing immorality. No honest survey of the American penal system but leads

to the conclusion that these evils flourish in all of our prisons to a greater or lesser extent. The ingenuity of the many hundreds of men in the prison circumvents the force and the intelligence of their guardians. The men caught are punished. The others play their game until caught, or if fortune favors them go uncaught and unpunished. All of the official rules and regulations, all of the brutality and all of the cruelty merely contribute to increasing hate, fear, and suspicion.

There is no prison in the country that has succeeded in stamping out recurrent violence. Every such institution has its fights, its deadly assaults, its occasional murder, its more or less perennial riot and incendiary fire. The prison is like a smouldering volcano that breaks forth at unexpected moments and in the most severely disciplined prisons the guards walk warily, for death may lurk in every shadow, violence in every hand. This was true in Sing Sing and in Auburn under the old system. It is true in every other prison. Monday mornings, after the men had been kept in their cells for twenty-four hours, there would always be a number of fights and stabbings. The frayed nerves of the men would lead them to easy anger and ready violence. An imaginary insult was enough to let murder stalk abroad. Not all the force of the prison administration succeeded in suppressing the latent violence within the prison community.

What is true of violence is true of escapes. What ingenuity has devised to prevent escapes other ingenuity has succeeded in circumventing. The high walls, the armed guards, the perpetual counting of the men, the steel cells, the searchlights at night, whatever has been invented to insure safety has everywhere, upon occasion, failed to prevent a man from fleeing from his guardians and to the convicts an escaped convict is a great hero. Every man in prison but dreams of the way to freedom, to life, and everywhere an occasional prisoner succeeds in making the dream come true. His success becomes a sort of vicarious fulfillment for the men confined and is usually followed by the greatest rejoicing. The men howl and yell, shout and screech, rattle their doors, and bang their buckets against

the floor. After a successful escape, the prison is like a mad house with a thousand raving maniacs. Here again no prison succeeds completely and finally. In spite of the severe punishments, in spite of extra sentences, in spite of all the force and rule, an occasional escape does occur in every prison.

What is true of violence and escapes is also true of narcotics. The prison community harbors within its gates a number of men addicted to drugs. Many of these have brought the habit with them. In addition, the monotonous life within the prison, the drab meaningless existence, leads others to acquire the habit. While the men within the prison are ordinarily denied the possession of money—although this is almost never successfully eliminated—their friends on the outside may, and frequently do, have the means to supply their most urgent needs. And so every prison administration is forced to keep constant vigil against a flow of drugs that seeps in by a thousand different channels. Drugs come into the prison fastened to the soles of new prisoners' shoes by strips of plaster, they come in hollowed-out bibles, in the binding of books, in emptied and refilled tubes of tooth paste, they are sent in under stamps, nailed under trucks that deliver coal or bring supplies, thrown over the walls, sewed into the clothing of arriving prisoners, brought in by guards, and at least upon one occasion drugs were sold by the prison doctor at Blackwells Island Penitentiary, who when caught in 1915 was sentenced to Sing Sing prison. The ingenuity of men is taxed to find means of supplying the needs of those who crave the drug. It is a simple statement of fact that these drugs find their way into every prison in lesser or greater amounts. No suppression, no watchfulness, no terror, has so far succeeded in completely ridding the prisons of this evil.

Just as in the case of drugs, so in the case of immorality. There is not a prison in the country that is free from that phenomena. Every prison has its perverts who ply their trade for profits—an extra bit of food, some little bit of sweets, a pack of tobacco. Any one of the little things that mean so much to the prisoners may, and do, become the means of satiating a perverted lust. The younger prisoners in all prisons become subject to amorous attentions, become the cause of jealousies, and occasionally of open warfare between prisoners. These are simple facts, known to all who are acquainted with the problems of penal administration. The unnatural life led by the prisoners stimulates unnatural practices. The prison administration, even where it attempts to suppress these evils, and it does not always do so, ordinarily fails. No amount of watching, no amount of punishment, is sufficient to wipe these practices from the prison completely.

It must be clear to the thoughtful reader that these various problems did not disappear from Sing Sing. The prison, even under the new administration, as was shown by the cases that came before the inmate courts, had all of these difficulties to deal with. It is a matter of grave doubt whether it is possible for any conceivable penal system to cleanse itself entirely. Sing Sing had its fights, its assaults, its narcotic smuggling, its cases of sodomy. That is true as a matter of simple record. Given the habits of life that some of the criminals herded within the prison bring with them, it is too much to expect a simple change in administration to work a miracle in human conduct.

While it is true that the evils persisted, a revolutionary change had been effected in the methods of dealing with them. Under the old system the entire population was suppressed in an attempt to prevent the individual from breaking the rules. Under community organization that developed in Sing Sing and Auburn, the individual was punished for his misbehavior without repressing the ordinary activities of the mass of the prison population. Under the old system the entire population was subjected to a rigid control for the sake of preventing the least stable elements in the population from breaking loose. Under the new system the individual was punished according to his deserts, without dehumanizing all of the convicts in the process.

A more significant change, however, was the machinery that had been developed in dealing with the individual evildoer. Instead of making each case of discipline an incident in

the conflict between the prisoners and the warden, the prison community took the burden of discipline into its own hands. This change, as we have already seen, led to a profoundly different attitude on the part of the prison community towards the evil-doer. It also led to a reduction of the number of violations of the rules, because many rules essential in an atmosphere of suppression disappeared. While the new life gave outlets for energy and activity in normal channels and lessened the burden of irritation and consequent conflict, what is important is the proof that it is not an essential of prison administration to suppress an entire population for the sake of dealing with the individual offender. It was also shown that these cases of individual discipline could be used as instruments of education for the entire prison community, both as a lesson in public morale and as a lesson in public administration. The inescapable evils of the prison were thus turned to good ends instead of merely serving as a contributory cause to increasing the seething discontent that always prevails in a suppressed prison community.

That the change in administration did as a matter of fact result in a changed point of view towards a violation of prison rules on the part of the inmates, has already been indicated. It may, however, not be out of place to give a few striking examples of just what the nature of this change implied. In Sing Sing, in one case when a man escaped, the Sergeant-at-Arms was the one who ran to the Warden and asked that the prison siren be blown. Later, after the excitement was over he puzzled to the Warden, and asked: "Is it true Warden that I asked you to blow the siren?" When told that it was, he said: "What in the world has come over me anyway. I would never have believed it possible that I should want to bring an escaping prisoner back." In another case the executive board offered a reward of a hundred dollars for the recapture of the man. In still another, fifteen prisoners, some of them lifers, asked and were given permission to go out with the guards to help find the prisoner. When he was brought back the prison rang with cheers. It was felt necessary to lock the man up to prevent his

being beaten up by the irate prisoners who felt that this man had, for his own selfish ends, endangered the rights of the entire community. In Auburn prison in September 1915 a half dozen prisoners manned the walls at night so that the guards could go home, and kept prisoners who had hidden out from getting over the walls. They did that for three nights in succession. One of the prisoners, in writing about it said that "We were pretty tired but are glad we done the job."

In the case of dope, an attempt was made to clean both Auburn and Sing Sing. The men realized that "doped" prisoners would make trouble. They knew how and by whom the dope was brought in. A little warning here and there—a threat of exposure—and deliberate searching of the right prisoners and their action proved more effective than all the work of the prison officials. In one case, three Sing Sing prisoners held up and searched a guard and took three bottles of whisky from him. They did not inform the Warden as to who the guard was, but told him that they had given him a warning. The warning did not prove effective and he was later discharged by the Warden. In their attack upon immorality, the prisoners in Sing Sing, in addition to the various athletic activities, in addition to watching over the younger prisoners and attempting to safeguard them, developed a swimming pool inside the walls from water drawn from the Hudson River, and as many as four hundred men could dive and bathe daily. The general theory was that strenuous exercise and physical health would reduce morbidity and vice.

An equally interesting example was the attitude towards theft. When a prisoner picked the pocket of a visitor in Auburn, the prisoners succeeded in securing a return of the money within three hours after it was taken and later in securing a public confession from the man and an apology for his conduct on the grounds that it was a discredit to the prison community to have such an occurrence take place. A similar incident in Sing Sing led to similar results. Only in this case Osborne had promised the man immunity if he would confess. But here the prisoners objected and there was a good deal of discussion by

the executive board as to whether it was "right" to let the man go unpunished. The ethics of the matter literally split the prison community between those who wished the man punished because he had brought discredit upon Sing Sing, and those who believed that the Warden's word ought to be kept and the man let go. The prisoner's place became so uncomfortable that he asked to be transferred to another prison. In one case where three men in Sing Sing were found drunk the Warden received a petition from eighteen prisoners to the effect that something drastic had better be done because the "enemies of the League were becoming too bold." As Osborne has said, the whisky drinking was not new, the dope was not new, the fighting was not new. What was new was the attitude of the prisoners in the face of these happenings. It was not the evils that were important, it was the use to which these evils were put that was important. We may bring this chapter to a close by a quotation from Osborne:

"Under the new system, a breach of the peace had become a violation of the prisoners' own rules; and they had become the law-enforcers. It was their duty to preserve order—to secure good discipline. As a consequence, public opinion in the prison no longer sympathized with the law-breaker; he was discredited, for he was endangering not only his own privileges but the privileges of the whole prison community. These criminals were actually learning obedience to law, by practicing it; and insisting that everyone should obey. The best test of the system came, therefore, not when everything was running smoothly, but when it was not. If the Sing Sing prisoners were so good that none ever disobeyed the rules, then the millenium had indeed arrived in that favored spot. But the millenium and the present state of human conduct are not corresponding terms, even outside a prison. When no violations of the rules were coming to the surface, then I felt like asking Figaro's immortal question: 'Who is it that is being fooled here?'

"Consequently when offenders were duly haled before the court in Sing Sing, I was satisfied that the law-enforcing machinery of the community was working; not perfectly, of course

—no use to expect perfection, but with reasonable and satisfactory efficiency. Such incidents were only evidence of the natural workings of the law-enforcing machinery of the community; they offered no serious obstacles to progress. The important question was whether there were any deep-seated causes of corruption which tended to make the machinery unfair or seriously imperfect in its working. To say that there were such, is to say that not only was the Sing Sing community Sing Sing, but it was human."

PART IV

MALICE

11

THE ATTACK

THE OSBORNE ADVENTURE in Sing Sing did not go unchallenged. In spite of the obvious good-will and good humor, in spite of the improved morale and better conduct, there were people here and there who demurred. The prison, they said, has lost its terrors. Sing Sing had become a "joy palace," the prisoners were being "coddled." The notion that habit is an outcome of practice, that people tend to become the things they do, that a changed attitude is best derived from changed activity, was outside the ken of Osborne's critics. This perhaps is not surprising. After all, bias against the criminal is saturated with the older beliefs in the efficacy of punishment, in the value of suffering as a means of atonement. Crime and sin are synonymous to the mass of people and the beliefs that the punishment of sin is death, "that the devil may be driven out by scorching the body," that "bad" men may be made "good" by punishment, that discipline is something external, that character is derived from formal doctrine, that terror and fear are the greatest means of deterring people from evil, and that the evil-doer must be made an example for the rest of society still play an important part in shaping our attitude towards the criminal.

For most of us criminal activity is not a behavior problem. Rather, criminals are "possessed of evil" and the evil must be driven out in some way. The dominance of this range of ideas made what Osborne was doing a matter of public scandal for some people. If criminals ceased being afraid of prison, crime

would increase, life and property would be endangered, and public morals would suffer.

To this background of prejudice and tradition was added a certain amount of scientific doubt as to the validity of Osborne's method. It must be remembered that between 1912 and the present there have been a number of conflicting theories of criminal activity and criminal character and that most of them regard criminal behavior as the result of inborn characteristics that do not lend themselves to "treatment." The bias of the Lombrosian doctrine—paraded under the imposing name of "Criminal Anthropology"—made the criminal a sort of atavistic throwback. He was possessed of criminal characteristics and could be identified as such. His career was innately determined by a hereditary taint. In 1912 this was still an imposing doctrine in this country and was seriously treated by scholars, scientists, and "criminologists." This general attitude was later fortified by the rapid growth of "Instinct Psychology" which led people to talk of the "instinctive criminal" with an ease and glibness that are difficult for one acquainted with contemporary work in the subject to understand.

To this was further added the rapid spread of the notion that criminals were imbeciles, morons, and generally possessed of a lower degree of intelligence than the rest of their fellows. It has only been within the last few years that this has been disproven. It has only recently been shown that, taken at their face value, intelligence tests applied under similar conditions show that, on the average, there is no substantial difference in the "intelligence" of criminals and of the community.

A further complicating theoretical and "scientific" opposition to Osborne's methods was derived from the rapid spread of Freudian psychology. People talked of "criminal complexes" as they had talked of "criminal instincts," hasty classifications of "psychopaths" and "psychopathic personality" were developed and applied to the criminal with an easy conscience and rapid generalization that were little less than amazing. The import of all this lies in the fact that Osborne lost much of his intellectual backing. If all of these theories were

true; if the mass of criminals was such because of their innate qualities, because of a hereditary taint, because of some "instinct," because of a lack of intelligence, because of some "complex," then all of Osborne's work was simply beside the point. In fact, one serious and widely used book in criminology, published in 1915, referred to Osborne as "an ignorant sentimentalist."

Although, since that time, there has been a large shift in point of view towards behavior and although most of the doctrines of "innate" determinants towards criminal conduct have been discarded, nevertheless they played a part in shaping public opinion towards Osborne and his work. A situation thus obtained where the "scientists," the "criminologists," and the "sociologists," were bolstering up the older beliefs derived from theological notions of sin. The fact that we now look at behavior in a very different light; the fact that we seek its origin in the habits derived from early experience, contacts, attitudes, beliefs, and practices; and the fact that habitual activity is now attributed to the impingement of the "group" upon the individual career in a much deeper and more detailed fashion than heretofore, merely make Osborne a forerunner in practical application of theories of human behavior that have won scientific acceptance. Osborne was thus some fifteen years ahead of his generation in the application of a practice for the purpose of changing conduct which is only now being given intellectual sanction. But all of these circumstances made Osborne's task more difficult than it would have been, and bolstered up an attack against his work and against him personally which would otherwise have been much more difficult to carry through.

This lack of intellectual support from the people who should have shown the greatest "scientific" interest in what, after all, was a remarkable experiment in the shaping of human behavior under the most difficult conditions, would not have been fatal if Osborne had had the moral and personal support of his superiors. It is perfectly clear from the record that Osborne's real difficulties came from the lack of backing from the

people who had appointed him to office. It has already been seen that he took the wardenship of Sing Sing with some misgivings. He was appointed by a Democratic governor who was leaving office, and with the publicly declared support of a Republican governor who was assuming office. It is not too much to say that, if Osborne had been a Republican instead of a Democrat, or if Whitman had been elected to the office of governor on the Democratic rather than the Republican ticket, Osborne's work would not have been hampered by the thousand, unnecessary, irritating incidents that occurred.

Unfortunately, the new governor of the State of New York was not only a Republican, while Osborne was a Democrat, but he was also a successful district attorney who had secured the governorship by the successful prosecution of a notorious and widely advertised crime for which he sent four men to the electric chair. He was also politically ambitious, not only for a second term of office but apparently also for a presidential nomination from his party. Being a successful district attorney need not make a man antagonistic to prison reform. But there is a quality of mind and temper that thrives upon prosecuting criminals and tends to make one doubtful of efforts to reform criminals. Acquaintance with too many criminals, concentration upon their unsocial careers, emphasis and over-emphasis for the sake of moral effect in court upon their worst qualities, does not dispose one to see the possible development of other characteristics in the men convicted of crime. With such a background, and with such ambitions, it was natural that Mr. Whitman should not relish the sight of Osborne, a Democrat, capturing the imagination of the public in the state of New York to such an extent that he was being talked of as a possible candidate for governor. It was perhaps logical that he should fail to receive from the governor the open and hearty support to which he was entitled. In any event, it is clear from the record that Osborne did not receive it.

The governor, according to Osborne, on various occasions made promises and failed to keep them. He said that he would not keep the then superintendent of prisons. He kept him.

He said that he would appoint a commission to investigate Sing Sing, and even suggested the names of such a commission—and when Osborne repeatedly asked for the appointment of the commission, the governor kept promising and failing to carry the promise into execution. When the vile personal charges were being prepared against Osborne, the governor ridiculed them, and when they were placed before the district attorney, the governor refused to appoint a commission on the grounds that he would be interfering with the courts. It is clear that, throughout the course of the attacks on Osborne, the governor did nothing to protect him and the impression went abroad that he abetted them. At least Osborne himself certainly came ultimately to believe that.

During the entire course of the nefarious scandal the governor could have stopped the whole procedure. He could have removed Osborne if he believed the charges. He could have removed the superintendent who was permitting the prison department to play an active part in collecting and preparing the scandal against Osborne. He did neither. The removal of Riley, the superintendent of prisons, would have automatically put an end to the prosecution of Osborne. The removal of Osborne would have made a "martyr of him," as Riley testified before the Grand Jury, and the governor did not wish to do that. So it is clear, at least, that whatever direct responsibility for the attempt to ruin Osborne may or may not attach to former Governor Whitman, indirectly the whole procedure would have been impossible if it had been known that the governor supported Osborne and would stand back of him.

This lack of support from the Governor of the state to which Osborne had a right and which he had been promised, proved the most serious item in the development of Osborne's program for the reconstruction of Sing Sing prison. With the lack of support known or assumed by the enemies that Osborne had made and was making in the course of his attempt to run an honest penal administration, the other factors in the situation were free to pursue their course in the hope that they would ultimately drive Osborne from office. They would drive him

in one way or another. First they attempted to do it by annoyances and hindrances, later by trying to trap him into compromising personal situations, by creating disturbances within the prison, and when all of these failed to force him from office, by an attack upon his personal character.

To follow and to understand the nature of these various attempts to force Osborne from office, one must understand something of the internal politics in Sing Sing prison. Sing Sing prison, as soon as a measure of self-government developed, divided itself into two sharply distinguished classes of prisoners—the "highbrows" and the "roughnecks." The first class always referred to themselves as first-timers and referred to the others as criminals. The roughnecks looked upon the "highbrows" with contempt and talked of them as "silk stockings." One roughneck, pointing to a conspicuous "highbrow," said one day to Osborne: "What in hell is that guy doin' in Sing Sing? He's had a fine family; he's had an education, plenty of money, and a good bringing up. He's had all the things us guys 've never had; and I would like to know what business he has in a place like this."

The roughnecks were the gangsters, the thiefs, the robbers, the stick-up men, the rough lot, thrown up mainly by city slums, who had lived by a rough and ready code, with little education and social contacts, their hand against every man's, with no loyalties except to their little gang. The silk stockings were the bankers, the lawyers, the well-to-do, the men of education and family who had found their way into prison. They were clean, intelligent, but with no loyalties within the prison and concerned with no one's welfare but their own. Between them and the roughnecks there was open hostility for the control of the prison. This was accentuated by the fact that, before Osborne came to the prison, the previous warden, in imitation of what had been done at Auburn, had given this group control over what inmate government had been set up and they had so stacked the cards as to keep the "roughnecks" out of power.

With Osborne's arrival things began to change. Democracy was what Osborne wanted for those who most needed the lesson in self-government and self-discipline. The result was that the high-brows gradually lost control of the prison inmate government and with it power and influence. They never forgave Osborne for that. In addition, the "first-timers," as they referred to themselves, got up or helped to get up a bill that would have cut their sentences in two. Osborne, because of a legislative trick which made the bill practically ineffective, refused to support it. The high-brows ever after that considered Osborne their enemy and blamed him for their failure to get out of prison under this bill. The result was that they became responsible in a large measure for collecting, framing, and organizing the affidavits which later led to Osborne's indictment.

What the high-brows thought of Osborne's attempt to make the whole population participate in the government of the prison is indicated by the following statements. Said an ex-banker: "He wanted . . . jail birds . . . he wanted criminals to run the Mutual Welfare League." Said another high-brow, "There is as big a difference between the first, and the second or third-timers as there is between the men outside and the men inside." Said an ex-lawyer doing time for grand larceny because he robbed one of his clients: "These fellows cannot govern themselves outside (the rough-necks), mostly professional criminals, how can they govern themselves inside?" Said an ex-congressman who tried to bribe his way to a judgeship: "One-third are in a fair condition to conduct themselves; but in Sing Sing the majority is unfit to govern themselves or anybody else." Said a former political boss in Brooklyn: "We held him in check. He was up against big men and he couldn't do as he pleased. In other words, we said: 'Osborne, we want you to do the right thing, or we will step out.' " It is clear what the situation was. The rough-necks referred to themselves as "honest crooks," the high-brows referred to them as *criminals* and to themselves as *first-offenders*. Osborne succeeded in antagonizing these last and they became the cat's paw in the drama that developed.

The Superintendent of Prisons

One factor in the attack on Thomas Mott Osborne was the Superintendent of Prisons, John B. Riley. He was suffering from cancer and, all through the period when he had difficulties with Osborne, was known to be a dying man. In fact Governor Whitman had used this as an excuse for not removing him from office. During the entire incumbency of Osborne at Sing Sing the Superintendent visited the prison only four times. Three of these were in connection with the meeting of the Parole Board. He came once again later, but no more. And this, in spite of the fact that he found time to visit all of the other prisons frequently. When in Sing Sing on these four visits he did not, except once, go down into the prison, nor did he discuss the prison and its problems with the warden. As Osborne says, he did not seem interested. In reviewing the correspondence between the superintendent and Osborne, one is struck with a certain peevishness on the part of the former, certain acrimony and bickering, a certain irritation that showed itself from the very beginning and continued with increasing intensity until it ended in a final break between the warden and his superior.

While he did not discuss the problems of the prison with Osborne in person, he poured a flood of correspondence upon Osborne, filled with petty details and bad temper. Within five days after Osborne took charge of Sing Sing, Riley wrote him about some statements that appeared in a New York paper saying, "that if you are going to be quoted, it will be safer to write out your own statements and insist that you be quoted correctly." Two weeks later: "You are quoted as saying that at least fifty per cent of the prisoners in Sing Sing have tuberculosis." A little later he urged upon him (Osborne) to avoid being misrepresented by the public press because the idea may gain ground "that commitment to state prison is not a serious matter after all." A little later: "I enclose a clipping . . . an effort should be made to prevent misconceptions of this kind." This type of criticism kept coming from the Superintendent's office in an unending stream. The reason for this bickering may perhaps he found in a statement by the superintendent

before the grand jury which later indicted Osborne, where he said: "He has created the impression among a large number of people that he is the whole thing—the greatest prison reformer of the age. He is making speeches . . . I suppose that these audiences hearing these speeches believe every word." Riley was ill, irritable, and seemingly jealous. Osborne was the "whole thing."

This type of criticism was followed in other matters. In the case of work being done by the prisoners, Riley wrote, on March 2, 1915: "It is gratifying . . . that the industries are making a better showing than at any time in recent years." A month later, on April 7, he said: "I am satisfied for the past year or more the inmates of Sing Sing have not rendered efficient service in any of the departments." Both of these statements could not be true. But they were both said in apparent equal seriousness.

What was true with publicity and work was true in other matters relating to Sing Sing. Osborne suggested the organization of a school for prison administrators at Sing Sing, and the superintendent replied that he could not consent unless "it should apply to all the prisons" and so nothing was done. When the question of Sunday baseball arose, the superintendent blew both hot and cold—objecting and agreeing, and finally saying "am disposed to defer to your judgment." Some newspaper published an item that there would be a prize fight in Sing Sing. No such prize fight had been arranged. It was just a news story. The superintendent immediately wrote: "I enclose clipping . . . I have prohibited it." The fact that no such prize fight had been arranged made no difference. Nor did the fact that a prize fight had actually been arranged and sanctioned by Riley's chief assistant when he was acting warden, just before Osborne took over the office, make any difference.

These bickerings and difficulties and the more serious ones that developed later came in part from the superintendent's illness and irritability. They came more largely from his lack of information, and later from the biased source of the information that he did receive. When asked by the grand jury

where he got his information, he said: "I think generally most of it came through persons in my office, the clerks." When pressed for a name, he said: "I am inclined to think—I wouldn't want to say—I am inclined to think—my confidential clerk, Mr. McDonald."

More serious than the bickering over publicity, baseball, and a school for prison officers, was that which developed over the question of transfers from Sing Sing. It was over this that the final break between the superintendent and the warden came to a head. To understand the problem involved, it is essential to remember that the cells in Sing Sing are only seven feet long, seven feet high, and three feet four inches wide. It had become necessary under Osborne's two predecessors to crowd two men into a number of these cells as the prison population was growing more rapidly than space could be provided. Some relief was had from the establishment of a dormitory, but even so the cells were not numerous enough to care for all of the prisoners individually. One of the requests made by the prisoners when Osborne first took office was that doubling up should be abolished. Osborne promised to do that. In an effort to abolish doubling up, Osborne prepared the second story of the Cart and Wagon Shop as a dormitory—it had been used for that purpose once before—and fitted it with a couple of hundred beds. But the superintendent refused permission for the use of this dormitory without assigning any reason for it.

The superintendent kept insisting that men be transferred from Sing Sing to other prisons so as to avoid doubling up. But that was obviously only an excuse. On the face of the record there was on the average a surplus population in Sing Sing of 168, in Auburn 113, in Clinton 227. In other words, Clinton prison, to which the men were to be transferred for punishment or, as the superintendent put it, "on account of discipline," was more crowded than Sing Sing. There was one prison, Great Meadows, which had on an average some 450 unused cells and which could have been employed to relieve the crowding in the other prisons. But the rules for the transfer of men to that prison were such as to make it impossible for the warden of Sing Sing to avail himself of this available space.

Other factors were involved. Men had previously been transferred from Sing Sing for disciplinary reasons. Under the Mutual Welfare League this became impossible. The whole structure of the League rested upon the accepted understanding that infractions of the rules within the prison would be punished by the prison community. It also rested upon the assumption that the prison officials would not punish the men a second time for the same offense. To have done that would have been to destroy the very foundation of the attempt at self-government. Transfer to Clinton Prison was therefore to be had only on grounds other than discipline. The superintendent refused to recognize this simple fact, in spite of his having permitted and allowed its development both in Sing Sing and in Auburn and in spite of his having made a speech at the opening of the Sing Sing Courts.

To make matters still worse, the warden was given little discretion in the matter of the men to be transferred. The lists were made up in Sing Sing, but when they returned from Albany numerous changes and substitutions were included so that no one knew who was to be transferred until the final list was actually returned from the superintendent's office. A further complicating factor was found in the fact that enemies of Osborne always managed, by fraud and forgery, to include in the lists some of the pivotal men in the shops. The transfers were therefore used to cripple the efficiency of the work in Sing Sing industries. Under the older system the transfers were simple enough, the warden would make up a list indiscriminately, except for the favorites, and have them sent away. But now an attempt was made to run the prison humanely. Transfer from Sing Sing was a serious hardship on many men. It is near New York where most of the Sing Sing prisoners come from, and an only son, a father of a family, especially if poor, would be deprived of visits if transferred up-state.

In spite of these numerous complicating factors, Osborne

actually transferred 737 prisoners between December 1st, 1914 and July 1st, 1915, or 262 more than during the same time in the year previous. In fact, he had transferred more prisoners than was necessary to take up the increase in admission to Sing Sing during the entire year—from October, 1914 to October, 1915. But the facts were beside the point. It was the temper of the situation that was important. Riley was trying to get Osborne out of office. As he admitted before the grand jury when this matter was under discussion—"I was afraid he wouldn't resign."

The correspondence gives the temper of the situation. On April 2, 1915, Riley wrote to Osborne: " . . . You will hereafter, without fail, comply with my orders for transfers, and I shall expect this to be done promptly without any change whatever being made in the lists I sent you." Three days later Osborne replied: "I think its severity is both unkind and uncalled for, unless you have so completely lost confidence in my judgment and ability that you believe me incapable of handling the problem in Sing Sing, in which case it is your obvious duty to remove me from office." This sort of correspondence went on from month to month. In July Riley wrote to Osborne: "I have never been able to understand your desire to retain in Sing Sing more men than can be housed without putting two men in a cell." Osborne replied: "Please let me reiterate that *I have no desire and never had such a desire.* No man could have stated more plainly his dislike for this outrageous practice than I. And why I should not have your coöperation in putting into operation the dormitory which has been provided to do away with this practice, I do not yet understand." Many months later, when testifying before the grand jury, Riley produced a complete file of his letters to Osborne, but failed to submit Osborne's answers. When pressed by one of the grand jurors as to whether he received answers to these letters, he said: "I can not recall, I do not remember, I am not sure."

During this period of controversy, Osborne had occasion to make a public address. Under the strain he let himself go and told the truth as to what was happening, and, as he himself said, told more than he intended to say. The press gave the speech full publicity. This led Superintendent Riley to issue a public statement condemning Osborne, in which he denied that Osborne had made any serious contributions to reforming Sing Sing and went on to say that Osborne "was urged to coöperate" in making up the drafts, but refused. He also said that there was no doubling up of men in Sing Sing when Osborne took charge of the prison. It will be recalled that one of the requests by the prisoners when Osborne first came there was that doubling up should be abolished. The statement can hardly be defended on any grounds. Osborne refused to enter into a public controversy with his superior officer. In reply to questions by reporters, he said: "If all the things that Riley says of me are true, why doesn't he investigate me? I am here to be investigated."

But nothing happened. The break between the warden and his immediate superior had become a public scandal and Osborne's enemies, with the coöperation of the office of the superintendent and with the knowledge and support of the superintendent himself, set out to drive Osborne from office. As one of the principal ring leaders in the conspiracy that later developed—an ex-banker—said: "If we can not get him one way, we will get him another." The governor did nothing. He promised to remove Riley and appoint George W. Kirchwey to the office. That much Osborne reports him to have said in the Warden's parlor in Sing Sing on July 7, 1915, when he visited the prison after the public scandal just detailed. But he did nothing.

With the open break between Osborne and Superintendent Riley the situation entered a new phase. Riley had failed to force Osborne's resignation. It was now attempted to drive him from office "one way or another." The source of these conspiracies was the "highbrows" who had a grudge against Osborne. They, with the coöperation of the superintendent's office and the superintendent's "Confidential Clerk," and of the superintendent himself, set about to make Osborne's continuance in office impossible. When they failed, they set out to

defame his personal character, and finally to secure an indictment against him. The center of the conspiracy came to be "Great Meadow Prison."

The dissatisfied prisoners, chiefly the leaders of the highbrows, were assembled there. If Osborne transferred one of them to Clinton prison, he was immediately re-transferred to Great Meadows. There they were given special privileges and under the leadership of the ex-banker, who was given an office and valet to shine his shoes and press his clothes, one discreditable attempt after another was hatched. Each new arrival from Sing Sing or Clinton who was known to be inimical to Osborne was visited by the superintendent's confidential clerk or by the superintendent himself and interviewed as to conditions in Sing Sing. The superintendent, instead of going to Sing Sing himself, chose instead to go for his information to the disgruntled men transferred to Great Meadows. Later, when the atmosphere cleared, the threads of the conspiracy gradually were gathered together.

The tale as revealed comes largely from the statements made by the men involved or from the minutes of the grand jury hearings that later were held. As soon as the ex-banker was transferred to Great Meadows, he received a visit from the superintendent and is reported to have said that "I have told him all about it . . . we are going after him and we are going to land him."

One way of landing him that suggested itself was to create a disturbance in Sing Sing. "You know," said one of the highbrows, "this man has a weakness for coming into the mess hall and talking to the mob; and if you can only get the mob to stamp and hoot him when he comes in, believe me, he will go back and pack up his grip and get back to Auburn as fast as he can make the dust fly." And so it was arranged. Two men who agreed to arrange to give Osborne "a hooting" were transferred to Sing Sing for that purpose. One of them later related that he was instructed "to jump around and get the boys prepared to give him a hooting," or be transferred to Clinton

prison where, according to the superintendent himself, prisoners were to be sent for "discipline."

The hooting did not come off, nor did a prepared riot for which a prisoner had been purposely transferred from Clinton prison. When he saw the conditions in Sing Sing, he felt that he would be "going back on his fellows" and refused to carry out his part of the bargain. When these attempts failed, others were resorted to. One of the prisoners working in the warden's office was offered ten dollars to steal the warden's engagement book so that they would be able to know when Osborne was at the prison and when he was away. That would have saved them from making serious flaws. The prisoner refused and told Osborne about it. The attempted theft was being engineered by an agent of the prison department. Nor was this all. A saloon keeper who had a place just outside of the state property was asked by an agent of the prison department, a man that he knew to be such, to arrange to entice some of the prisoners working on the road into his saloon and have some girls there in the back room so that photographs could be snapped of them. This saloon keeper, by the name of Philip Boaun, made a sworn statement which he turned over to Osborne. The statement says in part: "His intentions were to try and persuade me to have some girls get in touch with the convicts so that some one connected with the superintendent's office could watch what they would do." When the saloon keeper refused to be a party to this, he was later punished through local political connections in Ossining by having his mortgage foreclosed. When an attempt was made to save him, the mortgage company said that "he had made some powerful enemies" and nothing could be done for him. At the same time a prisoner named Paul Vogel—who was later to play an important rôle in the personal attack upon Osborne—sent up a request that he be allowed to play tennis on the warden's tennis court. His request was, of course, refused. But there are some grounds for believing that a picture was to be taken of this man on the tennis court for later use. When all of these failed, another attack was made.

Some prisoners were transferred to Sing Sing from Great Meadows and one of them, upon arrival, made an attempt to secure from the record clerk, who was a convict, the names of some of the wives of the prisoners visiting their husbands. The record clerk revealed the story, saying: "I may be a thief, Warden, but I don't know what I have done to make them think I would do any such dirty work as they want me to do." The story was simple enough. They were to get some of the wives of the prisoners to agree to testify that they were allowed to visit their husbands in the warden's house, and that the warden himself made improper advances to them. By agreement with some of the men Osborne could trust, a few names were given and the women were actually visited by a representative of the department. One of the women was later arraigned before the grand jury. At the same time one attempted escape, and one successful escape occurred. In both cases there is some evidence that the escapes were stimulated from the outside. That certainly was the belief among the prisoners. They felt that it was part of a scheme to discredit Osborne and destroy their liberties. When one of the men was brought back, the prisoners shouted and yelled with glee, and when he was brought into the cell block to be locked up that night they showed their feelings towards him by hooting, hissing, and catcalling. In fact, it seemed dangerous to keep the man in Sing Sing for fear that the angry prisoners would do him bodily harm.

One other incident in the attempt to drive Osborne from office needs to be related. Because of his opposition to the death penalty, Osborne had made it a habit to absent himself from Sing Sing on the day of an execution as a protest against the procedure, and also to escape the strain and nervous tension that always settles on a prison on such an occasion. The morning of July 30 was the time set for the execution of Charles Becker, the New York police lieutenant convicted by Whitman in connection with the killing of a New York gambler. The notoriety of the case and the struggle for life that had been put up for him had given the case a great deal of dramatic interest

and the day previous to the morning of the execution the prison swarmed with visitors, reporters, and the idle curious. As a precautionary measure Osborne issued an order that no one should be allowed within the prison without his personal written order. That night, when preparations for the electrocution were being made, when witnesses were arriving, when strangers hovered about the prison entrance, there arrived the "Confidential Agent" of the superintendent. He gave no indication of his purpose, made no requests, but just sat around the office waiting. To Osborne this seemed a curious and doubtful sign. What did he want? The "Confidential Agent" knew that Osborne ordinarily left before an execution, so he could not have come to see him. It was at night and the prisoners were all in their cells and locked up so he could have no ordinary reason for seeing any of them. The presence of the "Confidential Agent" against whom he had by now gathered a good many suspicions, decided Osborne not to leave Sing Sing for the night. There were too many goings-on to retire; there was the wife of Becker who had come to say her last good-bye to her husband to look after; there was the last word of parting with the prisoner for whom Osborne had come to have a good deal of respect; and that parting took place in the early dawn with the convicted man holding on to Osborne's hand as one does to a father's and pleading his innocence, but accepting death bravely enough—an innocence in which Osborne learned to believe as apparently others have as well; there was an executive board election taking place that night—a real political struggle within the board of delegates—that lasted on late into the night; there were the curious and the idle that swarmed through the night outside the prison; and finally there was "the Confidential Agent." After a long and hectic night Osborne sought some relief in the early dawn on the hillside and watched the sun rise and dance over the waters of the Hudson, while the birds sang a new dawn into a glorious morning, oblivious of the tragedy that was being enacted within the grim walls beneath.

After a sleepless night Osborne retired at six in the morning

to snatch a bit of rest. But he had no sooner fallen asleep than he was awakened by the insistence of "the Confidential Agent" for a pass into the prison. He had been permitted in once before that morning, the guard forgetting the order of the warden about not allowing any one in without such an order. While within the prison, and without saying anything to Osborne, he had gone to the principal keeper's office, and, without saying anything to him, had gotten the two clerks to make a complete sweep of all the papers on file, had bundled them into newspapers, and was prepared to carry them away. He had gone up to telephone for a taxi and, on trying to return again to collect his papers, the guard refused him admission.

It was this that led McDonald to awaken Osborne for his pass. Sleep was now impossible. What did he want anyway? Going out on the porch and settling down to breakfast with some friends he was soon disturbed by being handed a letter by a prisoner. This letter was from the superintendent and said that "I have directed my confidential agent to get possession of the orders on file so that they may be placed on file in this department." What orders? Rushing down to the prison he found that the confidential agent, without either the warden's or the principal keeper's knowledge, and with connivance of the two convict clerks, had carried off every scrap of paper on file there. Speeding down to the station with two friends, they found the confidential agent sitting on the platform with a bag between his feet—he had missed the train. The papers were recovered. Osborne made a copy of them—676 individual miscellaneous orders of all types and initialed by Osborne. He sent the copy of the papers to the superintendent with an offer to place the originals at his disposal if he wanted them. He also protested against what amounted to the theft of papers from a government office without the knowledge or consent of its responsible head, and without an opportunity to make a copy of the papers for file, or at least a record of them. To this protest Osborne never received an answer. What did they want them for? These slips of paper with Osborne's initials on them, and the diary which an attempt had been made to steal

before, would have made it easy to forge orders from Osborne for the passing of prisoners to the main office, and the diary would have saved them from making mistakes as to the dates when he was or was not present at Sing Sing. Osborne, at least, could never think of any other purpose that these purely administrative slips of a most miscellaneous sort, initialed by him, would have served. The extraction of the papers was well planned. If Osborne had gone away the night before the execution, as he ordinarily did, the attempt would have succeeded. But the Confidential Agent's early arrival was one of the reasons which kept Osborne at the prison and caused the attempt to fail.

These underhand attacks upon Osborne had dragged through from April to the end of July. However, as things then stood, Osborne had won. All of the attempts to force him to resign had failed. The overruling of his authority by the superintendent, the attempt to stage a riot, the attempt to secure photographs of prisoners and women, the attempt to secure women visitors to make charges against the warden, even the stimulated escapes, had all failed to force his resignation. While all of this was going on, the prisoners who knew of every move and were cognizant that Osborne was fighting their battle as well as his, carried on the administration of Sing Sing with a degree of good-will and coöperation that left nothing to be asked. They were doing their part. Osborne's difficulties came not from the prisoners but from the outside. But for the present, at least, he had apparently won. In the meantime support was gathering from outsiders who became interested in the attempt to make a prison serve other than brutalizing ends. But the battle was really just beginning.

Suddenly out of a clear sky came a dispatch to the *New York Tribune* on August 4, 1915, under the title "Osborne Must Go by Tuesday or be Ousted." This article detailed Osborne's faults of omission and commission and said that "the superintendent of prisons is only waiting word from Governor Whitman to remove him." Among the charges against Osborne was the fact that "Sing Sing is the vilest and most im-

moral hole in the world." This newspaper story was followed by editorial comment in the paper. According to the *Tribune*, "The whole course of prison reform is beginning to suffer from his mistakes. . . ." This editorial appeared under the caption "Osborne Must Go." This unexpected outburst from a paper that had hitherto been friendly found responsive cords in other papers. Editorials began to appear all over the state under such captions as these: "A Quarrelsome Warden," "Why Doesn't He Resign?" "Warden Osborne's Betrayal of Trust."

But the press was not all one way. The *New York Globe* in a leading editorial under the heading, "The Conspiracy Against Osborne," said that "The outburst of publicity originated at Albany in Governor Whitman's absence, and bears all the earmarks of inspiration from adroit campaigners." The *New York World* said that "The nature of the campaign that has been made against him is about the strongest endorsement that he could receive." The *Brooklyn Standard* insisted that it was time to "stop hounding Osborne." This reaction had even an effect upon the *Tribune* which started the newspaper campaign. Four days after it insisted that Osborne should go, it published a special correspondents story on Sing Sing under the title "Osborne Serene, So is Sing Sing, as Crisis Nears." In this article the reporter pointed out that "Many of the guards, but not all, feel toward Osborne as the convicts do. Some of the oldest men in the service are among those who say that their lot is pleasanter than under former wardens." On August 9th the *New York World* published a long article revealing the conspiracy that had been hatched against Osborne. It summarized the various attempts to discredit the work in Sing Sing by calling attention to the fact that convicts had been induced to make false affidavits regarding conditions in Sing Sing; that immoral women had been employed to appear at Sing Sing for the purpose of discrediting the administration; that evidence had been faked to show that Osborne had disobeyed Riley's orders; and that attempts had been made to fake evidence against his personal character. On the 14th, Osborne went off

for a two week's rest and, as he was not removed and did not resign, the attack seemed to have come to an abrupt end.

When he returned to Sing Sing on the 31st of August, the prison gave him a reception. The prison board of delegates and the prison band were outside the walls awaiting him at the edge of the State property. The prison walls were hung in bunting, the prisoners had organized a parade, each company having its own emblem and its own flag and each trying to cheer him most lustily as they passed the reviewing stand. The principal keeper's little son was all dressed up in knitted garments provided by the knitting class as a sort of Sir Galahad and was drawn on an improvised wooden horse. The Kitchen Company had a float of their own with a large cook carrying a fat pig. There were pictures and cartoons comparing the old and the new prison system. The Brush Shop had made up a lot of signs, one of them reading "Stick it out, We are with you." Then there were speeches. Speeches by the principal keeper, by the Catholic chaplain, by members of the board of delegates. And there was the best speech of all by O. K. Bill, who got up and proposed "Three cheers for everybody."

This demonstration for the warden under attack by the prison department made its impression. Surely things could not be half so bad if the prisoners cheered themselves hoarse for their returning warden. The *Tribune* which had led the attack said "Emotions ran high during this demonstration, unique in prison annals." The *Utica Press* on the 4th of September said, editorially, "A thing of this sort never happened in any New York State prison before, and it is a significant incident. The men are prisoners just as they were before, but they are being treated like men, and they appreciate the disposition to help them. They are not escaping, they are not guilty of insubordination, and they are not doing a good many things which they used to do. . . . If men can be made better instead of worse by going to prison in this State, it will be a big accomplishment and one worthy of all praise."

The attack seemed to have failed.

12

CONSPIRACY

THE ATTACK seemed to have failed. But it had really only begun. Defeated in their attempt to drive Osborne from office by annoyance and petty bickering, his enemies turned to conspire against his personal character and no depth of degradation was proved beyond them. That "good" men should sink to such measures for the purpose of achieving their own private ends would be incredible if the record in the shape of Grand Jury hearings, trial court minutes, and statements by the leading actors involved, did not place the matter beyond dispute. They were going to drive Osborne from office even if in the process they had to destroy his character, take from him his good name, and send him to prison as a felon.

While Osborne was still away on his two weeks' vacation he received a letter from the Superintendent of Prisons to the effect "that no reports of punishments have been received since you entered upon your duties as Warden." Osborne replied, what Riley already knew, that "All infractions of the rules are being handled by the league courts" and not by the prison and therefore there were no official punishments. The Superintendent knew that. He had himself agreed to the arrangement. For the prison officials to have punished the men after they had been disciplined by the inmate courts would have been to punish a man twice for the same offence and it would have made inmate self-government in Sing Sing impossible. In fact it was over that issue that the League had its most serious rupture when first established in Auburn and it was with the

consent of the Superintendent that the prison community was given control over discipline. Osborne, however, offered to place at Riley's disposal a copy of the hearings at the inmate courts. But that made no difference. A few days later, on September 16, the Superintendent wrote: "The fact that violations of the regulations are handled by the League does not change your responsibility as warden. Punishments can only be imposed by the warden."

Now it should be clear that there were no punishments in Sing Sing in the old sense of the word. Under the old system a prisoner punished by the warden was ordinarily placed in isolation for a week, sometimes for months, or even years. The man lost whatever privileges were allowed in the shape of visits or tobacco. He was also fined for all or part of his earnings, and lost some "good time" by an addition to his minimum sentence of ten, twenty, or more days. Now all of this had changed. A prisoner disciplined by the inmate courts was deprived of the privileges that he enjoyed as a member of the League. He was not put in isolation or placed in a cooler. He was neither deprived of his good time nor fined. The inmate courts had no such power. The prisoner reverted back to the status of a man under the old system. But he was allowed to go to work—being locked in his cell after the day's task was done while the other men enjoyed the privileges of community life. The only men confined through the day were those whom the warden had decided to transfer to another prison on account of some special reason—insanity for instance. These were only isolated until their transfer could be arranged, and not for punishment. The Superintendent knew all of this. It had been going on in Sing Sing since the previous December, or for ten months, as the demand for punishment lists was not made till September. The Superintendent however had other purposes: "I am advising the District Attorney of . . . such . . . felonies as I have record . . . so that these cases may be presented to the Grand Jury."

In other words, Mr. Riley was going over the Warden's head and inviting the District Attorney of the county in which

the prison was located to help Osborne run Sing Sing. That was unprecedented. It had never been done before and as a matter of policy it should never have been done. True enough, there are certain crimes that if committed within the prison become subject to action by the courts—notably in the case of escapes and in the case of deadly assault. But the Warden is the best judge of the nature of the case that ought to be prosecuted. In the case of escapes it is mandatory upon the Warden to place the matter before the District Attorney. In the case of felonious assault the matter is not so clear. There had been one such case of an attack upon a foreman of a shop by a negro prisoner. But when it was shown that this inmate had been in an insane asylum twice before, and when the doctor of the prison announced the man deranged, the foreman who had been attacked but not seriously injured appeared before the inmate court and asked for clemency and declined to press charges against him in the outside courts. The prisoner was transferred to an insane asylum. It was this and similar cases that the Superintendent was placing before the court. This, however, was only a beginning. Other and less creditable measures were in preparation and the attention of the District Attorney was called to Sing Sing so as to prepare for an investigation, not of this case but of other cases—immorality within the prison.

Every prison, as we have already seen, has its problems of perversion. No penal institution is free from this phenomenon. Testifying before the Grand Jury, Warden Rattigan of Auburn prison said, in answer to a question whether immorality existed in his prison "Yes, and every other prison. It is one of the most serious propositions we have." In its indictment of Warden Kennedy of Sing Sing prison in 1913, a year before Osborne became warden, the Grand Jury said: "Immoral practices obtain among many of the inmates; acts of sexual perversion are taken for granted." The practice ordinarily in prison is to overlook these facts. If punished at all they are administrative matters and there had never been a case of this nature taken from a prison to the courts in the State of New York.

The act was entirely unprecedented. In Sing Sing when such things came to light they were handled by the inmate courts and it was the general opinion that publicity and the consequent ridicule, shame and contempt were the best measures for dealing with the problem. The most serious cases were transferred. One such particularly vicious case—of attack by a man described among the prisoners as a "wolf" had some eight months before been handled by the inmate courts. The man was transferred to Auburn and from Auburn to an insane asylum. The Superintendent chose to drag this case before the District Attorney. It provided the excuse for the development of the investigation and the charges which were later made against Osborne.

Now it so happened that about this time a pervert was brought before the inmate court and later made a confession, involving a number of men. There was no proof of the fact, excepting the pervert's word against a number of other prisoners. And under the conditions he may well have lied. When confronted with the man's charge, all of the inmates involved denied his accusation. Under pressure and fear of transfer to Clinton prison they confessed—one prisoner confessing whose guilt was denied by the pervert who made the original charge. There is some reason to believe that a number of the men confessed in the hope of saving themselves from being transferred. As there was no evidence other than the word of the pervert, and as the confessions were in confidence to the warden—they begged not to be put on trial before the court for the ridicule and shame involved, Osborne had them deprived of their League privileges and gave them appropriate punishment. It was a rumor of these facts that reached the Superintendent's office and with them they felt themselves in position to attack Osborne. When it is remembered that such cases occur in every prison, that they are generally over-looked, that if punished the administrative machinery of the prison deals with them as it sees fit, and that there had never before and never since been a case of this sort dragged before the courts, we may understand what the nature of the attack upon Osborne involved.

"I Have Got Him On the Hip"

The Superintendent's office now had Osborne in a position where it could make serious trouble. If it secured an indictment of these men for the crime supposed to have been committed in prison, then Osborne would be required to break his word and testify against the men in court and thus lose all of his moral hold upon the prisoners. He had already punished them. And they confessed, whether guilty or not—and some were not guilty—to save themselves from being transferred to Clinton, and had accepted their punishment in good spirit. The men could not be convicted upon the testimony of a pervert as there were no other witnesses. Osborne's knowledge of the facts, or apparent facts derived in confidence and under the promise that he would deal with the case personally and finally, and possible only because the men trusted and believed in him, would be essential if they were brought to trial. Osborne's enemies knew that he would defend to the last his right to a special confidence just as the doctor, the lawyer, and the priest do as a matter of course. If he refused to testify Osborne could not only be accused of obstructing justice, but charged with condoning crime, thus directly or indirectly involving him in the case.

The plan was simple and ingenious. If they could indict these men—and there were twenty-one of them—then they could offer them immunity in return for an accusation against the warden. The men being second-timers, many having long records, it seemed feasible that at least one of these twenty-one roughnecks when given the alternative of testifying against the warden or accepting a sentence of forty years, would do what was expected they would do—perjure themselves to save their own skin and bones. Forty years is a long time and what is a bit of perjury to a "hardened criminal" if it involves immunity for oneself. That was a simple calculation and they proceeded to carry it through. Now they had Osborne—they had him. Not having been able to get him one way they would get him the "other way."

But to get him they had to have some facts to go on other

than rumor. So it was decided to have an investigation—an investigation, not of the prison and its problems, of what was being done, of the general character of the administration and the results that were being achieved in Sing Sing. This investigation was to be of these cases and of Osborne's part in the handling of them. With that the rest would be easy. The other things that were being done were not of interest to those who were planning to drive Osborne from office. In other words, a persistent and widely known phenomenon of human perversion, known to exist in all penal institutions, and known to have existed in the past was to be taken advantage of, distorted, magnified, given publicity, and made a show-off. These things are never talked about in public. It was not unnatural, therefore, if they assumed that the mere mention of them as existing in Sing Sing and the insinuating suggestions regarding Osborne personally would lead him to resign. They did not know Osborne. He preferred to fight. And so from now on the battle is in earnest, with Osborne fighting not only for his position, not only for his good name, but for his very liberty.

The only question now was how Osborne could be maneuvered into a position where he would have to make the choice—testify against the men in court and thus lose his moral hold upon the prisoners, or refuse to do so and lay himself open to the charge of condoning a felony. The method chosen for forcing Osborne into the horns of this dilemma was an investigation by the New York State Commission of Prisons. This was a constitutional body of seven members with broad powers of investigation and recommendation but none of administration. It had recently made an investigation of Sing Sing—specifically on July 12 and 13, and wrote a most enthusiastic report of its findings. This report was signed by every member of the board but one and that one was not present at the investigation. What the board said was, among other things, the following: "No one familiar with the physical appearance of the prisoners during former years can visit Sing Sing prison without being impressed with the great change. Buoyancy and self-respect have replaced repression and dejection. The prisoners, furthermore,

appear healthier and happier. The warden and the prisoners themselves claim that these changes are due to the administration and the new spirit in the institution. . . .

"It should be borne in mind that all the machinery of the older system remains in the prison. The warden holds the power in reserve to override the judgments of the Judiciary Board at any time, and does occasionally. As many guards as formerly are on hand, ready to act if occasion arises. The armed forces of discipline and protection constitute a wall or crust, within which the Mutual Welfare League is given as much freedom as can safely be delegated to it in the discretion of the warden. In case of the abuse of that power or of any insubordination within the prison the strong arm of authority and repression is equipped and ready to assert itself at all times. . . .

"Whatever may be the individual viewpoint towards prison discipline every fair-minded person who investigates conditions in Sing Sing prison must admit that an extraordinary experiment is going on. So far as it has gone . . . the main results and achievements are constructive and progressive. The prison industries and activities appear to be going ahead successfully and the prisoners are healthier, and are loyally coöperating with the management. For this substantial progress and for a real personal interest in the prisoner and the *esprit de corps* of the institution, Warden Osborne is to be commended."

On the first of October the commission held a meeting at Albany and before it appeared one of the few guards whom Osborne had found it necessary to dismiss from Sing Sing. This man told wild stories about "the goings on" in Sing Sing, including one of his having seen the Warden serving punch to some fifty or sixty convicts in the Warden's house. (In all the time of his Wardenship, Osborne neither kept or permitted to be kept any intoxicating beverage at the Warden's residence). This preposterous and obviously biased story by a discharged employee was made the occasion for a demand of an investigation by Dr. Diedling, one of the members of the commission. Dr. Diedling had signed the report of the investigation by the

commission. After a heated discussion, the commission refused to authorize such an investigation of Sing Sing as they suspected its motives. In the law creating the commission it had been given the right to delegate powers of investigation to any one of its members or to its secretary. But no individual member had such power without previous authorization by the commission. But that did not stop Dr. Diedling. As he himself testified before the Grand Jury, "Osborne didn't know what I was after. They didn't any of them. When I went after this investigation it was like this: Men came before the commission and complained. I said: 'Why not investigate it? Why not investigate all the prisons then?' I said: 'Sing Sing needs it worst of all; if you don't do it, I will,'—just like that." Dr. Diedling hailed from the little town of Saugerties. He had many years previously been prison physician at Elmira Reformatory and had gathered a strong bias against reforming criminals. He said to the Grand Jury, "Of course I knew . . . why such conditions exist in a prison run as (Sing Sing) having experience at Elmira some twenty years ago." And he had strong feelings against professional prison reformers, as can be seen from his opinion that " . . . the promiscuous activity of the so-called professional reformers, who, by some strange mental or moral perversion, seem always to be arrayed on the side of the evil-doer and against the law abiding citizen" seemed to be destroying the very purpose of prisons. It is clear that Dr. Diedling, the only member of the commission who agreed to investigate Sing Sing and who said "They didn't know what I was after" and that he would do it "just like that" was hardly in a fit frame of mind to make a fair investigation of the "reforming" Warden in Sing Sing. He was "after" something and he would get it "just like that." The forces at work against Osborne had found an enthusiastic instrument.

In his statement at the Osborne trial, Dr. Diedling testified that he had made the investigation for the purpose of ascertaining "the general management of the Industries; the Discipline of the prison; The efficiency of the officers; and Information as to the immorality of the prison." But that was obviously in-

accurate. He examined the Superintendent of Industries and three of nine foremen of the shops and all of their information covers only fourteen out of three hundred and four typewritten sheets of testimony. In the matter of discipline he interrogated the Warden and his assistant but did not ask about discipline. He did not interview the Principal Keeper or the captain of the guard, or any of the 100 guards with one exception. In the matter of efficiency of the officers not a single question was asked. In the case of immorality he questioned the Warden, the Doctor, but neither the Principal Keeper, nor any of the guards, and only nine out of 1618 prisoners, and these nine were either known to be hostile or had gotten into trouble.

The real purpose of the investigation was to get Osborne to either admit or deny that he had knowledge of the "immorality" cases and thus force him onto one of the horns of the dilemma. Osborne refused to be trapped. He confined himself to saying that there were no such cases before the prisoners court, or by declining to answer. Osborne also insisted on being present at the investigation of the other witnesses.

The investigation was not very satisfactory. He returned again four days later and asked for the inmate court records. In the meantime the prisoners, realizing what was going on and fearing that the prisoners' court records might become an instrument in the hands of Osborne's enemies and be used to drag them before the courts, had done away with them. The doctor asked for the records and Osborne said what was true, he did not have them in his possession. The interview was short and loud with angry voices. Dr. Diedling's manner was such as to excite one of the visitors at the prison, who ran out after Dr. Diedling to tell him that he had better be careful as he had witnessed the whole procedure. Dr. Diedling shouted back over his shoulder, as he was retreating: "It is alright; I have got him on the hip now."

What some observers thought of the matter is indicated by an editorial in the *White Plains Argus*, October 18, 1915, which, under the heading "Investigating Sing Sing" said: "A bag of wind blew into Sing Sing one day last week and blew

out again. His name was . . . . . Diedling and he claimed to hail from some little place up in Ulster County. He said that he was a commissioner of something or other and had come to investigate the prison. As he had proper credentials every facility was afforded him and he made his investigation in a few hours. After he had concluded his so-called investigation he went in search of a newspaper reporter and this is the hot stuff he gave to the scribe: 'Osborne can't bluff me. I'm not a child to be played with. What Osborne has been trying on me and others is just bluff. It won't go. I expect to have my report on Sing Sing finished next week, and when it goes in one thing is certain—the Osborne system will either go or be officially approved. There will be no middle ground possible.' From such investigation we may all well say: 'Good Lord deliver us.' "

"He Wanted to Star in a Movie"

But the investigation by Dr. Diedling was not over. He had made little satisfactory headway at Sing Sing and so he went outside of the prison. In the village of Ossining were three guards who had lost their jobs—one for bringing in intoxicating liquors to the prisoners, one for insulting women visitors, the third for brutality. They gave a lot of testimony. Then there was a chaplain who had been asked to resign. The prisoners to whom he ministered had written a protest against him to the effect that "Owing to the irreverence and lack of interest displayed by our chaplain . . . we humbly beg . . . for his removal." He made a good witness. There happened to be a Catholic priest located at the prison, as well as a visiting Jewish and Protestant chaplain. But they were not questioned.

From Ossining Dr. Diedling went to Great Meadows. There he was received with open arms. At Great Meadows he found all of the disgruntled "highbrows" who had been gathered there as well as some others—among them the perverts that had been transferred to Clinton Prison and then re-transferred to Great Meadows where the highbrows could work them into a proper frame of mind for perjury and false testimony—as was later clearly enough revealed. Dr. Diedling

and the "Confidential Agent" came to Great Meadows on the same train.

Away from Sing Sing there was no limit upon the range and character of the testimony that was available. An example of it is the following. It is a rule of law that men condemned to death and located in the death house can only be visited by certain few and specified people. In fact one of the ways of getting Osborne out of Sing Sing that had been tried before and had failed was to attempt to show that he had allowed *one* unauthorized prisoner into the death house *one time*. But it was obviously false because Osborne had been away over the week-end when that particular violation of law occurred. But that made no difference.

One prisoner in Great Meadows testified: "The warden (Osborne) sent for me and asked me how many times I had been in the death house. I said: 'fifty time' and he said: 'Who let you in?' I said: 'You.'" It must be repeated that such visits are a violation of law. But Dr. Diedling was very credulous. "You had free access to the Death House?" "Yes Sir." He was not only allowed into the Death House but he and the other prisoners were allowed free use of the telephone "any time" and the warden "knew it." What was more, the State paid for all of these telephone calls. It didn't occur to the investigator to examine the telephone company's bills. Nor was this all. "I have been on the warden's porch until two o'clock in the morning drinking wine and claret. I have been in the warden's room at three o'clock in the morning. . . . We were never counted." The Doctor didn't ask him "Why didn't you walk away?"

Another witness—the former political boss in Brooklyn had a fine imaginative quality in his testimony. When asked as to the reason for all of these goings on he said "I drew him (Osborne) out deliberately. He . . . wanted . . . to star . . . in a moving picture." What is more, this desire to be a star in moving picture "was leading up to a political combination in the state." There was purpose in this madness after all. After this bit of testimony came the ex-banker. His father had been

a Warden in a southern prison. Dr. Diedling asked if he knew that under the Mutual Welfare League "the morality of the institution was not uplifting?" The reply was: "It certainly was not." The reason was simple enough . . . he (Osborne) wanted the criminals to run the "Mutual Welfare League" instead of "intelligent officers, first timers." That was not the worst of it. "(The criminals) . . . have no regard for the first timers and men of intelligence, have they?" suggested Dr. Diedling. And the ex-banker replied: "Absolutely none." One prisoner who had been away from Sing Sing for more than two months was asked: "What is the moral condition down there now?" And he replied: "It is a rumor that it is pretty bad."

From Great Meadows Dr. Diedling went to Clinton prison. There he interviewed nine prisoners, two guards, and the Superintendent of Industries. One of the men he interviewed at that place made a sworn statement within a month that Dr. Diedling dictated his own answers to his own statements. There was one man at Clinton, the former Sergeant-at-Arms at Sing Sing, who might have given Dr. Diedling some valuable information as he had been in charge of the discipline of the prison for months. But Dr. Diedling asked him only one question. The next witness testified: "I could put Osborne six feet under if I wanted to talk. . . .—for the things that happened in his house." He had been there two or three times, he said, and he could prove it too. But Dr. Diedling made no attempt to discover the terrible things.

Returning to Ossining again the doctor was again interviewing the discharged guards. One of them told him "He (Osborne) overrun his expense account. He spent $248,000 five weeks before his time." That was interesting. It came from the same guard who had told the prison commission that he had seen fifty or sixty prisoners being served punch by the warden—and was equally reliable. The same guard had written Osborne a letter two months previously in which he said: "I have taken no part in the attack upon your administration, although my aid has been solicited several times . . . I have

been one of your most faithful and loyal supporters." Another discharged guard—who admitted that he had been discharged for "intoxication" testified that "They had a Christmas tree one night. . . ." One guard was called who was still in the employ of the prison. He was an old man. He had been in the prison over twenty-four years. He complained: "The conditions were so that I hated to go into the yard. They haven't any rules to violate; there isn't any system." But in spite of it all this guard who regretted that there were no rules to violate said: "I have never known of a man getting such good opportunities as those under Osborne." This brought the investigation to an end. It was of little substance and of much rubbish, but it served its purpose.

The purpose of the investigation was clear enough in the two recommendations made by Dr. Diedling in his report. The first of these was that Osborne be "promptly" removed as Warden of Sing Sing. The second recommendation was that the commission lay the report before the Westchester County Grand Jury and seek the indictment of Thomas Mott Osborne because he "became an accessory to the felony by aiding these offenders, with the intent that they escape from indictment, trial, conviction, and punishment for the crimes committed in the prison against the person of their fellow prisoners." In defense of these recommendations he set up a long list of reasons and justifications. The report was submitted to the commission, and copies were sent to the governor, to the District Attorney of Westchester County, to the Superintendent of Prisons, and to some of the newspapers. The *New York World* reported that Dr. Diedling "has told friends that he would not be startled if the commission chucked its copy of the report into the waste paper basket, figuratively."

Dr. Diedling made public his report on November 3, 1915. Within two weeks three members of the Prison Commission took occasion to express their opinion on Sing Sing and Dr. Diedling's investigation. Commissioner E. Wade said of Osborne's work that it was "The most constructive work of the period." Mr. Leon C. Weinstock said in the *New York Times*

on November 18: "I have long been connected with prison work in this state and for some time I have been going to Sing Sing every week or ten days. I have observed conditions under a number of wardens and can say that the change that came over the spirit and attitude of the men in Sing Sing after Mr. Osborne took charge was remarkable, and all for improvement." While Mr. Richard M. Hurd, President of the Lawyers Mortgage Company and a member of the Commission, said on the day previous in the *New York World:* "The Diedling attack upon Warden Osborne appears to be part of an organized campaign against humane prison reform. . . . The men who leave Sing Sing now go out healthy and inspired to try against heavy odds to make good and live down the past. The gain to themselves is inexpressively great and to society even greater. Dr. Diedling has simply interviewed a number of disgruntled convicts and discharged guards and from what they had told him pieced together a picture of Sing Sing and conditions there—a picture which I know of my own knowledge to be utterly false. His report, thus made public, seems to me —preposterous bosh!"

In addition to these protests came a letter from the officers at the prison to the Governor of the State. This letter was signed by ninety-nine out of one hundred and one keepers, and by every civil employee of the prison excepting three. The letter was written on December 31, 1915, after Osborne had been indicted and had left Sing Sing in charge of George W. Kirchwey as temporary warden. The letter follows:

Ossining, N. Y. December 31, 1915

Hon. Charles S. Whitman,
Governor of the State of New York.
Your Excellency:

Owing to the fact that the impression has gone abroad that the guards and other employees of this institution are unfavorably disposed to the new order of things installed here by our Warden, Hon. Thomas Mott Osborne, and, further, that we are resentful toward him and deplore the lack of discipline now alleged to obtain because of his plac-

ing the same, as is slanderously said, in the hands of vicious inmates, we feel it our duty to protest these statements, to repudiate them indignantly and to state most emphatically that never in the history of this prison has such cordial and kindly relations been established and maintained between the Warden, the inmates and ourselves.

But Dr. Diedling's report had served its purpose. They had Osborne "on the hip."

Scandal and Gossip

With Dr. Diedling's report the stage was all set for the next step in the attack against Osborne. The Grand Jury investigation started with a blast of publicity by the Westchester County District Attorney. On November 1, 1915 the District Attorney gave an interview to the *New York Sun* which appeared under a headline containing the phrase "Warden Fearing Inquiry Begged for Mercy." After the Riley letter had been written Osborne called on the District Attorney and suggested that he come to Sing Sing Prison and make a thorough investigation. The District Attorney did not choose to do that. Instead he waited until Dr. Diedling's report was completed and began by a denunciation of Osborne in the public press, before any investigation was held.

The District Attorney himself admitted that Osborne suggested that "I should examine whatever prisoners I wanted at the prison." He also recorded Osborne's position that most of the cases for which investigation was asked were "mere matters of prison discipline."

Instead of accepting this invitation he chose to denounce Osborne in the press and to indicate his conclusions as to the results of the prospective investigation before it had taken place. This performance did not meet with general favor. The *Brooklyn Eagle* said, editorially, "In our judgment the use of the grand jury of Westchester County to aid the attack on (the) Warden of Sing Sing . . . is as unwarranted in law as in precedent." While the *New York Evening Post* said: "Today District Attorney Weeks of Westchester joins the ranks

of 'impartial' investigator in a statement to a *Sun* reporter, which if true discredits from the start whatever opinion Mr. Weeks may base upon his investigation. . . . The truth about Sing Sing is what a great many people would like to know, but they will not take the truth from men who announce their verdict in the newspapers before taking up the tedious business of hearing testimony."

Osborne answered this newspaper blast from the county judicial officer by telegraphing: "I wish you to understand now that I welcome any honest investigation of my management of Sing Sing Prison by you or any grand jury. . . . Go as far as you like in getting the facts. You will have all necessary assistance from the Warden's office and I ask that I have the opportunity to appear before the Grand Jury myself." The District Attorney made no answer to this telegram. During this passage of arms in the public press Osborne was in his home at Auburn, where he had gone for a few days for a rest.

Superintendent Riley visited Auburn Prison on this occasion and at Osborne's request Warden Rattigan made a desperate effort to have Riley meet Osborne and try to talk over what was becoming an impossible situation. But Riley refused to see Osborne whom he had appointed to office and whom he could have removed with a stroke of the pen. It was also at this time that Osborne received a message from the men in Sing Sing in which they said "We do give thanks to you, our warden. We are all deeply indebted for your kindness and consideration and your thoughtful deeds in promoting the welfare of the prisoners. . . . We assure you of our loyalty in all circumstances. There are times when we try your patience we know, but we want to be better men and we can't without you. . . . We recall your pledge to remain here with us as long as we need you; and our need was never greater. . . . Please get well and come back to us."

Thus, in spite of the machinations of Osborne's enemies, in spite of unprecedented attempts to indict men for infractions of prison rules hitherto considered matters of administrative discipline, in spite of threats to give a score of men extra heavy

sentences, in spite of the ever present danger from self-seeking prisoners who strive to win favor with the powers that be by resort to any means whatsoever, the bulk of the inmates in Sing Sing stood up for their warden with an almost childlike faith. Osborne himself has asked "I wonder what other Warden, in the whole country, would have found it safe to trust himself, his life, and his honor, to the convicts he was holding in captivity?"

The District Attorney began by securing an order for the transfer of five men to White Plains. There it was found that these men were not to be placed before the October Grand Jury still in session but were to be held for the November Grand Jury which had not yet been chosen. Osborne, therefore, asked that the prisoners be returned to Sing Sing to be produced at the proper time. The District Attorney, however, wished to keep them in White Plains. Fearing that the men would be tampered with and subjected to pressure Osborne took the matter before the presiding judge. The District Attorney had his way. Later, when a similar occasion arose, and when evidence was available that pressure was being exercised against the prisoners and protest was made in court, the presiding judge said to George Gordon Battle, one of Osborne's attorneys, "There is not a case of this kind, or any other kind, in which pressure is not exercised. It has been my experience, and you as District Attorney know, that pressure is often exerted to obtain the truth. We find that we have to trust to the conscience of the man who exerts the pressure. That is all there is to that." Yes, except that the man who was to exert the pressure in this case had already revealed his prejudice against Osborne in the public press—and before the investigation had begun.

While all of this was going on the "highbrows" and "silk stockings" at Great Meadows were getting ready for the investigation in their own way—by preparing the necessary affidavits and by coaching witnesses for presentation to the Grand Jury. When the coming Grand Jury investigation was

under discussion at Great Meadows it was pointed out that the previous Warden had been indicted for graft and forced to resign. They said of Osborne: "You can't get him for graft." But there were other means. One said "if you can't indict him for graft the chances are that we can give him something a little stronger." So sure were they of getting Osborne on something stronger that the ex-banker is reported to have offered to bet fifty dollars "that Osborne would be politically ruined by January." All of these affidavits were prepared by the highbrows. The inmate stenographer, to whom these affidavits were dictated, says that in October the Superintendent of Prisons had asked one of the highbrows who would be a safe man to take them down and that the job came his way through the recommendation of the ex-banker.

The men were coached before making the statements, their statements read by at least one of the highbrows before they were signed. If the men showed any recalcitrance about making the statements that were asked of them they were threatened with transfer to Clinton for "discipline"—and the relationship between the "Highbrows" and the "Confidential Agent" was such that on the recommendations of the leader of this group of prisoners other prisoners would be sent off to Clinton for "discipline." But the fear of transfer to Clinton was not the only inducement available. One witness was told that if he went down and testified as desired then the Superintendent "will fix your sentence so that you will have a year or more of your time taken off." The stenographer reports that upon one occasion when he showed incredulity at the statements he was asked to take, and suggested that the man was lying that the "Confidential Agent" said to him: "You have a parole sentence haven't you? Do you know that I can stop you from making parole?" and after further warning said ". . . you want to be very careful how you talk." In fact the men were told by the highbrows that they might even look forward to a pardon if they helped "get Osborne's scalp."

Armed with the affidavits, and with copies in the hands of the men that had made them so as "to study them" the men were promptly transferred to White Plains where they were ready for the services of the District Attorney and the Grand Jury.

13

THE MILL OF THE GODS

THE SCENE NOW shifts from Great Meadows to White Plains. The prisoners armed with the prepared affidavits, the "highbrows" that had coached, wheedled, and threatened the inmates into making them, the hangers-on in the form of discharged Sing Sing employees, all gathered in White Plains. The "highbrows" became attaches of the District Attorney's office. One of them, a former politician and lawyer, was recognized by everybody as an assistant to the District Attorney in the preparation of the witnesses before going to the Grand Jury.

In White Plains jail this man occupied the "Harry Thaw suite" with a private bath, a table and a couple of chairs. His meals were supplied from the outside. All of the prisoners upon arrival at the prison would be taken to his room and told that "the District Attorney has given me the right" to question, interview, and help the men. The prisoners who agreed to testify against Osborne were transferred to the hospital ward and given special food and special privileges. They were allowed special visits and permitted to go to the stores in charge of a deputy. In the District Attorney's office they were given free use of the telephone, allowed to have their visit in private, were, it is clear, in some instances given money, in others promised immunity for past crimes, and treated with every consideration. Those who refused to testify against Osborne were threatened, bullied, abused and if nothing could be done with them, transferred to Clinton prison for "discipline" on the recommendation of this prisoner.

The Grand Jury was sworn in on November 8th and began taking testimony on the 9th. By the 19th the Grand Jury handed down an indictment of twenty-one men. This indictment was based upon the testimony of four prisoners—one a self-confessed pervert who claimed to have involved each of the twenty-one men indicted. The three other witnesses had their knowledge by hearsay and gossip, and of these three, two were coerced into testifying, while the other was the politician and lawyer who had been installed as an assistant to the District Attorney. Speaking of himself and testifying under oath, this man said: "They (the other two witnesses) came here absolutely determined not to open their mouths. . . . I got the penal code and said: 'The district attorney wants me to read these two sections' and I read the sections showing where they would be guilty as accessory and punished by a fine of five hundred dollars and five years in prison. I said: 'I want you to think this over and I will see you tomorow'; and it was only by constant urging and telling them if they didn't tell the truth they would have an extra prison term staring them in the face; and they came across and told the truth." One of the two men who testified to the "truth" had this to say about his own testimony while being examined under oath: "But I told them—I said: 'Boys, you don't understand my position here. I have only got another sixty days to do, I have four and a half year's parole, and the Parole Board is really the Superintendent of Prisons. Mr. Osborne can not help me make parole; the Superintendent can stop my parole if he wishes.'" In other words, he was exchanging his testimony for a prospective parole of four and a half years. This man had not long before written to Osborne saying, among other things, "What you have done for me today . . . makes me love you like a father, for you have saved my home for me. God bless you always." And yet it was on this hearsay evidence obviously secured under duress that the Grand Jury indicted twenty-one men—and did it without hearing or attempting to hear the head of the institution where these men were lodged.

But this indictment was essential if the attack against Osborne was to succeed. If these men—if any one of them—could be conjured into perjuring himself and implicate the warden, then Osborne would be in trouble indeed. If they refused to testify against the warden then they could be threatened with trial, conviction, and a sentence of 40 years. That is exactly what happened. As soon as these indictments were brought in, two of the men involved were brought to White Plains and an attempt was made to force them to implicate Osborne. It is perhaps best to give their experience in their own words.

I Am a Man and No Skunk

Having been indicted, one of these men, by the name of Myers, was brought to the District Attorney's office and confronted with the charge. "I told Mr. (one of the assistant District Attorneys) that the statement was absolutely untrue. He then said to me 'Now you need not be afraid to admit this. I will take care of you—I will see that you are comfortably taken care of. Osborne can't do anything for you now; it will only be a few days before Osborne will be out of Sing Sing.' I then told him that I had never asked Mr. Osborne to do anything for me, and that now I asked no one to do anything. . . . He then said: 'Where does your wife live?' I answered: 'In New York.' 'Where abouts in New York?' I said: 'I don't know—I write her general delivery.' He then jumped to his feet and acted very much like a mad man. He shouted this at me: 'You think a lot of your wife—if you don't change your mind about this statement, you will never go back to Sing Sing. I will have your wife locked up tonight. I will have her indicted. I will give you 20 more years to do in prison. I will show my hand. I will show you what I can do. You will ride (meaning no doubt I would go to Clinton). You will never get back to Sing Sing! Get to hell out of this office! Take him out of here!' I said: 'All right, I have been here long enough,' and with the officer I went out."

Next day this man was again brought before the same judicial officer. "He asked me: 'Have you changed your mind in regards to that statement?' I said: 'No . . . what I said

yesterday was the truth . . . if you pay any attention to that statement you will get in wrong. . . . Take me before the Grand Jury and I will gladly answer any questions you may ask to the best of my ability.' He said: 'If you don't change your mind you will never go back to Sing Sing.' I then said: 'I will not perjure myself. I don't give a damn if you send me to hell . . . that is all.' He then said: 'That is enough.' I went back to the hospital . . . until I went to Clinton Prison, which was about three weeks later."

The other one of the indicted men who was brought down to White Plains in the hope that he could be persuaded to perjure himself was Jack Dropper. His tale is even more vivid. Jack Dropper was an East Side gangster, rough and handy with his fists, strong and quick tempered, but loyal to the few whom he had learned to trust. The District Attorney's staff bullied, threatened, pleaded, and promised, but Jack Dropper said he "wouldn't commit dirty work for anybody," and didn't.

After being lodged in the White Plains jail, Jack Dropper was approached by the convict assistant to the District Attorney, who on his own testimony "read the law" to the prisoners. He asked Dropper to make a statement against Warden Osborne, to which Dropper replied: "When I come up before the Grand Jury I am going to tell them the truth; that the Warden is an upright man and anybody who wants to try and blacken his character and do a dirty trick like that can go ahead. I am not going to do it; and you get out of here." He was not to be handled by a convict assistant. One of the sheriffs of the jail was put to work on him. This man said to him: "They . . . are going to get you about 30 years, and if I were you I would turn around and look out for myself." This threat was accompanied by a bribe. "'Do you want something to eat?' He brought me a chicken sandwich and an egg sandwich" and then went to work on him again. But it served no purpose. He was taken to the District Attorney's office and two of the assistants attempted to bully him. "We have got you for two assaults and we have you indicted for attempted sodomy. . . ." This

was followed by an insistence that he implicate the warden to which Jack Dropper replied: "It is a damned lie." And the other assistant said: "You can't do anything with him he is a fool; let him go and do thirty years." Then said the first: "We can prove by R that you told him. . . ." To which Dropper replied: "You are a dirty liar." Then he was subjected to another bit of hearsay evidence and the first assistant said: "There you go. Now will you make a statement against the warden? We don't want you, we want the warden." To all of this Dropper would say that he would do nobody's dirty work. And when accused he would answer: "You are a dirty liar." This kept up for days. One of the sheriffs was brought in again and said: "Now you see they have got it on you. Why don't you come across? Come across! You won't get nothing done for you. What do you care for the Warden? Look out for yourself." He was returned to his cell in the evenings and there prison "rats" were put to work on him. He was locked up in the same cell with two other men—but he threatened trouble—and Dropper was dangerous when aroused. He said: "I am wise to you and S and the tricks that you are trying to pull off on me." He would not be trapped. During this time he was half starved, he was not allowed to see his friends, he was not allowed to receive his mail. An attempt was made to keep his lawyer from him, he was not permitted to see his brother. But all of this served no purpose. He was finally transferred to Clinton prison. On the train to Clinton the "Confidential Agent" joined him in his seat and offered advice, while before reaching Clinton Superintendent Riley himself boarded the train and sat beside Dropper. "What does the District Attorney want from you?" asked the Superintendent. "I said: 'He wants me to conspire against the Warden.' Riley says: 'Why don't you make a statement? Why don't you do what the District Attorney wants you to do? You won't get into any trouble, you don't have to worry about that.' I says: 'Nothing doing. I am no skunk. I am not going to commit dirty work for anybody.'" Not even the all-powerful Superintendent of Prisons could turn this "gorilla" from his determi-

nation. A fuller and more convincing picture of what was going on and of the struggle of this man against every temptation to accept immunity for perjury is given in a letter that he wrote to Osborne and managed to send out "crooked," possibly by a prisoner being released. This letter, for all of its crudeness, is perhaps a classic of its kind:

White Plains, Dec 21 1915.

Honorable Mr, Osborne:

Dear Friend: I thought I drop you a few lines to let you know am *feeling pretty rotten* after me acting the part of a man and not get a thought from nobody and am near *starved* as my people can't come to see me and I . . . don't know what to think. Not even a little encouragement from nobody. I wrote home for *money* and also to Sing Sing but never get any. Well dear friend I am not trying to impose upon your good nature as I . . . know how you feel after trying to do good and my own kind *conspire* against you. I always knew you to be a high standing citizen from our experience and I know that your name will be *cleared before long*. I am down here and they are all picking on me to conspire against you but God knows I am a man and no *skunk*. They are treating me mean and I got a whole lot of valuable information to give. So why dont you get me back to Sing Sing . . . I hope this letter finds you in good spirits and hope to hear from you as soon as you get this letter as I am waiting patiently.

Your sincere friend.

DROPPER.

As in the case of Myers, they failed in their attempt to bully a man indicted, faced with a heavy sentence, to seek immunity by committing perjury. Not one of the twenty-one men indicted would seek to save his own skin—and they were all approached one way or another. As Osborne said: "Of all my prison experiences I hold this as the most amazing; that there could not be found among that score of 'hardened criminals' a single man willing to perjure himself in order to escape indictment and conviction—and to secure release from prison! The more I have reflected upon it the more wonderful it seems."

"He Is An Absolute God"

Foiled in their attempt to secure a direct accusation against Osborne from one of the indicted men, they had to seek other sources. It happened that one of the men in Great Meadows, B, had known Osborne in Auburn prison, and Osborne had written him some letters, as he had a habit of doing to hundreds of men. Armed with these letters which had come into the hands of the District Attorney by ransacking the man's cell, he was promptly brought down to White Plains and put on the grill. The prisoner acting assistant to the District Attorney said: "You got some letters from him . . . how does it come he writes to you?" "I said: 'I made his acquaintance in the mat shop in Auburn when he was there for a week . . . and he send me a post card now and then a letter.' And he said: 'Is there anybody else he writes to?' And I said: 'I know he wrote hundreds of letters.' He said: 'The District Attorney gives me the right to call you fellows up here and examine you. Have you got anything to say?' I said: 'You got me wrong, I don't know anything about Osborne other than that he is a gentleman.' And he said: 'Never mind that stuff.' " Later he was brought before the assistant to the District Attorney. "He said: 'What do you know about this man?' And I said: 'I know he is a gentleman.' He said: 'Oh, gentleman, gentleman—is that all you know about him? I want you to make a statement.' I said: 'Bring me before the Grand Jury and I will make a statement.' He said: 'You have got five years and seven months parole and if you value that I would make a statement.' And I said: 'If you bring me in front of the Grand Jury I will say I have got nothing to say but that Mr. Osborne is a gentleman and has acted like a father to me.' " It is significant that neither this man nor Myers nor Dropper were called before the Grand Jury.

It will be recalled that as soon as the Grand Jury was convened Osborne asked to appear before them in person. But the District Attorney preferred to prepare the Grand Jury for

the Warden's appearance by pouring into its ears a stream of salacious gossip and scandal, by bringing before it every disgruntled and discharged officer, every convict with a grievance, every pervert who could be cajoled into testifying against him. The evidence was largely immaterial and beside the point. Practically all of it was hearsay—much of it comment and opinion. The prisoners were asked to pass judgment on the value of prison reform methods, to give their opinions on the different prisons, to say whether they would believe the word of this or that convict and to relate what gossip and scandal they heard. The questioning was so constructed as to lead to insinuations, suggestions, of terrible goings on. When all of this had been poured into the ears of the Grand Jurors two of the perverts who had been cajoled, threatened, and coerced, were called repeatedly before them to put a final climax upon the story.

An example of the questioning in these preliminary steps, is the following:

> You were sent up to be reformed: Has there been any reforming influence brought to bear on you?—Not in Sing Sing.
>
> Are you likely to go out a better or a worse man?—I am likely to go out better, but it will be from my own efforts.
>
> No effort being put forth from the surroundings in Sing Sing would have any effect upon your character?—No sir.
>
> From what you know of Osborne it wouldn't make you a good man?—No sir.

The prisoner who had testified to being in the death house fifty times and to having free use of the telephone, added that: "Any time you saw him eat he would always have a chocolate eclair or something like that."

All of these were preliminaries. They wanted direct testimony, and direct testimony was hard to get. One way of getting it was the following: "I gave them certain statements, and they would call V (and V did not know that they had seen me) and from what they got out of him they put into my statement.

Mr. (Assistant District Attorney) would say that he would see V and get his explanation on these points and after he would see V he would say 'Now I got the whole truth.' Then he showed me V's statement and he said: 'Now refresh your mind on this.' Then they put me before the Grand Jury where I testified." But even so it was difficult. They put V on the stand where he told his story of scandal—refusing on the first day to make any direct charges. He was asked at the end of the first day's session the following questions: "Have you heard any remarks?" "I never heard a single remark about the prison. If you go down there and see for yourself, the men believe he is an absolute god; they trust him absolutely. All of them—except a very few." "Are there not a great many men who know about the kind of character he is?" "I don't think any of them outside the ones who are here (at White Plains). I have only heard this since I have been here." "How long were you there?" "Eighteen or nineteen months." "And never heard of this—never heard this?" But this man's memory was properly refreshed. And he later told his tale as he was expected to. In sentencing this man, Judge Gibbs had said: "There is some doubt in my mind whether you are entirely responsible for your acts from the broad standpoint of what we consider a sane and normal mind."

The other star witness had been in an insane asylum twice. When being coached for his testimony by one of the highbrows, he used to complain that he was afraid he would be "tripped up." He ultimately wrote Osborne a letter:

> Dear Sir: I hope you will overlook liberty I am taking in even writing you. I hope you will believe me though you have every reason to do otherwise when I write you and say that I am not rotten to the core and that the statement I gave to your counsel is true in every respect, except that it could not be described by words. Mr. Osborne I am sincerely and truly sorry (for the part I unwillingly played took in the affair at White Plains) I hope the great wrong done you will be righted and that I will have a chance in a small way to help to do so.

I can't expect forgiveness from you but as *a very small excuse* I will have to admit, as no doubt my mother's counsel Mr. Hayes told you or your counsel, I am sorry to say I have been weakminded and easily led since birth, that may in a very small way with statement I have made to Mr. Murphy (I have not finished) explain to you my part in the terrible affair at White Plains against you.

I am honestly and sincerely sorry.

I Want to Hold My Head Up

The testimony of these weakminded and half demented creatures, self-confessed perverts, and ex-inmates of insane asylums, can be understood when one appreciates the pressure of threat and bribery which was used upon them. It is less easy to understand the testimony of one sanctimonious soul who was under obligation to Osborne and who was scheming to replace him as Warden. He too testified before the Grand Jury. No, he had no direct evidence but he had "suspicions" and he was filled with insinuating suggestions. The Grand Jury hearings were secret, or were supposed to be—but rumors of this man's testimony leaked out and it was embarrassing, especially as it was notorious that Osborne had befriended him and helped him to a good position. So he wrote to a benefactor who had been useful to him through Osborne's influence: "I wish to take this opportunity to state to you and through you to any one else who may be interested that these reports are absolutely untrue." He did not expect the testimony before the Grand Jury to be ultimately placed in the hands of Osborne's lawyers so he thought he was safe in lying, both to the Grand Jury and to his benefactor.

But not all of the testimony went one way. The District Attorney in his attempt to find out what happened to the inmate court records, brought one prisoner before the Grand Jury who was neither a pervert nor a "highbrow" and he gave the Grand Jury a sense of the values that were being developed in Sing Sing which, if the Grand Jury had not already been hopelessly poisoned, would have raised serious questions in their minds as to the validity of the entire proceedings.

This man said: "I will be perfectly frank with the District Attorney here; I am an old offender. I have sixteen or seventeen years behind me. I believe I was sent out of White Plains to Elmira. In all that time I didn't receive treatment that a man should receive. I am not looking for sympathy. I did not receive the encouragement a man should receive from his fellowmen. It was a kick and a blow here; and do this and do that. I was not known by a name, but by a number. This Mutual Welfare League was organized to help the prison officials and help each other. If we saw a violation of a rule to report that immediately. In all that time I have never been known as a rat up there—they call you a rat if you report anything (under the old system). The time went on when I was sent to Sing Sing and the men elected me as a judge. I am considered a very severe fellow up there, because this new system is so precious, not only to us but to the men who will come to fill our places behind those walls—to the children that have not come yet—and they fear that something will happen to knock it in the head, to bring back the old highly soul-terrifying thing, and we don't want it back. Why should I bring it back? I want my chance. I want a chance to hold my head up."

"It Is Perfectly Easy to Get Them"

When the Grand Jury was well prepared, Osborne was finally allowed to go before them. But even so, not without an unseemly squabble in court. The District Attorney asked Osborne to sign an immunity waiver for "any crimes which may have been committed by me." In other words, before permitting him to testify Osborne was asked to confess to "crimes committed by me." He refused to sign the waiver, and his lawyer suggested that the words "alleged" be inserted before the word crimes. The District Attorney objected. Finally, after an undignified performance in the courtroom, the District Attorney, under the guidance of the presiding judge, finally agreed that the word "alleged" be inserted before the words "ommissions" "acts" and "crimes" and Osborne was allowed to go before the Grand Jury. This little scene in the courtroom did not go unnoticed. The *New York Globe* re-

marked: "The unseemly squabble over the form of Mr. Osborne's waiver of immunity should take when the warden appeared before the Grand Jury yesterday only serves to strengthen the deep-rooted impression that the prison reformer is not to get a square deal if certain persons, for reasons not entirely clear, can prevent it."

The appearance of Osborne before the Grand Jury proved an ordeal of the severest order. The Jury had already been prejudiced and the District Attorney was openly hostile. But as if that were not sufficient, the District Attorney attempted to further prejudice the Grand Jury by dwelling upon the fact that Osborne had in his speeches declared that the investigation was political and biased and had asked why the Grand Jury did not come to Sing Sing so as to see on the ground just what was going on. The first question—and the largest number of questions on any topic asked him, concerned his criticism of the Grand Jury before the public. "Have you in your various speeches . . . made the assertion that this investigation is political, or actuated by political motives?" And this kept up for hours. He was attacked, cajoled, insinuating questions were asked, questions that reflected bias, prejudice, ignorance, and hostility. One member of the Grand Jury asked: "Have you read prison history?" "Somewhat." "Do you know all these things you are trying to produce were tried hundreds of years ago?" "I should be surprised to hear that." "If you read Italian, Roman, and others, you will find them; and in every instance they failed."

Twice during the four days of ordeal Osborne lost his temper and told the District Attorney: "You are a liar" and then apologized to the Grand Jury. The wonder is that he stood the grilling at all. In addition to his own testimony Osborne suggested that a certain number of others conversant with the situation be called to testify before the Grand Jury. Some of these were called and either abused or made short shift of, some being asked one or two questions, others being subjected to insinuating questions such as "Don't you know that . . .?" based upon some of the perjured testimony that had been

poured out before the Grand Jury in the previous hearings. As the helpless witness did not know, he was made to appear ignorant or stupid or both. Only in two instances was the District Attorney checked in this attack. One of these checks came from Warden Rattigan of Auburn Prison. In spite of having allowed the witnesses before the Grand Jury to indulge in the wildest rumors and conjectures, in comparisons between Sing Sing and other prisons, in gossip and scandal, the witnesses suggested by Osborne were told over and over again "We do not want conclusions, we want facts, not theories." Warden Rattigan said: "I decline to be heckled on this proposition." "You understand." . . . "I don't at all. I have been on a newspaper thirty years, since I was nineteen years old. If you brought me down here for that purpose, or if I came for that purpose, it is out of the question."

As all of this investigation was concerned with the fact that the sodomy cases in Sing Sing had not been reported to the Superintendent to be placed before the Grand Jury, the following from Rattigan's testimony is of the highest import. "Did you report these (sodomy cases) to the Superintendent of Prisons?" "Not unless I did verbally, I have not officially." "Sodomy is a felony?" "I am not going to haggle about that; I am not a lawyer, I guess it is a felony under the law." "Sodomy is a felony and under these regulations you must report it. The question is, did you report it?" "What?" "Sodomy cases to the Superintendent." "I never have." "Then you have not carried out your regulations." "Yes I have."

The Grand Jury had just indicted twenty-one men on the testimony of one pervert, and here was a warden of another prison in the State of New York who testified to what was the rule, that these were matters of internal prison discipline.

Mr. Hurd, the second witness who checked the District Attorney, was asked: "Do you know there are half a dozen (prisoners) who have sworn to that (immorality)?" "I think it is perfectly easy to get them." . . . "What do you mean by 'It is perfectly easy to get them?'" "I think you can get lots

of convicts to say all kinds of things, in all kinds of places, against all kinds of people; and I think all of them are not reliable."

One witness was badgered about, and finally asked: "What am I called here for?" One of the guards who had been in Sing Sing six years and was considered an intelligent and exceptionally competent person was suggested by Osborne as a witness. He was not allowed to make a single statement and occupied the witness chair for about three minutes—whereas the men testifying against Osborne were kept on the stand for hours, and sometimes for days in succession and allowed to ramble the world over in their testimony.

One other incident may be illuminating. The Grand Jury proceedings were supposed to be secret, and yet one ex-convict who was playing around with the crowd in White Plains came to Osborne one day and offered to supply him with copies of the Grand Jury minutes. He said that they were taken from the office of the District Attorney and that he could get the rest of them. He asked Osborne for a loan of $250. Osborne wanted the Grand Jury minutes, but not just that way. When Osborne declined to have any dealings with the man, the ex-convict reduced the amount of the loan. He would accept $150, $100, even $10, anything at all. Osborne notified his lawyer—George Gordon Battle, who immediately wrote to the District Attorney informing him of the matter. The District Attorney never acknowledged the letter and never thanked Mr. Battle for the information about the leakage. There is some suspicion that the leakage was prearranged, for, if Osborne had accepted the offer he would have gone to jail. This seems to have all the earmarks of a little trap. Like the others, it failed.

"Indicted. Indicted. In My Country He Would Be Knighted"

A year had rolled by. It was Christmas again. Osborne returned to Sing Sing Christmas morning and here to his surprise he found a dozen or more of ex-inmates from Sing Sing

who had come back on Christmas day to give their ex-warden a Christmas hand shake. There had been no prearranged plan. They just came out of love for him who had so deeply touched their lives. The *New York Tribune* reported the incident: "One was a former bank robber turned straight, another a forger who had discovered a legitimate use for his pen, another a confidence man, now employing his talents in selling things that really exist and are worth while." The end was not yet when ex-prisoners thought it the best way to spend Christmas by returning to their old prison and shaking hands with their former custodian.

But another sort of Christmas present was in the making. On the 28th of December, and without hearing the large number of guards and prisoners that Osborne had suggested to the District Attorney as witnesses to be called before the Grand Jury, that body turned in an indictment against Osborne. The news no sooner reached Osborne than it trickled down into the prison yard—through the "Grape Vine" system—and "it was a despondent crowd of prisoners that went to their cells after the day's work was done." A prison is always an enigma—anything may happen—fire, murder and riot may break loose at any time if the spark is there. Under these conditions, and fearing that his indictment and danger of his removal would lead the men to despair, Osborne ordered that all of the men be assembled in the mess hall after supper so that he could speak to them and if possible make light of what had happened —bring some good humor and laughter into the atmosphere.

As so often before, he climbed on a table facing the prisoners and said: " . . . I have just heard that I have been indicted by the Westchester Grand Jury. I presume that you will congratulate me." That made them laugh. When the place was quiet again one of the men shouted: "Now, Warden, you know how it is yourself." There was more laughter. Then he said: "I want you to know I am still Warden of Sing Sing and I shall be Warden of Sing Sing till they kick me out." To the men he said: "Now you must not worry. You will have more friends tomorrow than you have today, and you will have

more in the days that follow. The only persons who can injure the movement are yourselves. You have shown that you can do well when things run smoothly. Can you now prove your strength by standing up when things go against us?" He told them that he would not resign but that after all he could be removed and pointed out that should such prove to be the case they must not bring discredit upon their work by doing what has been so often done in prisons when the inmates were chagrined. "Don't let anything of this kind happen now. Just prove that you are men, and that you are worthy of all the confidence that has been placed in you. If there is to be a new warden help him as you would help me." Later that night in New York he gave a statement to the press which said, in part: "This is not my personal fight. It belongs to every decent citizen in the State of New York. This attack is directed against every other honest office holder . . . who has endeavored to make his faith in God a living principle of action. . . . I have no fear of the result. No jury will be blind enough, no court unfair enough to carry this conspiracy to ultimate success. . . ."

He was indicted for perjury, for neglect of duty, for permitting unauthorized prisoners into the death house, for failure to exercise general supervision over the government, discipline and police of the prison, for breaking down the discipline and thus encouraging crimes, and finally that he did not "deport himself in a manner as to command the respect, esteem and confidence of the inmates of the said prison, and that he did commit various unlawful and unnatural acts. . . ." The last count containing a number of implied felonies under a misdemeanor indictment.

The governor and the superintendent of prisons took the position that having been indicted it was up to him to resign. Osborne refused on the grounds that all men are innocent in the sight of the law until proven guilty. If he was going to leave Sing Sing it would have to be by dismissal. But as Osborne pointed out, the Superintendent could have dismissed him at any time in the last year. He could do so now, if he

wished, but he would not resign. The press of the State was literally up in arms. To dismiss him would have made a "martyr" out of him. So a compromise was worked out. Osborne asked for a leave of absence to be free to fight his legal battle with the understanding that his friend, George W. Kirchwey, would be appointed temporary warden. This was only achieved after much bickering.

In spite of this agreement, Superintendent Riley said to the press: "There is no doubt about it. Mr. Osborne has not the slightest connection with Sing Sing." When he was asked what he would do if Osborne were acquitted, he said: "I shall make no promise. I can only say that Mr. Osborne's assertion that he is still warden of Sing Sing is absurd." The governor did not agree with this. Said the governor: "Mr. Osborne is warden and agent of Sing Sing on leave of absence and will be so regarded while I am governor. Don't pay any attention to what others say."

Osborne returned to Sing Sing after these arrangements had been made in Albany and prepared to leave the prison where so many things had transpired in a little over a year. The prison was decorated with flags and bunting, and was cheerful enough. The fact that George W. Kirchwey had been appointed to take Osborne's place was a guarantee that the prisoners would be allowed to carry on the experiment in self-government and that seemed to satisfy the prison community. As Osborne walked into the mess hall every man jumped to his feet and cheered frantically—and the guards about the prison joined in the demonstration. In speaking of Kirchwey's appointment as acting warden, Osborne said: "We have every reason to be grateful for the opportunity which is given to him and to you to show that this League can function and be developed as successfully under one man as under another. . . . I feel that my life will never be quite complete unless I am in touch with my friends in Sing Sing. . . . When I come back to see you, and I hope it will be frequently . . . I will come down here among you, we will shake hands just like pals. You will think of me just as your friend—Tom Brown." There

were cheers and tears that day in Sing Sing. One man shouted: "We will help the Dean (Kirchwey) make good." To which there were more cheers. A few days previously an English visitor in Sing Sing was told of Osborne's indictment and is reported to have said: "Indicted. Indicted. In my country he would be knighted."

PART V

JUSTICE

14

JUSTICE

THE INDICTMENT of Osborne brought an avalanche of protest and indignation that stirred the State of New York from one end to the other. It is doubtful whether a personal attack upon any single public officer had ever before awakened as much popular feeling as this persecution of the Warden of Sing Sing. Here was a man rich in worldly goods, rich in experience, honored in his own community, widely traveled, cultured, a gifted musician, a political leader of unblemished reputation, who had accepted a difficult—aye, an impossible task of reforming—and had succeeded in converting "the worst prison in the country" into a community that laid open the way to a complete reconsideration of the method in penal administration. His only compensation the opportunity to serve, his only request the privilege of continuing in the service of the state for the purpose of "converting" the outcast and the hardened to new ways of living and thinking, and for that he was attacked, abused, and now indicted and threatened with a prison sentence.

"A BADGE OF HONOR"

The answer to the indictment was a thousand sermons in the churches of the State, while the papers were filled with indignant editorials, and protesting letters. So great was the outcry that the District Attorney of Westchester County felt it necessary to issue a public statement to the effect that he had no personal malice against the Warden of Sing Sing.

While the Grand Jury was still listening to the hear-say, rumor, gossip, slander, and perjury that was being fed to it by the half dozen perverts that had been cajoled to do the District Attorney's bidding, Charles W. Eliot, who had known Osborne since the days when the latter came to Harvard as a freshman, wrote to the *New York Times*. "As I have known Osborne intimately for thirty years, and have been interested in prison management for more than that period, I desire to give public testimony concerning Mr. Osborne and his work. He is an upright, conscientious, pure, and honorable man, whose nature has carried him with ardor into several forms of philanthropic work, in all of which he manifested strong emotion, quick sympathies, and an intense desire to be of service to his fellow men. . . . The reforms lately introduced in the discipline of Sing Sing are in harmony with educational reforms which have been gradually effected in American schools and colleges during the last forty years, and also with the methods of scientific philanthropy. . . . A man of his temperament suffers severely in body and soul from unreasonable criticism, calumny, and perverse testimony, and needs the cordial expression of public confidence and approval to support him in his daily work."

Such praise from Charles W. Eliot for a man under Grand Jury investigation, and publicly accused in court by a District Attorney of unmentionable crimes, helped challenge the community to express itself in opposition against what seemed an unjustifiable persecution.

Perhaps even more significant than this protest from America's outstanding educator were a series of resolutions of approval of Osborne's work by the Kings County Grand Jury. While the Westchester County Grand Jury was preparing to indict Osborne, and just eight days before it handed down its indictment, the Kings County Grand Jury came on an unexpected visit to Sing Sing. The Grand Jurors came in a body, roamed over the place, talked freely to the guards, the prisoners, visited the shops, talked to the foremen, visited the Sing Sing courts and when they had satisfied their curiosity and returned to the court in Kings County, prepared a set of resolutions which they gave to the press and sent to the Governor and to the prison. In these resolutions they commended the "more favorable attitude towards their superiors and society in general" of the prisoners in Sing Sing, and bespoke for Osborne "the hearty coöperation of all well meaning citizens in this state."

That was a spectacle for all good people indeed. One Grand Jury bringing in an indictment against the Warden of Sing Sing, and another asking all good citizens in the state to extend him their coöperation. Nor was this all. The Grand Jury Association of New York, made up of some 300 men who from time to time had served on the Grand Juries that indicted the large mass of men serving in Sing Sing prison, invited Osborne to deliver an address to them and adopted a resolution not only approving his management of Sing Sing but to "express our entire confidence in the purity and integrity of his personal character, and in the motives which have actuated him in his prison labors." The *New York Tribune* reporting this meeting said: "When the applause which greeted the second reading of this resolution subsided, Mr. Osborne, deeply moved, rose and gave his thanks in a voice so low that it could scarcely be heard. But those who did hear him started a round of cheering under the influence of which Mr. Osborne entirely recovered himself."

These expressions of faith, confidence, and good-will were echoed by the editorials in the press and made the stronger by the indignation against and condemnation of the entire proceedings before the Westchester County Grand Jury. A few of these press comments will show something of the public temper that the indictment aroused. The *Brooklyn Eagle* declared that "by lugging in two or three dope fiends before a Grand Jury, where ex-parte evidence is alone received, any prison or asylum doctor or official may be faced with prima facia evidence of the most horrible, the most impossible acts. A county prosecutor who would do this deserves instant removal." The *Jamestown Post* said that "the malice is revealed in the multiplicity of the charges and the trivial nature of some of them."

According to the *Utica Press* this was a proof of the fact that "the corrupt element in politics hesitates at nothing and is willing to accomplish by foul means what it cannot do by fair." The *Buffalo Enquirer* insisted that there are "some hundreds of thousands of persons in this state who simply can't be shown that . . . he made himself a criminal either as an officer or an individual." The *New York Evening World* asserted the forces that would drive Osborne from office "inspire neither confidence nor respect"; while the *Rome Sentinel* insisted that no one will believe that Osborne had become "an entirely different individual" in the short space of his official connection with Sing Sing. According to the *Batavia Times*, the indictment by the Westchester Grand Jury was to be considered a "badge of honor." The *New York Evening Sun* said that "no one believes the worst of these charges" and so did the *New York Times* "Nobody believes them" and insisted that he "keeps the confidence of the public," while the *Rochester Herald* demanded a relentless exposure of the forces that had brought the indictment into being.

Was There Ever Such a Scene Before?

With such a public reaction to the indictment it became immediately obvious that the fight would be fought to a bitter end. Now it was out in the open. It could be aired in court with an opportunity for the defense to challenge the witnesses who had hitherto testified in secret and these witnesses could be compelled to answer under oath. Friends came to Osborne's assistance, offers of legal and financial aid were made, prominent lawyers offered their services, public meetings of protest were arranged and the prisoners in Sing Sing felt as Osborne had told them "tomorrow you will have more friends than today." It became a fight of the socially-minded element in the community in defense of a distinguished public officer indicted on perjured testimony. It is not possible to detail all the incidents that developed in this public demonstration. But it is inevitable that we record two memorable public meetings that were held in condemnation against his persecution.

On January 17, or approximately within two weeks after the indictment was handed down by the Westchester County Grand Jury, Carnegie Hall was jammed to overflowing by 3,500 people who came to attend what the *New York Tribune* called "A meeting remarkable in the history of New York." This meeting was called by a committee of 250 of the most prominent citizens of the city, was to be presided over by Mr. Joseph H. Choate, but because of sudden illness he was replaced as chairman by Mr. Isaac N. Seligman. At this meeting addresses were made by Mr. Adolph Lewisohn, Dr. Felix Adler, Miss Lillian D. Wald, Mr. Hugh Frayne, Mr. James Byrne, Mr. Francis Lynde Stetson and Judge William H. Wadhams. "On the platform," says the *New York Tribune*, "were the sort of company which might gather to honor a visiting Mogul—doctors, lawyers, clerygmen, bankers, brokers, retired capitalists, and active philanthropists . . . while in the audience pickpockets rubbed elbows with women of another stratum, a-glitter with diamonds, while burglars were sleeve to sleeve with burghers whose possessions at another time might have been of engrossing professional interest to them."

It is perhaps unnecessary to give a summary of all the speeches that were made. They all echoed not only their faith in Osborne personally, but in the value of the work he was doing. Bishop Greer, in a letter to the chairman, said: "Back of the reform stands the personality of the reformer . . . a pure, brave and upright man." According to Mr. Seligman, "Mr. Osborne has dared do his duty and will continue in spite of every effort to oppose." The striking and most significant speech of the evening was made by Dr. Felix Adler. He began by saying: "As I stand before you tonight I realize that I have spoken in this hall for seventeen years on subjects connected with the ethical life of the individual and the community. But I do not believe that I have ever spoken, either here or elsewhere, on a matter which so deeply concerns the ethical life of the community and the individual as that which has brought this splendid audience here tonight. . . . Mr. Osborne's figure is significant, not because he is being attacked . . . but because

he stands today as the representative of a great redemptive movement. . . . For Mr. Osborne is not only redeeming the prisoner—that is the obvious view of it—he is trying to redeem us." This speech as it unrolled, stirred the audience to its depth. He finished off by saying that whatever may happen to Osborne, "the spirit of Tom Brown, (Osborne's name among the prisoners), like that of John Brown, will go marching on until the last vestige of the old system shall be effaced from this fair earth. . . ."

Of great importance was the address of Judge Wadhams, who, as a judge of the courts of General Sessions, has sent many men to Sing Sing. He said of his own experience: "I soon discovered that the men who were coming before me were in large numbers men who had been in prison before. I saw what it had made of them. It cannot be a source of satisfaction to any judge to know that when he sentences a man under the old system that man will come out of prison a worse man than when he went in." In estimating the work of Osborne, Judge Wadhams said: "Elizabeth Fry visited the prisons, Howard suggested reform and Dickens disclosed conditions in jails; but it remained for Osborne to solve the prison problem. He has established a new system of prison management. We must carry it on." He went on to point out that there had been no riots in Sing Sing, and yet there has been freedom within the walls, that insanity has been reduced, that narcotics had been practically eliminated, that vice had been reduced. Then he told his strange experience of being a guest at a dinner where "I sat with a burglar on my left and a pickpocket on my right, and a forger across the table. But they had changed their mode of life. Was there ever such a scene before? Ex-convicts gathering around their warden at a dinner given to him to demonstrate that they were making good."

The *New York Sun* describing the meeting said that "For two hours last night a crowd that filled every one of the 3,000 seats in Carnegie Hall and stood up in the aisles, probably 3,500 in all, had been fairly bursting to get an excuse to show how enthusiastic it was about Thomas Mott Osborne and his

work at Sing Sing, no matter what Grand Juries may think. Then came the speech of Judge William H. Wadhams of General Sessions and all the pent up enthusiasm burst with a bang." This meeting did much to clear the air and to draw the battle lines between the things that Osborne stood for and the underhand knavery implicit in the attack upon him.

But if this meeting was interesting, important and significant, it was after all a meeting that might have been called together for another public servant under similar conditions. The next meeting was different—it was strange in more ways than one. That it could take place at all was the most interesting thing about it. For here was a meeting engineered by ex-convicts, addressed by ex-convicts, and all gathered for the purpose of defending the Warden under indictment as one of the counts read because "he lost their respect." One of the speakers at this second meeting had only been out of Sing Sing three days. The *New York Sun,* in reporting this second meeting, said: "The three thousand persons who went to Carnegie Hall last evening saw a meeting different from any meeting that has ever been held in New York City, or perhaps in any other city." This meeting was held on February the fourteenth, and like the first, attracted a great deal of attention. The description of this meeting by the *Brooklyn Daily Eagle* is well worth quoting:

> The Osborne meeting at Carnegie Hall last night was unique in the history of the country. On the stage sat a dozen to twenty ex-convicts, and about them about twice as many men and women more or less prominent in city life and interested in prison reform. An ex-convict presided and six or eight convicts spoke, giving their prison records without compunction and reciting their experiences both in prison and in various juvenile and reformatory institutions. Among these men with from two to six sentences behind them, there was not one over thirty and most of them seemed to be under twenty-five. All of them were clear-eyed and clean-faced, the hangdog look had dropped from them, and they told their stories simply and without em-

barrassment. Although some of them lacked the voice needed for the big hall, all of them were awkward in gesture and movement and several of them were defective in grammar. But there was no mistaking what they meant, and they created a striking impression of the sincerity of their efforts to "run straight." . . .

The "Poor Slob"

Between the first and second Carnegie Hall meeting occurred the first serious legal battle in the attack upon Osborne. Jack Dropper was brought to trial. As has already been pointed out, he was one of the twenty-one men against whom indictments had been returned by the Grand Jury. He was also one of the two in that group who had been brought down to White Plains to force him to perjure himself against Osborne, but refused stubbornly to do "anybody's dirty work." For this he had been shipped to Clinton Prison for "discipline" and was now put on trial. If convicted he was liable to a sentence of forty years. But more important than his conviction was the fact that if convicted he would become an example to the other men under indictment, and the fear of a similar fate might force others to accept immunity in exchange for perjury. That was something that was within everybody's mind. Men are but men, and forty years is a long time to face. But apart from that, the conviction of this man would be a real blow to Osborne—it would weaken the morale of the defense and would have, from the District Attorney's point of view, a good influence upon public opinion. It was generally recognized that it was Osborne that was being tried and Dropper was only a figurehead. Said the *White Plains Argus:* "Warden Thomas Mott Osborne and his actions are to be made the subject of the trial more than Dropper's individual commission of a crime."

In view of that fact, the trial was part of the Osborne defense. The attorney for Dropper was supplied by Osborne's friends and the fight was on. The District Attorney placed his half dozen perverts and "highbrows" on the stand who poured out before the open court a story of filth that proved nauseating

to all decent people. When these witnesses fell into the hands of the defense attorney their path was hard indeed. By that time the defense had secured a copy of the testimony before the Grand Jury and knew the type of witness it would have to deal with. It also by that time knew something of the methods that had been employed in securing this testimony.

The defense succeeded in bringing out that these men had been promised immunity for their crimes in return for the testimony they were now giving. It succeeded in proving its chief witnesses liars and falsifiers. But the dramatic moment of the trial came when the Defense Attorney placed Dropper on the witness stand. That was a bold thing to do. The District Attorney was merciless and sarcastic, and Dropper was only considered a poor "Slob." But such a witness had rarely been seen in any court. The District Attorney became the defendant and the witness became accuser. When the District Attorney asked questions Dropper would appeal to the jury on the grounds that he was being framed up. When the District Attorney would say "Don't you remember?" Dropper would turn to him and say "Yes, then you turned around and told me 'if you make a statement against the Warden we won't indict you. . . .' Then I says: 'I won't do it, because it ain't true.' Then Mr. Ferris says: 'Oh send him back, we don't want him. He is no good, we can't get nothin' out of him' " and so on all through the cross-examination. The District Attorney tried this way and that but it always ended with Dropper playing the part of accuser and the District Attorney attempting to defend himself.

The climax came when Dropper pointed an accusing finger at the Assistant District Attorney and said: "Yes, that was the last time when I told you that before we go through with this thing we would have you down at Sing Sing carrying your bucket yourself." In summing before the jury, the District Attorney asked: "Are you going to believe this miserable convict against the sworn testimony of the public officials? . . . If you acquit this man you will show that you disapprove the efforts of the District Attorney. . . ." That is just what the

jury chose to do. It brought in a verdict of "not guilty." The District Attorney sank into a chair, pale and dumbfounded, while the Osborne side rejoiced. The prisoners in Sing Sing when they heard the news said: "Our side has won."

Two Missing Elements

The failure of the first battle in the attack against Osborne literally caused consternation in the camps of his enemies. The freeing of Dropper and the removal of Superintendent Riley, which had occurred about the same time because of an attempt to transfer from Sing Sing every officer of the Mutual Welfare League, as well as every servant in Acting Warden Kirchwey's house, caused many of the men who had helped in the preparation of the conspiracy to feel that they were on the wrong band wagon. So, within a short time, sworn affidavits from practically all of the actors of the drama were soon in the hands of Osborne's defense attorney and the threads of the conspiracy were clearly revealed. It was now easier to go to battle with the District Attorney, the defense had secured the Grand Jury minutes after much delay and opposition, and now they had the affidavits of many of the participants in the conspiracy and the acquittal of Dropper showed that public opinion was awake to what was happening—for it was not Dropper that was on trial, but Osborne who was being tried through Dropper.

The acquittal of Dropper weakened the District Attorney's position and undermined much of his enthusiasm. Friends began to advise him to "get out of the Osborne case" as gracefully as possible. It also weakened his confidence. When asked if he would prosecute the other twenty men under indictment he said: "I have nothing to say"; while Dropper himself was returned to Sing Sing and became a hero among the inmates. "We gave it to them, didn't we" he told Osborne. "They ain't got a leg to stand on." He was full of confidence. "I got through all right, and so will you." With the going of Superintendent Riley it was now possible to secure access to the prisoners in the other prisons who had played a part in the general

conspiracy or who knew about it, and Osborne's attorneys journeyed to Great Meadows, and to Clinton, gathered up sworn statements of what had occurred in the previous months when the machinery of the Superintendent's office was using its power to help indict Osborne.

In addition to that it was discovered that the Osborne defense had secured a record of conversations in the District Attorney's office. The District Attorney was indignant. He had found some of the copy books on which the conversations were reproduced and threatened investigation and prosecution. The detective who had carried the thing through challenged the District Attorney to make the contents of the books public, and was quoted in the *New York Sun* as saying: "Why doesn't the District Attorney make public the records he seized? We have nothing to lose by the publication of the reports. The conversations might hurt him too much. He is afraid to let the public know what is going on in his own office." Nothing was done. But it helped the Osborne case. The District Attorney was not sure how much the other side knew and the public press took it humorously—the conspirators being caught in their own net. Finally, after much delay and much bitter acrimony, Osborne went on trial on the perjury count on March 13, 1916.

The courtroom was crowded. Osborne's friends from far and near had gathered to be present at the trial. Many of them had come from the city of Auburn to testify to his good character if necessary, others had come because they were interested in the cause he represented, and in the back of the court were a number of ex-prisoners come to witness the defense of their beloved friend. The jury was quickly selected. The presiding justice kept the District Attorney to the matter in hand. When the District Attorney asked a prospective juror whether he had formed an opinion on the merits of the controversy Judge Tompkins broke in by saying: "Let us have it understood at the outset that this law suit involves only the question of the defendant's guilt or innocence of the charge of perjury. Nothing else is involved and let us eliminate everything but that."

The question at issue was whether Osborne had said that

"there are no sodomy cases before the prison court" or, as the prosecution contended, that he had said "there are no sodomy cases before the prison." This led to a lengthy examination of the stenographer who had accompanied Dr. Diedling on his trip to Sing Sing. He was thoroughly discredited and shown to have acted as stenographer intermittently. His real business was that of inspector for the State Prison Commission, and from his notes it was shown that he had made many mistakes—substituting names of people and writing simple words in longhand. The other witnesses fared no better, and Dr. Diedling, who was the chief Witness, was badly discredited as the defense dug up some bad skeletons in the doctor's career. To show perjury it was necessary to prove that Osborne had tried to deceive Dr. Diedling. But it was shown in court that Dr. Diedling knew all about the cases, that Osborne knew that he knew, as he had been present when the information was given to Dr. Diedling. So it was clear that when Osborne refused to testify to information Dr. Diedling already had he was merely keeping a promise not to reveal a confidence. At the conclusion of the prosecution testimony, the defense attorneys made a motion for dismissal of the charge. The court took the matter under advisement.

When court convened next day, the judge began to read his opinion on the motion to dismiss the case. The first sentence showed which way the wind was blowing. "To make out a crime of perjury it must appear that false testimony was knowingly and willingly given by the defendant, under oath, covering material matter under investigation in a judicial or other proceeding authorized by law. Two of these elements are missing in this case." The first of these missing elements was the fact that there could be no willful intent to deceive because "Dr. Diedling knew, and the defendant knew that he knew there had been sodomy cases in the prison. . . . The defendant's refusal to answer . . . were to keep good promises he had made to the men . . . that he would go to jail rather than betray their confidence." The second missing element in the case was the fact that the investigation had not been authorized by the State Prison Commission and that therefore "Dr. Diedling had no authority to administer a valid oath to the defendant, and for any statement made at the time, the defendant cannot be held for the crime of perjury." The motion was granted and the judge directed a verdict of dismissal.

The crowd in the courtroom burst into cheers. But court was not over, and as soon as quiet was restored the attorney for Mr. Osborne, George Gordon Battle, rose to ask that the trial now proceed on the second indictment and with the jury already in panel. The District Attorney refused. "I am not ready for trial now, and for the balance of the month my office will be busy with accumulated duties, but in April the case against Thomas Mott Osborne will be tried."

When court adjourned, the jubilation over the outcome began again. The *New York World* reported that "for fifteen minutes after his discharge, Mr. Osborne was slapped on the back and otherwise enthusiastically greeted by his supporters." The District Attorney was not particularly jubilant. The same paper reports that Mr. Fallon, who conducted the trial, said: "Of course I cannot criticize the action of the court, but as to the Osborne indictment number 2, make no mistake. It will be tried in April and it will not be dismissed." Mr. Battle, who had acted as attorney for Mr. Osborne, said: "The result is particularly gratifying because it is based on the finding of the court, the evidence shows Warden Osborne did not commit perjury in that he had no wrongful intent or purpose to deceive."

Later that evening Osborne gave out a statement to the press in which he said that the outcome merely proved what he had always contended, that it was a case of persecution and not prosecution, and reiterated that Sing Sing prison could not be run from Albany or White Plains, but must be run by the Warden at Sing Sing, who must be allowed discretion in handling the disciplinary problems that arise, according to his best judgment. He also said that the other charges against him would be pushed to trial as speedily as possible in spite of the obvious attempt on the part of the District Attorney to delay bringing

the case to trial. "The fight I am making is the public's fight—a fight for honesty and decency in public life and the guarantee to the honest man who takes office that his mere honesty shall not result in attempts to destroy his good name—the best heritage of his children." The outcome was greeted with enthusiasm by the public press. Two examples of the reaction will indicate the general tenor of public opinion in the matter. . . . The *New York Evening Post* said: "We may conclude that the whole preposterous case against Mr. Osborne has collapsed. It will remain only as a painful memory of the lengths to which malicious attacks upon a public servant can go." The *New York Globe* went further. It demanded that "Governor Whitman should promptly make an investigation of the extraordinary conduct of District Attorney Weeks with a view to ascertaining whether or not his removal from office is necessary under the law."

Irrelevant, Scandalous, Prejudicial

Now began a series of maneuvers to force the District Attorney to go to trial with the other indictments. On the 17th, two days after his acquittal, Osborne again appeared in White Plains and asked that a date be set for the next trial. The District Attorney insisted that he could not be ready before April and that if he did not go to trial then Osborne could ask for a dismissal of the charges. Osborne's attorneys replied that they did not wish a dismissal, but a trial, and vindication. The presiding justice set March 30 as the date and the District Attorney said: "I cannot and I will not be ready on that day." He wasn't ready and the case did not come to trial. For two months the Osborne lawyers went through a long series of motions and counter-motions—of delay after delay—all to no purpose.

In the meantime the District Attorney's witnesses that had been cajoled into testifying were slipping away from him. The failure of the Osborne case, the failure of the Dropper prosecution, the dismissal of the Superintendent of Prisons, all led the wrong way from the one which they had been led to expect.

The promises of immunity and of reward were both doubtful, and the fear of perjury was after all a real possibility when faced with an open court trial in the hands of a competent lawyer for the defense. The District Attorney issued a public statement to the effect that attempts were being made by persons unknown and by relatives, to tell his witnesses "of the trouble they may cause themselves in giving testimony for the state."

Not being able to force the District Attorney to trial, the defense attorneys took other measures. One of them was to go before Supreme Court Justice, William P. Plat, and ask that the sixth count in the second indictment be divorced from the other counts and embodied in a separate indictment. It will be recalled that the sixth count charged an unknown number of felonies under an indictment for "neglect of duty," which is a misdemeanor. If Osborne had been convicted of any of the misdemeanors in the second indictment, the impression would have gone abroad that he had been convicted of the felonies as well. The Judge said: "We cannot assume that the Grand Jury had evidence before it that the defendant had committed high felonies and then only indicted him for a misdemeanor." So that charge too went by the board, the charge that the assistant district attorney had used the open courtroom as a sounding board to herald before the world, without proof and before actual indictment of a specific crime against Osborne had yet been made. . . . Commenting upon this decision, the *Brooklyn Eagle* said: ". . . The public will be quick to draw conclusions which Judge Plat drew, that there was not evidence enough of the most serious charge made to justify an indictment for it alone. . . ."

The District Attorney appealed for an alternative writ of prohibition to cancel Judge Plat's decision. This was granted. The matter was therefore taken to the Appellate Division of the Supreme Court of the State of New York. On June 18 the court rendered an unanimous decision. If the District Attorney had any professional pride left, it must have been completely dissipated by the judgment of this court. "The sixth

count contains no statement of acts constituting a crime. It contains characterizations that are legally meaningless in the legitimate prosecution of a criminal action, but oppressively injurious by suggestion." Later in its opinion, the court referred to the indictment as "irrelevant, scandalous, prejudicial . . . matter . . . professing to charge but not charging a crime. . . ." There was now little left of the original indictment. But the District Attorney would not bring it to trial. And it was only after his successor took office that the charge was finally withdrawn.

That also happened with the indictments against the twenty men who had been charged with immorality by the Grand Jury. The new District Attorney withdrew the charges against them on the ground that they had already been punished within the prison. "The admissions and confessions which constitute the sole corroborating testimony were obtained from those men under the belief that they would there and only there, be punished. Under such circumstances, the principal result of placing them on trial and convicting would be equivalent to punishing them twice for the same offence." That is just the position that Osborne had taken originally.

And so the conspiracy ended. Osborne fortunately had money, friends, and personal influence in the state. Had he been less blessed with good fortune he might have lost the case and with it his name and his power for good in the community. One must always marvel not at his powers of resistance in the face of relentless persecution, not at his cheerfulness and confidence through the bitter hours of trial and strife, not at the willingness of the community to come to his defense, not at the good sense of the courts in seeing through the chicanery of the indictment, but at the fortitude and resistance of the hundreds of men within the prison who stood by him and for him, when every apparent advantage should have induced them to do otherwise. Only five out of nearly fifteen hundred criminals were obtained by the promise of reward and the threat of prosecution to testify against Osborne, and these were such self-confessed perverts, half demented creatures, that their appearance upon the stand as the only witnesses for the prosecution was considered by decent men as the best evidence that their testimony was perjured and that the whole case was built up out of falsehood.

"Doctor of Humanity"

During all of the time Sing Sing prison was under the management of George W. Kirchwey, who acted as warden in the interim of Osborne's leave of absence. Under him the community organization in the prison not only proceeded smoothly but with an accelerated energy. The different activities of the community were strengthened and new ones were developed. The efforts at education and sanitation especially showed marked results. This experience demonstrated one important fact—that the community organization in prison can proceed and function successfully under any competent and intelligent warden.

The prison through all of this time was intensely interested in the proceedings in White Plains and followed with the keenest interest the fortunes of Osborne's battle for vindication. Every new victory proved a new reason for jubilation within the prison. When Judge Tompkins dismissed the charge of perjury against Osborne, the prison made a great occasion of it —on Saint Patrick's day. There was a grand parade with the Sergeant-at-Arms all dressed up in green, riding a prison nag, with the Jews, the Italians, and the Poles, all marching for the glory of Saint Patrick, with the prison band playing Irish tunes and with a goat all painted in a bright emerald hue, labeled "Dr. Diedling's goat," green with anger, and there were speeches by everybody and much cheering and jubilation.

The final settling of the case against Osborne immediately raised the question of his return to the prison. There was some question as to whether he ought to return at all. Kirchwey's management of the institution had been so successful that it seemed a pity to relieve him of his responsibility. Speaking to the men on Saint Patrick's Day, Osborne said: "My only regret is that it will be impossible for Dean Kirchwey and me to occupy the same position at the same time. Possibly we

could make some arrangement to have one warden in the morning and another in the afternoon." For there truly was a quality of humor and intelligence about Dean Kirchwey that made him beloved by all the men.

One day a warden from a Western prison visited Sing Sing and wandered all over the place. Before leaving the place he called on Dean Kirchwey and wanted to know: "What you do here when a prisoner assaults a guard?" Kirchwey replied easily: "We never have such a case." The incredulous visitor insisted: "You must have, and I want to know what you do when it happens." "But it never happens," insisted Kirchwey. The Western Warden would not be sidetracked. "But it must happen. The prisoners have a free hand and there is nothing to stop them; and I want to know what punishment you inflict for such an offence." The only thing Kirchwey could say was that it didn't happen. Then asked the visitor: "What would you do if it did happen?" Kirchwey reflected and said: "Well, I think—I think we should send the man to an insane asylum." The Western Warden left unconvinced.

This quality in Kirchwey led Osborne himself to say that it was probably a mistake for him to return and that he would have done better in dedicating his energies to spreading the new method of prison administration to other penal institutions. On the other hand, it seemed both to himself and to his friends, that as a matter of public justification it was essential that he take up his work in Sing Sing again. With the consent of the new Superintendent of Prisons, and upon the insistence of Kirchwey that he could not and would not continue in office now that his friend was free to return, Osborne resumed his office of warden again in Sing Sing on July 16, 1916.

Such a day of celebration had never been seen in any prison before or since. Osborne was met outside the prison by what was estimated as nearly 250 prisoners, the band was there, the executive board was there, the "faculty" of the "Mutual Welfare League Institute" in its gowns, and many other prisoners awaited Osborne's return at the edge of the State property. The prison itself was decorated and a holiday mood was all

over the place. In addition to the many prisoners who had gone out of the prison to cheer Osborne's return as many visitors from all over the State—friends who had helped bring the battle to a successful conclusion, newspapermen by the score, photographers, and many ex-prisoners came to cheer the return of their friend to his old post. Within the prison there were parades, athletic contests and speeches, song and music. And the day was not done till the faculty of the Mutual Welfare Institute conferred the degree of Doctor of Humanity on the returning Warden. And, strange to relate, in all of this excitement and crowding, not a single untoward incident was reported.

The press took Osborne's return as a good omen. The *New York Times* saying: "It is not necessary at this time to seek adequate characterization of those who made such a determined attempt to drive Osborne from the position which he took with the very best motives a man can have . . . for they have been utterly defeated, and so great is their humiliation by the complete breakdown of their elaborately worked-up case against Mr. Osborne, that they are become subjects of pity. Mr. Osborne himself is only to be congratulated on having had opened again the opportunity to serve—to do the most trying kind of work in an environment which to most men of his breeding and training would be repulsive. There is 'nothing in it' for him, according to ordinary estimates, and he will still encounter antagonism from all the forces of evil and reaction. It is a man's job, however, and as a man he will not expect anybody to commiserate his self-chosen hardships."

15

THE STRUGGLE FOR SURVIVAL

OSBORNE'S RETURN to Sing Sing was a great personal and political victory. He had not only driven his enemies to cover, had not only cleared his name, but by resuming his post had vindicated his methods. It seemed at last as if he would be free to do his work undisturbed. But the battle against him was not over. It commenced again as soon as he set foot in Sing Sing, and the reason for that was not far to seek. A new gubernatorial campaign was beginning. Osborne had only been in office three weeks when the Tammany Organization announced that it would offer Osborne the nomination for the office of Governor. In fact, it is known that Murphy, the then political boss of Tammany, called Osborne on the 'phone and asked him to accept the nomination. Osborne declined and announced in public that he was out of politics, but that made no difference.

The new superintendent who had promised him a comparatively free hand upon his return to Sing Sing, began to interfere with the administration in Sing Sing. Within two months after Osborne's return, the superintendent wrote: "I have come to the definite conclusion that either the new ideas are not workable, or that lax methods are employed in their development." The superintendent began to issue orders to the Warden of Sing Sing through the public press before sending them to Sing Sing so that Osborne complained of not having an opportunity to suggest amendments, changes, and corrections.

The final straw came when the superintendent issued a general order that all long-timers be kept within the prison walls. Upon analysis it was seen that this rule applied only to Sing Sing. In all of the other New York State prisons the administrative offices are within the confines of the walls. Sing Sing, however, is so constructed that the administrative offices, while connected with the main prison by buildings, are not properly within the walls. Every trusty working in the administrative offices, who had a long time to serve, would have to be removed. The order affected 54 out of 84 trusties at work in Sing Sing. This order also seriously interfered with the League. It was the custom that positions of trust were to be assigned to men recommended by the League. It was also essential, if the inmate government was to function properly, that the League's Chief Sergeant-at-Arms, Secretary and messenger should have free access to the Warden's office, at any time. This order made it impossible for the League to elect men of known worth and competence to these offices if their time was outside the limit set in the new order.

Osborne interpreted this order as an attempt to drive him from the office of Warden, and telegraphed his resignation to take effect on the 16th of October, just three months after his triumphant return to the prison. In a letter to the superintendent following his resignation, Osborne said: "You have spent part of one day here since my return . . . you have forbidden that the public shall have full knowledge of what is going on in their own institutions, yet the very secrecy which you enforce, is the very thing that made possible the graft and brutality of the old system, and still makes possible a continuance of graft and brutality in one of the State prisons under your charge."

Osborne's sudden retirement from the prison left the Sing Sing inmates in a sort of daze. There was fear that riot and rebellion would follow, and Osborne exerted himself to keep the men in hand. The Democratic nomination had gone to Justice Samuel M. Seabury and Osborne entered the campaign in self defense and in defense of prison reform and in the hope

of defeating Whitman, whom he considered an enemy of prison reform as well as responsible for most of his serious troubles in Sing Sing. This political conflict, combined with the statement of Whitman that he stood for "iron discipline," agitated the prison a great deal. The prisoners were afraid of a return to the old system. One prisoner writing to Osborne an underground letter five days after Osborne had resigned said: "Let Albany think that there are 75 gats and jacks planted in here. Sabe? It will make Albany think twice before they make another move. No need worrying about us. Things are going along O. K. and will continue to do so, *Until the bell rings.*" It is perfectly clear that if an attempt had been made to destroy the League at this time that riot, rebellion and fire would have swept the institution. It took every effort on Osborne's part to keep the men cool and quiet. Soon after his withdrawal, Osborne wrote Governor Whitman a public letter charging him with responsibility for the attack upon him as Warden of Sing Sing. The letter is as follows: "Thanks to you, sir, the name I inherited from my honored father, and from my mother, who was your mother's friend, has been linked in people's thoughts and talk with the vilest of crimes; I have had to fight for what is worth far more than life itself against a powerful and remorseless political organization; I have been indicted and placed on trial with the shadow of a state prison sentence falling upon the court room. Yet for all this and more I not only bear you no resentment—I am deeply grateful. You have been the means of bringing to me some of the most wonderful experiences the world can give; renewal of old friendships, and troops of new friends; appreciation of my work far beyond its deserts; increased opportunity and power to be of service to my fellow-man. I would not alter the past two years, if it were possible to do so." Because of his participation in the campaign and his criticism of Whitman, the Superintendent issued an order forbidding Osborne the right to visit any of the State prisons in New York.

At the same time that Osborne attacked Whitman in the public press, and when, for political reasons, the Republican

papers carried on an active campaign against the doings in Sing Sing, the prisoners issued an appeal to the newspapers for a fair deal. As this is the last public pronouncement by the prisoners' organization of which we have any record, it is worth printing in full. It gives a summary of what the prisoners' organization had accomplished and of its importance to them and their valuation of it.

An Appeal

"We, of the Mutual Welfare League of Sing Sing prison are human beings, some of us come from the best of families, some come from the scum of the earth; we are here together serving sentences for breaking the laws of the State. We are convicted felons, and we are deprived of our liberty because the Courts of Law of the State must be obeyed, and rightly so.

"All of the above you know.

"But do you know the Mutual Welfare League and what it has and is accomplishing? We don't think so, for if you did we surely would get consideration and helpful words instead of being kicked because we are down and out. . . . Then please (in justice to the men who are trying their best to outlive the past, to do better each day, the men who are trying to overcome all obstacles placed in their way by the enemies of the form of government now existing in Sing Sing prison) publish broadcast this appeal. . . .

Give Us a Chance

"When a man is brought from New York to this prison to serve his sentence he is, after a few preliminary and necessary changes, placed in a cell. These cells are 7 feet long, 3 ½ feet wide, and the doors of these cells are half blind, the other half but 2-inch iron bar squares. The walls of these cells are continually covered with moisture, and the floors of each cell are so wet there is a continual stream of water running out to the flats where this water runs into the cells on that tier.

"The writer arrived at this prison on a Friday. That night he was placed in a cell, but on the following day he was car-

ried to the hospital stiff with rheumatism. The hospital records will prove that fact.

"There are 1,200 cells here and 1,600 prisoners, 1,400 of which are locked in the cell-block, consequently in 200 of these cells 7 feet by 3½ feet are two men. Now, one of the privileges of the Mutual Welfare League is to permit each member to stay out of this hole in the wall until after supper, which is now 5 P.M. At 7:30 P.M. the League permits its members to attend a concert or motion picture in the chapel, or to attend the evening classes of the Mutual Welfare League Institute, if they are seeking intellectual uplift, returning to their cells at 9:30 P.M. and because we are permitted to stay out of these cells for that length of time the people who do not understand say—we are being 'mollycoddled.'

"On account of the Mutual Welfare League our conduct is governed by that body. We have no keepers or guards to watch us in the chapel where we have the entertainments, or in the shops, or in the mess-hall. Sounds ridiculous, doesn't it, to think of a criminal doing things right without a keeper continually at his heels? Now, just think of the foregoing statement and then read the following facts.

"During the past two years we have had but one case of an inmate assaulting another in the chapel. In that same period of time there has been more work, better work, and better deportment in the shops than at any other time under the keepers. And for the past two years there has not been one infraction of the rules in the mess-hall where so many men congregate three times daily. The inmate who breaks any of the rules, as prescribed by the Mutual Welfare League, is brought before the inmates' court and five of his fellow members duly appointed deliberate and act upon his case. During the past six months we have averaged but one case a week. For the past three weeks we have had but one case in the court and that case was a trifling one. Is there another prison in the world with such a record? We have absolute silence in the cell-block where 1,400 men are shut in from 5:00 to 7:30 P.M. and 9:30 P.M. until 7:00 A.M.

"Now, about the recent escapes which the Mutual Welfare League is being blamed for by those who do not understand. As our Sergeant-at-Arms recently remarked to the Acting Warden: 'I am not a policeman for the State, I am a policeman for the League,' covers a good many of the facts, which are as follows: If a member of the League crosses the yard on the way to another department in other than recreation periods he is halted by an officer, keeper, or guard, and if he carries no pass he is reported by them. But an automobile truck with a large box containing four men and a prisoner chauffeur with another inmate beside him wearing a prisoner's raincoat and a keeper's cap passes through the yard to the south gate and is permitted by the guard in the tower on the wall to pass through that gate. We, of the Mutual Welfare League, are held responsible for it.

"Please remember that there are comparatively few keepers here, and as there are no keepers but what have been here for a number of years, don't you think that they ought to know each other? Don't you think that the keeper on the wall should have had a phone message or a written order from the proper authority to pass outside whosoever is authorized to go out? Why should he have permitted them to go out of that gate? Think this over and then tell us why the Mutual Welfare League is being blamed for the escapes by the newspapers and the people who do not understand.

"Here in Sing Sing we are a community. We have some bad, some heartless, and some thoughtless people the same as you have on the outside, but, because some of our fellows were getting worried about the unsettled conditions of things here and took a chance for freedom, and almost succeeded in their attempt through the negligence of employees of the State, we, of the Mutual Welfare League are being severely criticized by the PEOPLE WHO DO NOT UNDERSTAND. While the League has proven that it can successfully handle the discipline and management of the shops throughout the institution, we feel that we would be assuming too much responsibility in guaranteeing to keep each other incarcerated. That duty is

the primary function of the keepers assigned to this prison by the State.

"Please publish this letter. Are we asking too much? ALL WE WANT IS A CHANCE.

For the Executive Committee of the
MUTUAL WELFARE LEAGUE."

Governor Whitman was re-elected. In one of his first public pronouncements, he declared for a policy of "iron discipline" and later invited Warden Moyer of Atlanta prison to take charge of Sing Sing. Warden Moyer was known the country over as a strict old time disciplinarian and the men in Sing Sing and their friends outside feared that he would attempt to destroy the prisoners' organization. There was literal danger that the men in Sing Sing would turn the place into a pile of ruin. They had tasted of better things and were not willing to be driven back, as they felt, without reason, to the old grind and as they said "soul destroying" thing. How the men felt is illustrated by a letter written by an ex-president:

"I'm afraid that Supt. Carter will tell his new appointee W. H. Moyer to put the lid on. He had better not. For I have been in continual communication with my pals down at Sing Sing and I have their assurance that they will stick. So that the minute I get the wire that Moyer is shutting down, this kid will make feet for Ossining, and I want to tell you Dad, Mr. Moyer will get the surprise of his life—he will wish he never took the job. I am just burning up with rage and I can hardly control myself. I just want to get down to S. S. and get the boys to give their new boss (a warm reception) the reception being so warm it will take the State of New York and that . . . Warden, ten years to rebuild the place.

"I tell you, Dad, the mob is not going to stand for a wrong deal, even if it comes to sending the Warden and P. K. to 25 gallery. I personally am willing to do the job, for I don't amount to anything anyway and can afford the sacrifice. I couldn't work all day long, I was all burnt up, for Moyer is the old type Warden, and I know what the boys can expect from

him. I have kept the underground wires busy all day, and I am just waiting for a reply.

"Dad, I just cannot sit still, I am raging like a volcano and I feel as if every minute I must burst. To think that after all the work you done and what you accomplished, somebody should step in and try to bust things. I'd like to bust the Supt. and new Warden's head, and by God, I will before I am many days older.

"For God's sake, Dad, do something; we can't stand for such double crossing. I tell you, the old underworld method still appeals to me, in a case of this kind, just to take a big rod and blow a couple of those skunks off the face of the Globe. Let me hear from you at once, for I am awful upset having to stay here and just watch."

It took every bit of energy and patience that Osborne had to restrain the men in and out of prison from doing violence. They talked and behaved as men do who feel that something sacred to them is about to be violated and destroyed. It is a tribute to Osborne's personal influence over the men in Sing Sing that nothing tragic happened there in those days and he had to convey his influence through underground channels. He was not permitted to go to Sing Sing, as he wished, to talk to the men and calm them. Fortunately, Warden Moyer was a man of good sense and when he came to Sing Sing discovered the "wonderful thing" and remarked that he had never seen such good discipline anywhere and he had visited every prison in the country. He is reported to have said to a friend that "the League takes the problem of discipline off my hands and I have time for other things." The surprise of the men at this unexpected attitude of their new Warden is indicated in some letters that reached Osborne at this time.

"However, things are beginning to straighten themselves out a bit now, and although we are just a little mite skeptical as to how everything is going to turn out, still we have no kick coming as yet only that the visitors are becoming fewer every day and that as you know means a whole lot to us. I suppose you have heard by this time of Mr. Molloy's appointment to

Mr. Derrick's place. Once more the ship is safe, and he is starting right in to make things hum. He has already met with the executive board and the educational Com. and is coming back tonight again to attend the board of delegates meeting after the show. So you can see T. M. that you still have somebody at the helm, and I am sure that he will do all in his power to keep the league at its standard. . . .

"This is written after the meeting I referred to and thought you might like to know how it turned out. I was not there myself but from what the boys tell me they are all delighted at the speech made by the warden and Mr. Molloy. He says he is strong for the league, and that the discipline here is the most wonderful thing he has ever seen, and he has been in all the prisons in the country, also spoke of the vocational school and of the need of money for same, and promised his utmost help in getting some so as to extend the work. Also several other things, all most favorable to the league. How do you account for the difference in what he says and what the Gov. says in his iron discipline speech to the legislature? I think he is on the level T. M. for everything seems to come right from his heart, and Mr. Molloy thinks so to, so what more can we do than to give him our full support and hope for the best."

But the change was more than a change in wardens. It was a change in attitude. Many of the activities of the League, such as the bank and the store, were destroyed. The prison paper was suppressed. The privilege of receiving visits and writing letters was curtailed. Fear and suspicion began to pervade the atmosphere again. A visitor to Sing Sing who knew it under Osborne described the situation at this time as follows: "For the first time since the Mutual Welfare League came into existence I found prisoners afraid to come up in the old time frankness and talk over things in the light of day. For the first time I found them watching me with wide eyes, making sure that the guard who was my constant companion on this trip through the prison was just out of earshot for a whisper." But in spite of these changes, and in spite of the

open hostility of the Superintendent's office the League persisted and has continued until this day. Its powers are curtailed, its influence not so great, its value as an institution for the re-making of character largely destroyed, but it is still there in Sing Sing and the present Warden seems to be friendly and coöperative. A dispatch from Ossining, dated December 1, 1929, gives evidence of the fact that the League is still alive —in fact even if its spirit is largely gone.

"At Sing Sing prisoners completed arrangements today to give the first of five nightly performances of their musical show 'Good News' to the outside public tomorrow evening. Warden Lewis E. Lawes granted permission to the Mutual Welfare League to broadcast it to twelve condemned men in the death-house.

"At the same time amplifiers will broadcast the show to nearly 200 new inmates kept in the stone cell-block in the old prison. The 1,770 prisoners in the new cell-blocks have already seen the show.

"The scenery and all the stage effects and decorations have been provided by talent inside the prison."

It is interesting to observe that there has been no riot in Sing Sing since 1914 when Osborne first went there. It is also interesting to observe that when there were riots in Clinton and Auburn the Warden of Sing Sing refused to accept the extra police force that was offered him. He said that he was not afraid of a riot. Instead, he talked to the men frankly and openly about their problems and his own. Warden Lawes has shown something of the spirit out of which great wardens are made.

Auburn

The 1929 riot, rebellion, arson and murder in Auburn Prison give peculiar poignance to the struggle of the prisoners in that institution to maintain the self-governing community. On the face of the evidence available, a direct and indirect attempt to undermine the powers of the League in Auburn Prison finally succeeded, after a period of years, in completely undermining its morale, destroying its power, and making it useless

as an instrument of internal discipline and less than useless as an instrument for the shaping of character. It is perhaps too much to suggest that those responsible for the outcome in Auburn were motivated by malicious forethought. It is perhaps truer, and more charitable as well, to say that they did not understand the instrument they were working with and did not know how to use it to the best advantage. Whatever the reason, the results have been tragic in the lives of both the inmates and the officers of that institution. It is clear that these occurrences in Auburn were unnecessary and could not have happened at all if the League had been held to its earlier standards. It is clearly a failure in administration on the part of the responsible officials of Auburn prison—a failure of temper and of understanding. The old habits, the old ways were too strong for the guards, and with a warden not sufficiently concerned with the doings inside the prison itself things kept going from bad to worse.

As far back as September, 1918, while Osborne was still in charge of Portsmouth Naval Prison he received an underground letter from one of the men in Auburn which gives a picture of what was happening. "Tom Old Pal: This has to be sent crooked—as a 'kite.' Before you have finished reading it you will understand why. The new P. K. here at Auburn is death on the League and has sworn to 'bust the damn thing up' (those are *his* words). He does not recognize the Sergeant-at-Arms at all. The other day a man was sent to jail for a very minor offence and the Sergeant went to the P. K. and asked for the man to be turned over to the League Court. The P. K. said: 'Go to hell up where you belong and don't come here any more. When I have anything for your League, I'll let you know, and understand don't come here bothering me any more.'

"Ye Gods Tom how he does hate the League.

"Do you remember him, Tom? R—— a big husky bum. Only 30 odd years old. If he was any good at all he would be doing his bit for Uncle Sam instead of trying to break up the wonderful thing you worked and suffered for. By God, it will

end up in some one killing him, just wait and see if it don't. There is four P. K.'s here now. . . . They get all their meals in the hospital and do the sick men out of them. . . ."

This letter gives a number of interesting and significant side lights upon the situation. The Principal Keeper was antagonistic to the League and the men believed that he had sworn to "bust the damn thing up" and the men were so chagrined that they predicted that he would be killed. The men also believed—rightly or wrongly—that the keepers were grafting at the expense of the prisoners in the hospital. A minor complaint perhaps, but one that would rankle and embitter the prisoners, for it is the little things that count within a prison—and the little things become the source of great tragedies in a world where all evils tend to be exaggerated.

In March of the same year Osborne received another letter even more disheartening. The prohibition of outside entertainments meant that the League would be unable to finance itself. The men interpreted that as an indirect attempt to destroy the League. The men blamed Mr. Carter, the same Superintendent who had helped drive Osborne from office, for this attack upon their organization.

"Dear Mr. Osborne: This letter is the last resort of a hard pressed bunch, and goes out *underground*, you may be sure. The League at Auburn is making a last stand against its ancient enemy, the Old System, which has sidled in of late, hand on chin, and smiling paternally. The secret workings of the official 'crimpers,' D. and W. (D. has 'flopped,' you know) whose task it is to 'crimp' the League—for the warden is as active in administrative affairs as a rag doll, their machinations are so subtle, yet so effective, that we are utterly powerless to combat them.

"Matters stand thus: The superintendent, on a few witless pretexts, has revoked the 'outside' entertainment privilege. In order not too patently to manifest his purpose of literally expunging the League he suggested as a substitute source of revenue for it, the publishing of a magazine: he 'realized that without some source of revenue, the League could not con-

tinue.' We have *less than $100 in the treasury.* . . . The bottom of their plan, of course, was beyond reach of our notoriously obtuse perception. We supposed, however, that we were expected, in a happy event, to embrace the proposition ardently, sink our funds into it, career hopefully along for a time—then bust. After that—a deluge of regret, commiseration and final condolence in the form of a paternal assumption of our burdens by the 'super.' We took the screws gracefully, acknowledged Mr. C.'s sentiment toward us, and set trustfully to the task of creating a magazine. There are other ways of confirming the existence of a stone wall than by butting it."

As if this were not enough, unnecessary attempts were made to destroy the morale of the prisoners. This is indicated by a little incident that burned itself into the hearts of the men and helped to embitter them. During the same month of March one prisoner wrote to Osborne: "We took up a collection of 315 dollars for little Lucy Bresnahan, who was down with paralysis, in a charity hospital in Syracuse. The Superintendent sat down hard on it. 'Don't want people to know that 'cons have hearts' was the verdict of the boys.' "

In 1919 soon after Warden Jennings returned to Auburn things began to go from bad to worse. If before that the League drifted backward it was due in part to the hostility of the Superintendent of Prisons, and in part to the fact that the Warden for reasons of bad health, tended to neglect the internal activities of the prison. Now, however, the Prison had a warden who was good natured, but temperamentally unfitted for the handling of a democratic institution such as the Mutual Welfare League.

Among the first things the warden did was to issue a series of rules stripping the Mutual Welfare League of its representative character by converting the elected inmate officers into *under-officers* of the prison, showing a complete misunderstanding of the nature and place of community organization in the institution. The delegates elected under the Mutual Welfare League were not officers of the institution. They were representatives of the men for the handling of those problems

which arose within the prison community. They were not officials of the state. They were elected representatives of the inmates to mediate between the prison community and the prison administration, and to carry on as many activities as were possible within the walls without impinging upon the authority and powers of the prison administration. The Mutual Welfare League was meant to be and was for a long time a free and active community organization within the crust of prison walls and official power—but not in conflict with it and not necessarily representative of it. It is true that all the powers exercised by the League were permissive and dependent upon the good-will of the Warden and his aids—but as long as that good-will was available its activities were free from interference and worked by mutual consent and compromise, open and above board. What Warden Jennings did was to attempt to convert this institutional organization into a part of the official machinery of the prison disciplinary order—to convert the officers of the League into elected and delegated "stool pigeons" of the Warden. That perhaps was not his intention. But that was the outcome of his administrative rules. The rules of the new Warden were promulgated on August 15, 1921. Some of these are worth detailing. They show the nature of the change imposed upon the prison community.

Rule number two read "No member of the Mutual Welfare League will take office without the approval of the Warden." The Warden thus denied the responsibility of elected inmate officials to the prison community that had elevated them to office, and it was upon this principle that the whole scheme of inmate government depended. It was a basic rule that the Warden must not play politics, must not interfere in the choice of the officials of the prison community, and must give no indication as to whom he would favor. It was also an accepted rule that if the men elevated to office were not the best available material the Warden must nevertheless give them an honest opportunity to rise to their responsibilities. If in spite of an honest opportunity these men failed then the warden must appeal to the community against an inefficient or untrust-

worthy prisoner delegated with power. To do otherwise was to show distrust in any inmate officer that was acceptable to the Warden. It tended to make the elected officers the "Warden's stool pigeons."

Rule number five is of the same character. It says: "League officials, including Sergeant-at-Arms, Officer of the Day, Delegates, Judiciary Board, Committees or other officials, will continue in their respective offices after election or designation only at the discretion of the Warden." Here again the Warden disregarded the choice of the community. The procedure that had become customary was well defined. If an elected officer proved unsatisfactory he was brought up on charges before the inmate court. If the inmate court should fail to do the obviously desirable thing then the case could be appealed to the Warden's court and there with the whole community present and in full public view and for reasons that were obvious to all, the Warden could over-rule the decision of the inmate court on grounds that would appeal to the majority of the community itself. Instead of arbitrarily denying a man the right to continue in office, he was given a public trial, an opportunity to defend his actions, a right of appeal and a final judgment that was public and that was based upon the broader interests of the community as a whole. To disregard that procedure, as was done in this case, was to undermine the confidence of the men in the integrity of their own institution and to deprive it of moral force.

Even more serious than the rules we have just cited was rule number 18, which read: "It must be thoroughly understood that the Sergeant-at-Arms and his deputies with the other officials, are inmate under-officers of the institution and are subject to the order of the principal keeper and other institution officers at all times." This principle applied in practice made inmate government a farce and an evil. Inmate officers were not officials of the prison. They were representatives of the men. They were subject to the rules of the regular officers of the prison as a matter of course, not as under-officers, but as prisoners. But in so far as the internal matters of the League

were concerned, they were held accountable for their acts by being liable to trial and conviction in the courts in full public view and to removal from office as part of their punishment for bad faith, incompetence, or negligence. They were, it must be repeated, the representatives of the prison community, mediating between the inmates and the Warden to the mutual advantage of both, but they were not part of the prison disciplinary machinery as such. Any other understanding vitiates every rule upon which democratic government in prison rests.

Worst of all was rule number 20. This rule in part reads: ". . . At the discretion of the Principal Keeper all violations of the prison rules may be referred to the Judiciary Board for action with the following exceptions; refusing to work; assault upon an officer; deadly assault upon an inmate; strike or riot; attempt to escape; or other major crimes."

Now, it had long been the practice in Auburn Prison that all violations, with the exceptions mentioned, were subject to the inmate courts. To give the Principal Keeper the right to decide which cases should or should not go before the inmate courts was to take from the prison community its most effective means of internal discipline and influence. This was particularly unnecessary as all cases could be appealed to the Warden's court and set aright if the judiciary failed to function properly. It simply made a mockery of the League courts and turned the League officials into policemen for the Principal Keeper. That, as any one acquainted with prison administration knows, is an intolerable position morally and of necessity turned the entire community against any prisoner who in this manner serves the prison guards. It makes the elected prisoner an informer for the purpose of bringing official punishment upon one of his own companions and none of the better element among the prisoners will serve as "rats" for the officers. No wonder Osborne complained that the League at Auburn had become a "Warden's League" instead of remaining a self-governing community, held responsible by the Warden for good results, but held responsible as a unit. This principle was basic to the Mutual Welfare League and its denial destroyed

its influence for good, and its powers of enforcing discipline. How clearly the prisoners themselves saw this is indicated by some of the letters they wrote to Osborne.

A little over a month after these rules were promulgated the Board of Delegates appealed to Osborne, and wrote, among other things as follows:

"Another thing which is serious is that officers right under the nose of the Sergeant-at-Arms give orders to the men. If there is one thing which will tend to make the men lose respect and confidence in its officials it is this. We have repeatedly called this to the attention of the Warden but so far as we can see he does not order them to do otherwise, but it gets worse each day. We are open to correction and have asked the Warden to call to our attention at any time any abuse of power we commit, any correction which should be made. He, or any other who is directly concerned in carrying on its affairs can see things which we overlook; so long as the spirit of the League is left alone and not undermined we will strengthen it and be proud of our work and his suggestions will be gratefully received. We are not bull-headed, as he seems to imagine, but we do resist that which undermines the League itself.

"Now, the spirit of this League will not die. No one man is going to kill it. You lighted it in the breasts of us men, and as you once said down in Sing Sing it is bigger than any warden, Supt. or Governor, for it is fundamentally right. They may irritate us to almost destruction but they wont discourage us.

Board of Delegates,
Mutual Welfare League."

We can see here the issue drawn in all clearness. The men wanted the League as such and its powers as an organization preserved. The Warden simply did not see the issues involved. This fact is made the clearer by a letter written a few days after this appeal by one of the prisoners at Auburn. This letter details specific cases where the prisoner feels that the prison authorities are not working with the League so as to maintain its power and prestige but working against it and destroying its power within the prison.

"J. and Z. working on a scaffold, refused to stand on this scaffold unless rope was used to hold it up as it was very unsafe, being held with wire only. A large pipe was to be raised upon the scaffold. It weighed perhaps one thousand pounds all told. The officer insisted and these two men refused unless a strong rope was used.

"The Principal Keeper suspended them, and one other man named W., for an indefinite suspension from all League privileges, *without even consulting the League,* and also placed these three men in other shops. J. and Z. refused to work and without any talk the P. K. locked them up and has kept them in jail thirteen days! They came out today so weak and thin that you would have thought they had been through a famine. They would not ask the P. K. to let them out, and *he is putting back into effect the rule that was so despised under the old system—of breaking a man's spirit by starvation in the cooler. . . .*

"P. now in the cooler; been in there for ten days and Principal Keeper says he will keep him there. Is a very stubborn fellow and might never ask to get out.

"Offence: going into mess hall during Sunday afternoon; work changed from hall company to saw mill (cabinet) which is dangerous work for him as he is cross-eyed and he told them so and that he would be afraid to work on such a machine. Believe he is consumptive.

"P. D. was Chairman Athletic Committee. Told officer he had charge of the men in the grand stand during a ball game. Officer (B.) told him he would not recognize him and P. got hot-headed and said a few harsh words. Was put in cooler for twelve days; square-chalked for several weeks; an officer, S. let him out of his cell when there were strict orders to keep him locked up; he escaped through the prison Aug. 25th, cut three men, and was drafted to Clinton that night with other men. This officer was not even reprimanded yet they continue to blame the League for small things which occur here.

". . . C., colored man: day after riot he made remarks in the shop and the men sent for the Sergeant. Sergeant immediately told the P. K. that he should be square-chalked at

once. This was eight o'clock in the morning. The man was left in the shop all day, the P. K. not caring to act because the League asked it, but so soon he saw it was serious and finally did act 5 P.M. and the man was locked up before serious trouble occurred. . . .

"These are but a few cases which could be multiplied many times.

"The League is not what it should be . . ., as the real men holding office are also afraid to talk for fear of a draft to the snow pile (Clinton). When there was talk of recalling the unloyal officials, it was understood from the warden's lips that 'the people down there better watch their step and leave the Sect'y alone' so you see the real men had to lay off, but this coming election will put them out and perhaps we may get some where, yet old timer, I will do my best to keep the men in line and stop them from kicking over, that can be accomplished by getting a little word from you now and then, even though you may be thousands of miles away."

Osborne tried in vain to make Warden Jennings see what was happening, but without success. In January, 1922, Osborne had a long talk with the Warden of Auburn, but it proved unsatisfactory. Next day he sat down and wrote him a long letter. Realizing that this letter would bring about an open break between himself and Jennings he did not mail it. This is what he wrote, in part: "You hold the League responsible for the conduct of the prisoners, and if serious trouble comes up, the League will be to blame, because the name continues; but *you have taken away from the officers of the League the responsibility and power of handling breaches of discipline, which is the only safe foundation of the League system. The right kind of men in the prison—those upon whose good faith the League must depend—if it is successful, will not be instrumental in getting their fellow-prisoners punished by the prison authorities. It can't be expected.*" (Italics not in original.)

"In October the occasion came when I could urge the men to give you one more proof of the possibilities of the League.

I learned that there was a gun in the prison that had been taken from Mr. B. I did not know at the time that it was taken from him before you had advanced him to the office of Principal Keeper and that it happened in the boiler room, where he was asleep when he should have been on duty. Through the League the gun was located and returned to you. This was done upon my assurance that you could be trusted to appreciate their action, and would play straight. You have now justified the worst apprehensions of the prisoners by an action I would not have believed possible. You have now sent R——, the man who surrendered the gun—to Clinton Prison. How can you ever again expect to be trusted?

"Take the late unfortunate occurrence of the killing of a poor wretch who had been goaded into an effort to escape. Had the League been working properly, the original trouble—the so-called 'riot' in the Yard last August—need never have happened. When it did happen, had you played fair with the League, held the League Court to its responsibility, and coöperated in proper punishment for the ringleaders of the riot, the chances are that the District Attorney would never have butted in. Had he done so, you could have gone before the Grand Jury and maintained the ground that you had the responsibility of running the prison; and that nothing but harm would come, if the District Attorney did not keep his hands off. That position you could have held successfully, for it is plain commonsense; you had adequate means of punishment. No Warden can run a prison if the District Attorney can interfere with cases of discipline. You could have stood up for your own rights and the rights of your prisoners. Then, even had you failed, the men would have known you had done your best and would have respected you for it.

"Now look at the situation! The guiltier men are let go; the less guilty are hauled to court; a trial is held that outrages all sense of justice; at least one wholly innocent man is convicted; several more quiet, decent prisoners are made desperate; the whole public opinion of the prison community is poisoned; endless enmity and race hatred are stimulated—the

end whereof no man can see; one man is already murdered at Clinton—it is not unlikely other murders may follow; and the latest link in the chain—the killing of one of these poor maddened wretches by a guard. And all through this you have done nothing—or worse than nothing."

It seems clear from the evidence available, that years before the Auburn riots it was known to Osborne and should have been known to the prison officials, that they were destroying the institution at Auburn which in 1912 had a morale that enabled them to place long-term convicts upon the walls to keep a prisoner who had hidden out from getting over the walls at night. This could be done by the prison community without sacrificing the personal standing of the men who took their place as guardians of the wall because it was recognized that they were defending the community's interest. It took years to undermine and destroy this institution in Auburn and when it was so weakened in power and influence that it could serve no useful purpose within the prison, except to act as "under officers" for the Warden, it was blamed for the riots that occurred. It was clear from the testimony of Warden Jennings that the League was not responsible for the 1929 Auburn prison riots, but it is also clear that it was so greatly reduced in power and influence that it could not prevent the riots from occurring. If it had functioned as it did in its days of full responsibility and open dealing between the Warden and the prison community, the riots at Auburn could not have taken place at all. Whatever blame attaches to any one for the outbreaks in this institution belongs to those who, through ignorance, bad faith, misunderstanding, and lack of insight undermined one of the most remarkable experiments in prison administration that was ever developed and that functioned successfully over a period of years. Open dealings and in full public view are essential to any such scheme. Neither of these were available between the prison administration and its inmates at Auburn since 1921.

Portsmouth

On August 10, 1917, wrote Osborne: "It is a curious world. A little over a year ago I was being tried for perjury by the Grand Jury of Westchester County, (N. Y.) and it looked as if the most powerful interests in the State had determined to send me to the State's prison. Now, here I am in the naval uniform of the United States, Commander of the Portsmouth Naval Prison. I have about 520 prisoners at present, and the number rapidly augmenting. We shall have 800 to 1000 by December, I think."

As early as January, 1917, or within a month after the exciting New York political campaign, he and two companions were spending a week as voluntary prisoners at the naval prison. Here he found the old system in full swing, with shaved heads, huge yellow and red numbers that disfigured the clothing of the prisoners, poor food and oppressive espionage. He himself was searched some fifteen times a day. In his report to the Secretary of the Navy he mentioned "the inevitable tendency to treat prisoners as if they were not possessed of ordinary feelings. . . . This lack of decent consideration causes certain of the sentries to speak to the prisoners in a most over-bearing and insulting manner—often being language which no man but a helpless prisoner could endure." On the first of August, 1917, Osborne was commissioned as Lieutenant Commander, Naval Reserve, and placed in charge of the Naval Prison, serving to March 17, 1920.

While awaiting orders to take command of the Naval Prison he wrote to the Secretary of the Navy: "The purpose of my going to Portsmouth, as I understand it, is to work out a fundamental change in the purpose of the prison. It has been a prison; you wish me to make it a school. It has been a scrap heap; you wish me to make it one of humanity's repair shops." That is what he proceeded to do on a scale never before attempted. In the time that Osborne was in charge of the prison he handled approximately 6,000 prisoners—without any guards within the prison enclosure. When he first went there he found 180 prisoners and 190 marines as guardians. These were dispatched. A prisoners' organization was established, a prison police organized—as it had been done in Sing Sing and Auburn. Only here there were no walls. The greater part of

the men lived in hastily erected wooden barracks—as there was not room enough in the prison building for the large increase of prisoners during the war. In all of that time only eight men escaped—an exceptionally high record for any prison with so large a population.

As in Auburn and Sing Sing, the men found their prison experience a great spiritual adventure. It became a great school. "It is with a deep feeling of regret that I pen these few lines of farewell to you," wrote a discharged prisoner to his companions. "Somehow or other I hate to leave the place that I have known as home for the past eight months. . . . My fondest hope is that you will continue to back up your commanding officer in the future, as you have in the past, but try to sacrifice a little more and give him a still greater success." One of the important achievements of Osborne's administration was the securing—after much difficulty—the consent of the Navy to return to active service prisoners who were deemed worthy of the privilege, and during his administration nearly 4,000 prisoners were sent back to active service. Internally, the prison had its difficulties, with sharply contested elections and electoral campaigns and well-organized political parties. But these difficulties only added zest to the life of the community.

The change implicit in the attitude of the men is interestingly given by one of the prisoners at Portsmouth when he wrote: "As I look out of the spotless window at the groups of fellows going by unguarded and not hemmed in by any wall other than the dictates of their own conscience and honor—discussing last night's basketball game or last Sunday's football game, the possible ratification of the peace treaty, and other current topics, I try to compare the attitude of the men who have come under the inspiring influence of the MUTUAL WELFARE LEAGUE in this Prison with the attitude of those who are confined in our State's prisons. I more fully realize what they need, because some of the finest and 'squarest' friends of mine are blind with the same hatred which I once

felt . . . they are being turned out week after week devoid of all self control, seeking revenge on all mankind. . . ."

But more interesting than the reflections of a prisoner is the record of an event in the history of the prison itself. The Naval Prison Dramatic Company went to Manchester, N. H., some 43 miles from Portsmouth, to give a few performances for the benefit of the Red Cross. They went in thirteen automobiles, 100 unguarded prisoners, with Mr. Osborne leading the way. On their way home it began to snow and one of the cars lost its way.

"At about 11:25 Mr. Osborne gave orders that we might leave for Portsmouth. Twelve of the motor cars already had left and we were in car No. 13. . . . We started out in a Cadillac-eight, with a driver from Portsmouth whose name we did not even take the trouble to ascertain. It was a decidedly chilly night and . . . we lost our way. . . . For the course of the whole night the prisoners in this car were roaming all over the surrounding territory trying to find the *right way back to jail*. There was one man in the party who had been sentenced for 'life'; one with a 25-year sentence; one with a 20-year sentence; one with a 15-year 'bit'; four who had ten years apiece and so on down the line until we reach the lowest time for which a man is incarcerated at the Naval Prison—that is, six months. There were two with such sentences in the party. The total period of time, excepting the life-time sentence, was 386 years. Now, why didn't these men run away? I don't know; Mr. Osborne, our Commander doesn't know; you don't know—but the fact remains that they did not break a trust which had been placed in them by their shipmates. The answer is the influence of the MUTUAL WELFARE LEAGUE."

It was natural that these methods of Osborne should become subject to criticism within the Navy where the older rule of discipline with Naval prisoners was a matter of long tradition before Osborne's regime. "Any infraction of the rules within the prison," wrote Chaplain A. J. Hayes, "was treated with a punishment that was ridiculous and at times inhumane."

A change in method so revolutionary as that involved in Osborne's administration could not be accepted by all the Naval officers and wild stories were set afloat about the Naval prison and about the fact that the pleasant conditions in the prison undermined the fear of Naval discipline, which remind one of Osborne's Sing Sing experience. A demand for investigation was made. In July, 1918, Rear Admiral Spencer S. Wood, Commander of the First Naval District, made a thorough inspection of the prison and commended Osborne and his method to the Secretary of the Navy. Among many other things he said: "Many prisoners were questioned as to their desire to return to the Navy, and although over 1500 were questioned, there were only three who showed any disinclination to return. These were also, at the same time, questioned as to whether they had any fault to find with the treatment they received, the food, etc., and only five minor complaints were submitted, which really had nothing to do with their treatment."

Another investigation of the prison in February, 1920, made by the Assistant Secretary of the Navy, Honorable Franklin D. Roosevelt, and Rear Admirals Dunn and Halstead, were equally enthusiastic about what they found at the prison. With the end of the war and after nearly three years' service, Osborne asked permission to resign. The Secretary of the Navy wrote Osborne a glowing tribute for his services to the Navy during the war, saying, among other things: "You have taught the Navy and the country that prisons are to mend men and not to break them."

The letter in full follows: "My dear Mr. Osborne: I am in receipt of your letter tending your resignation from the U. S. Naval Reserve Force to take effect as soon as your successor as commanding officer of the naval prison at Portsmouth is designated. When you asked to be relieved last fall I requested you to continue in the work to which you brought experience and enthusiasm which have borne fruit in the best prison system the Navy has known. It must be a source of gratification to you that so many young men, who had violated naval regulations or been convicted for wrong doing, have found themselves by your friendship and leadership and that all over the country in every walk of life are making good.

"During the period covering your service, beginning July 31, 1917, more than 6,000 men have been under your control. Your interest in their welfare, demonstrated in practical ways, gave many of them the impulse to right living. You have taught the Navy and the country that prisons are to mend prisoners and not to break them. The policy of helpfulness and hope which has characterized your administration will be continued. I sincerely regret that you feel compelled to sever your connection with the Navy.

"With a high sense of appreciation of your fine spirit and fine service in the crucial days of the World War, and every day of your high performance of duty, I am, with sentiments of esteem and high regard,

Sincerely yours,
JOSEPHUS DANIELS."

To this fine letter of appreciation Osborne replied: "Dear Mr. Secretary: Your letter of March ninth is received and I am more grateful to you than I can well express for your kind approval of my work as Commanding Officer of the Naval Prison.

"Nearly three years ago you bestowed upon me a great privilege—that of serving the United States Navy during the strain of the World War; and I shall always feel under obligation to you for doing so. It is not every one who, himself too old to fight, has had the opportunity to provide fighters for the service at the rate of a hundred a month. . . ."

His parting with the men in Portsmouth was almost painful. A description of the occurrence is given in the *Mutual Welfare News*—the paper published by the prisoners during Osborne's command of the Naval Prison:

"One week ago Wednesday evening, we were privileged to hear 'Tom Brown' attempt his farewell to the men. He had just finished an accompaniment to the violin solo of his friend, Peter Kurtz of Portsmouth. He stepped to the front of the

stage, and a hush fell upon the audience, composed almost entirely of naval prisoners.

"In a voice that was filled to overflowing, and which spoke direct from the heart, he said: 'Boys, I want to say Good-bye.' That was all. There was no long speech of farewell, or words of advice to leave with the men whom he left behind—he knows them too well for that. His eyes filled, and there were many in the audience who followed suit."

The new head of Portsmouth Naval Prison carried on the administration as best he could and attempted to keep the Mutual Welfare League going. But his opportunities to show that the Naval Prison might retain permanently the administrative organization established by Osborne were cut short with the change of the party in power. With the assumption of office by President Harding and the appointment of a new Secretary of the Navy, the work of the past administration at Portsmouth was destroyed and the old regime reinstituted. The prisoners saw the change coming and were despondent. One man wrote: "I think I have the blues this morning worse than I have had them in the last five years. This morning I saw the crumbling of the entire structure here, and that was before Lt. MacCormick told me to make out his resignation. I had hopes of the whole thing eventually getting straightened out, but when MacCormick resigned, I was ready to cry."

With the new administration, Colonel South of the Marines was sent to take charge of the prison. It is to be remembered that for three years there had been no marines at the place—practically no outside guards at all. Within a week "seventy-five Marines arrived at Portsmouth from the Brooklyn Navy Yard and seventy-five from Boston, Norfolk, and Quantico, collectively making 150 marines for 500 and some odd prisoners where during the war there were 2,600 and some odd men with no marines and with less trouble than they have now." The prisoner writing the above letter adds a few details as to what the change in the administration meant. "A

disciplinary punishment Corporal Lambert inflicted was if a man talked from cell to cell in asking a man in the next cell from him for a book was to make a man stand against the wall with both hands over his head and one foot off the ground for a half hour and then either himself or a sentry stand behind a man and intimidate him by telling him to keep his hand up or he would knock his can off, is that what the public asks of men that served overseas, this man was a newly arrived prisoner sentenced on a military offense.

"Another punishment was given a man by Colonel Smith himself for smoking a cigarette in his cell, of carrying a stone weighing around 40 or 45 lbs. for an hour with a Marine tagging behind him with a club on which he had to walk about 300 yards, set the stone down on the ground, pick it up as soon as he straightened out and put it down every time he came to the end of his allotted space. . . . That is the good discipline in force now."

That this prisoner's description of the return of the old system was not imaginary is seen from the following copy of an official order found among the Osborne papers:

NAVY YARD PORTSMOUTH N H
NAVAL PRISON

Office of the Commanding Officer

14 September, 1921

From Commanding Officer
To Officer of the Day
Via Executive Officer
Subject: Order—re solitary confinement on bread and water in the case of Patrick Dillon, F3c USN

1. The unexpired portion of the sentence involving solitary confinement on bread and water with full ration every fifth day in the case of Patrick Dillon F 3c, U. S. Navy, general court-martial prisoner, will be immediately suspended, upon recommendation of the Medical Officer.

2. Dillon will be released from solitary confinement on bread and water immediately and turned over to the Medical Officer for treatment.

H. D. SMITH,
Lt.-Colonel U. S. Marine Corps.

Copy to:
Medical Officer
Prison Overseer
Desk Sergeant.

On September 19, 1921, Osborne summarized the struggle for survival of the idea of self-government within prison: "It has been killed in Portsmouth; it is struggling for its life here in Auburn against a good but stupid Warden and impossible principal keeper. Whether we can succeed in keeping it going I don't know. At Sing Sing it is holding on; but the Warden there is an uncertain quantity."

THE END

The retirement from Portsmouth prison in 1920 terminated Osborne's active career as prison administrator. No further opportunities were opened to him to carry out the program of community organization that he had so successfully developed in three different institutions. In 1921 he wrote to a friend: "It is no use talking, the politicians are too strong for us." One offer did come his way—that of the Missouri Penitentiary "one of the very worst." But when he found that the Warden was a subordinate official "the real head of the prison being the Chairman of the Prison Board" he declined to take the post. His reason was that "I had fought the politicians of New York and the Navy and I did not care to tackle those of Missouri." Not having an active wardenship, Osborne dedicated his activities to writing, speaking, making prison investigations in different parts of the country, stimulating reform movements wherever he could. As part of his general program he organized "The National Society for Penal Information" and began the publication of a Prison Yearbook.

But all of these activities were not sufficient to keep him

from wishing that he had a prison to work in. A sense of disillusionment and discontent is evident in his correspondence. In 1922 he wrote: "I had a rather lonely but not unhappy Christmas; not so pleasant as the wonderful ones at Sing Sing and Portsmouth. It makes one rather unhappy to realize that the years are passing, while I could do wonderful work in prisons if I were only permitted to do so. But I do not seem to be able to break in anywhere." In 1924, we find him writing: "If I seem impatient or intolerant, be kind enough to consider what must be the state of mind of a man after my experience; I have shared in the joys of discovery of a system which solves a great problem; I have been privileged to work it into practical shape; I have proved it at the head of two institutions —finding in myself unexpected power to lead prisoners into a right way of acting and thinking. Then I have seen this work so patiently built up, destroyed; sometimes brutally in a day, sometimes by long but steady undermining; until there is now but little left. And I am condemned to heart-breaking idleness; realizing what I can do to benefit mankind, and not permitted to do it.

"It often surprises me that I have faith left in any one; and I haven't much—in those who are outside prison walls. The men inside I know and understand; and their faith and loyalty I have tested to the limit."

It was not merely the personal criticism and opposition that he had encountered. It was the fact that the work which he had developed was apparently losing ground that proved most disheartening. Surveying the prison situation in 1925 he wrote: "Some superficial changes there have been; but the essential viciousness of the system remains unchanged. We have even lost ground, for the system we established in the Naval Prison has been totally destroyed; and at Auburn and Sing Sing it has sagged so as to be of little value." These opinions of his later years may be contrasted with those that he held when actively engaged in prison administration. Writing in 1917, when in charge of Portsmouth Prison, he said: "In fact, dear pal, I am one of the most really happy men in the

world. Why shouldn't I be—with so many devoted friends. It is friends that count; friends, and the feeling that one is being of some use in the world. I believe that I have helped to do something that will be of lasting benefit—not alone to all men at present in prison, but to all men who are going to be in prison. Could any one have a finer reward? So, when you add those two things together—a belief that I have helped to reduce human misery, and that I have gained many loyal friends—why shouldn't I feel proud and happy?"

Walking home in the evening of October 20, 1926, and only a little way from the house, Osborne dropped dead on the street. He had apparently been in the best of health and occupied with the details of his wide and varied activities. This sudden death of Auburn's leading citizen cast the city into mourning. Friends from many quarters gathered for his funeral, and expressions of sorrow and appreciation were received from all over the world—from people who had known him as companion in a hundred different ways. But it was his friends in prison and his friends whose lives he had redeemed that felt the death the most. A number of ex-prisoners came to Auburn and it was they who acted as his pall-bearers, they owed most to him and perhaps loved him most. When the guards unlocked the cells in Auburn prison on the 21st of October and announced that Tom Brown was dead it was "Like the low moaning wind which presages the awful hurricane at sea." The news spread through the prison—Tom Brown is dead. The prisoners had lost their best friend. "Men in prison do not weep—they can not." Life has been hard and bitter and cruel—but what feeling there was appeared in wan and pale faces and dejected spirits and dragging work. Tom Brown was dead and the men in Auburn felt that to them no one could again mean what he had meant—he had given them the best in his life and had brought what peace their lot now contained. On Saturday afternoon "Tom Brown returned to Auburn Prison"—carried in by ex-prisoners and reposed in an open casket so that his friends in gray could have their last look at him. The prison service, attended by more than fourteen hundred men, was one of pathos and sorrow—a spectacle never to be forgotten by those who attended it. "It was the most impressive service ever held within a prison. As he lay there in his naval uniform 'famous, calm and Dead,' the long line of gray clad figures moved slowly for a last look at the face of him who was the best friend they ever had or ever will have. . . ."

"We have all been so upset and distracted, and still are, that I don't know how or what to write you. But I wanted you to know that we were accorded the honor of paying our last respects to the man who gave us of his very heart and soul. Though he is done, he still lives in his League here; and the spirit he has injected into the prison reform movement can never die. For, although Tom Brown is dead, and we have lost our best friend, his spirit is still among us and will always be. 'Take him for all in all, we shall not look upon his like again.' I still find it almost impossible to accept the stern fact that he is gone; it all seems so wrong and impossible. God bless him, and keep him, for his great work among us! I can't write any more."

Two endless lines of dingy, gray-clad men
Comes up the stairway, parting to pass him there,
Tom Brown, Commander, wearing the Navy's blue,
Wearing its gold, Osborne, the Legionnaire.

Silent, they shuffle past, tight at the throat
Dim in the eyes, with shoulders that lift and shake —
Eyes that have looked on shameful things, hands that have slain,
Feet that have fled away from stern pursuit,
Arms that have crushed out virtue, lips that have lied,
Throats that have blasphemed, claws that have curved for loot,
Endlessly they go by, their faces gray
Into the chapel bare, to think—and pray.

From a poem by Adelaide B. Mead.

The casket containing the body of T. M. Osborne stood in front of the door to the prison chapel, at the head of a stairway, up which the prisoners came two by two, separating at the top

of the stairs into two lines and filing by on each side of the casket. This was on the Saturday afternoon following the death on Wednesday, October 20, 1926. (Mr. Osborne was clothed in his uniform as Lieutenant Commander of the U. S. Naval Reserve Forces.)

16

BETWEEN MAN AND MAN

THERE WAS SOMETHING of the saint about Thomas Mott Osborne, something about his love for his fellows that reminds one of Saint Francis of Assissi. No picture of him is complete unless it reveals the depth of his friendship. It would be difficult to duplicate such a story of human relations—between men—simple, honest, frank, always frank, sometimes painfully frank. Men whose lives had been seared and embittered, human beings who had touched the bottom of depravity, of degradation, of sorrow, of failure, could turn to him in perfect frankness, in affection, in adoration almost, and pour their pent-up feelings out to him without hysteria, without hesitancy, without self-consciousness.

His presence made men better. A word of his lifted spiritless men above themselves—even if only for a moment. The most hardened of men mellowed under his touch and they loved him for the rare quality that made them stronger in his presence. Surely no man of our day and generation was so loved by the outcast and persecuted of the underworld. Some of the letters are almost painful for their love of him. "You know that whenever I think of you as 'friend' that word is too small, I have never heard a word that can fit my idea of what you mean to me—the word 'father' would be just what my feeling is for you and I say: 'God Protect You'."

This boy was sick and struggling wretchedly towards his end. It occurred to him that perhaps the word father was an intrusion and the following frantic letter speaks for itself.

"My dear Father: Just a word to say good morning to you and hope you are feeling well. Now for God sake I want you to tell me the thought:—I feel like someone tells me inside of me that you may not like for me to be calling you Father and perhaps it may look a little strange to you. But to me it doesn't, it's a thing that you can't realize as much as I do. To me you are everything. There is no such word to describe what you become to me. You made me see the pure side of life which I never knew. Look, could anyone else in this wretched world, have done what you have done for a poor unfortunate like me? No, nobody would have picked me up like you did. No my God. How can I have repay you for all this? God protect me for any evil doing, I rather die a thousand times before I have do anything to hurt your feeling. Now please don't object me calling you Father will you? You are the dearest one that I have in this world. It will kill me in no time if you take that privilege away from me. I know that I got to go so please let me have my way while I stay? God bless you dear Father, I am to the end, your Devoted and Faithful Son."

This broken, tottering soul poured his heart out to Osborne over and over again. In spite of sickness, poverty, and the terrible strangle of a dope habit which he could not break, he wrote of his love and loyalty. "I will die perhaps a pauper but I will never do anything bad to reflect on you." Osborne's letters in reply are in tune to those received. At one time Osborne wrote: "It made my heart ache yesterday morning to see you looking so sick, and I went to bed last night tired out and feeling very discouraged. I was sorry not to say good-bye. Just for my sake dear Pal you must cheer up. You and I can't afford to get discouraged." This correspondence continued for years. Two years later Osborne wrote: "Dear Son—You have my deepest sympathy and affection and don't think I am hard on you for I understand."

The struggles of this unfortunate lad against the dope habit and the tuberculosis that he had acquired in prison ultimately led to an early grave. But what is important here is Osborne's attitude.

"I should like to get and see you very much and I shall a little later. In the meantime, I have heard some things that have made me feel very badly. I may as well tell you what they are. Of course you know that I do not wish to interfere in any man's affairs unless I can help him. I think you also know that I nor anyone else can help you if you are doing this. Please write, and tell me the truth. I cannot help if I do not know the truth and I can if I do. If such should be the case, you have a big fight before you, but you can win just as D did. I am sending you a copy of D's letter to you so you can see how he feels about it and the manly stand he is taking."

The outcome of the struggle is related in the following pathetic letter. "My dear Father: I have been in the work Prison since Sept. 12th and I don't seem to find the way to get out of here. I am very sick in the hospital here ever since I cam here. One night after I was done with my day work I was on my way home and 2 Cops pict me up and sirched me and found on me about 2 grain of some dope what a Dr. gave me to take it one pill at night because I had an hemorrage. So the cops arrested me and before I had a chance to explain things at all they send me to the Work House Hospital to be cured. But since I been here I found out that I may have to stay here from 6 to 9 months. Dear Father I was again just kidnaped and send here; I was working every day and doing no one any harm why should they do this to me? It seems that the Cops are starting to hount me up again without reason. Father, I never broke my word to you yet, have I? When everyone else of your would be friends went crooked I didn't. Many a day I went without my meals for not go back at you. And now without me doing anything I was send here perhaps to die here. I don't expect to go very far I wish I die soon so I will be out of all miserys. Its awful here, you can't imagine how it is here. This letter is croocked I couldn't get a letter to write to you. Father dear, was I borne to die in Prison? You saved me from dying in Sing Sing, must I die here? I didn't do

anybody any harm? Have I anyone else in this world but you? No you are my Father. I don't want to die here."

While the correspondence which we have just detailed shows Osborne's capacity for sympathy and affection for an unfortunate broken body and weakened spirit, the letters that follow are with a different sort of human being. A thief by profession, who tried to set his steps right in the world again but failed—largely through a breakdown of his health. But they point the same story. An affection for Osborne that flows out like a poem—and an understanding on his part which makes the affection intelligible.

"My dear Tom: Your letter received but I cant tell you how your expressions of faith in me cheered and comforted me. No, old pal, of mine, I can never turn against you. I love you too much for that but besides pal I am too old to learn how to be a traitor, you know that don't you? Dont worry about my going back to the old game Tom. I can not do it, not that I fear the results. You see, pal, I am real used to them. But I do fear your censure and loss of palship. That is the one thing that is helping me on. But Tom, God knows I need something to hold on to. You see, old pal, things are going rather bad with me. In Fact I am having a rather tough time of it lately. You asked me to tell you the truth and I am doing so. I am sleeping in cheap lousy lodging houses but I am as lousy as a monkey. Sometimes I eat but then there are times when I take up a few holes in my belt. But I am at least keeping honest. Don't get disgusted, pal. Dont think I am down to the dregs yet. There are depths of human degradation that I have failed to plumb and I will pull through somehow. O yes, there are times when the thought of a warm cell appeals to me and yet again there is your faith standing between me and crime, like a wall but Tom I simply cant climb that wall; I cant get round it either. It is circular and confronts me all the time. I did not play fair with you. In fact, Tom, I acted like the yellow dog that I *am*. Now, Tom, I will come back some day when I will repay. But please do not censure this as I could not bear to read in a letter from you that you had

taken away the most precious thing I have in all the world. Don't you see now, pal of mine why I am drifting downward? Why I have lost my hold. I heard you say once Tom that though a man sined again and again, yet you could find it in your heart to forgive. Can you? Well, pal of mine, goodbye. Try to think of the G. you used to know as the convict who at least had a spark of honor and manhood once, not of the dog who has lost it all. Hoping and praying that this will find you and yours in the best of health, I am your sincere friend and, if you permit pal."

These friendships lasted through the years. Seven years later this same man wrote: "My dear pal Tom: I know you will think I have lots of crust in presuming to write to you. But deep in my heart I love Tom Brown and I thought perhaps that he still held a little affection for the pal he used to know. I suppose Tom that I am one hopeless case. Still even the hopeless can remember those they love. I am ashamed of the past Tom, and the chances are the future will be as black or worse. But that shant keep me from writing you a letter just to let you know that I remember you and after all Tom 'It is sweet to be remembered' even by such a one as I. Well, Tom, I hope you are in good health and that all is well with you and by the way you put the fear of God in Thomas heart the time you were in Ohio. I know because he took some of it out of me. Goodbye pal, and may God bless you and yours. Sending best wishes, I am your pal."

Of this man and his career Osborne wrote some two years later: "An old friend of mine is in trouble, and I wish, if possible, you could help him. He is (or was a short time ago) in the City Jail under the name of A (which happens to be his real name) and I fear he is up against it. He is a man who tried very hard to go straight and at bottom he is a fine chap; but has had a tragic experience from the time he was a kid. If you could help him from being sent to Jefferson City, you would be doing a good deed. Were your state prison what it ought to be, it would be a different matter; but Jefferson City would mean death to this fellow. However guilty he may

be, we are all more guilty; for if there was ever a case where society was to blame, it is this man's. He has a fine nature, twisted and distorted by his prison experiences but at bottom he has true manhood. Sometime I will tell you his story. George Kirchwey knows him well (under another name) and would I am certain, join me in saying: 'If there is anything you can do: do it.' "

If these letters bring out Osborne's sympathy and understanding, his readiness to help and trust, the following bring out a different quality—a capacity to be perfectly frank, to say the hardest, bitterest and most relentless things that one man can say to another. Yet, so deep the friendship that even such frankness did not lose him the respect or affection of the man he wrote to, and did not shut him off from further relationship.

A friend informed Osborne of his prospective marriage and received the following reply:

"You say, 'The girl knows everything about me.' I wonder if she really does, I wonder if you know all about yourself. It is not the mere 'lapses over the wine'—it is the lies, the deceit, the failure to keep true to your word; and the deliberate descent to the vilest companionship, the cutting adrift from all decency, the apparent intention to be 'on the level' with no one; these are the things that are really serious. Your prison record counts but little with those who are willing to look below the surface; your failure to be true to your friends counts for much. Your inability to keep sober is serious; but your ingratitude to those who have befriended you, your self-righteousness, your inability (willful as it seems) to recognize your own vicious faults, while sitting in judgment on the faults of others, your surrender to low ideals while professing high ones —have you told her all this? Have you character, have you ever been really downright *honest* with yourself? I doubt it; for I don't believe you could do so and continue your deception. . . .

"I suppose by this time you are thinking, 'Yet the man who writes this calls himself my friend!' Yes, I do. If what I have written were all, I should say 'Good bye.' I never want

to look at your face again. The fact that I don't say it shows that it is not all. I believe that what I have written is true—although it is written in the full knowledge that in our estimates of other human beings we are always liable to err. But in your case my estimate has been formed not in anger, but in pity, not because I wanted to think ill; but because I was forced to. I still want to be a friend to you. But I am frank to say that you have no right to marry. I don't believe you told her *all* the truth; as I have said, I don't believe you tell that even to yourself. If she knew all the truth, I believe that she would see that however much she loves you, she would wait until you had proved yourself worthy of any good woman's love. Don't drag her down. Don't marry her until you have shown that you can lift yourself up. Is it not true, that you live today on your mother's charity? If that is true, is it not tantamount to blackmail—levied either on her affection or her pride? I don't think it matters much which, so far as your part is concerned.

. . .

"For shame, you who have in you such splendid power of service. I, who have been thrilled by your appeal in the past, cannot forget what I owe to you; and I know that down under this wretched failure of yours lies the sacred fire—burning fitfully it is true, but still burning. But your redemption, my brother, can only come about through true repentance, humility and self-sacrifice. You feel the restraint of misunderstandings and unpleasantness, you find yourself conquered by the love and self-sacrifice which lie at the foundation. Honestly, until you forego your abysmal selfishness and understand and appreciate what your mother and others have suffered for you and through you, you can't be what you should be. And I fear that your feeling for this girl, like your previous engagement, may be only another form of selfishness. It certainly will be, if you should marry her.

"So, my friend—friend still, I hope, in spite of this very plain speaking—even if I had a job for you right now, I should hesitate to give it to you (for I have no confidence in your strength), although I should give it to you finally, because of

my true affection for you; but I have at the present time no such job. No more pretence or hiding of the truth. No more shrinking from facts under cover of 'feelings' that must not be hurt. If 'feelings' can't face the truth, they better be hurt. Let us have plain, honest man-talk between us. After this may I still subscribe myself, Your faithful friend."

That he could say these things to very different sorts of men and yet retain their affection and respect is proven by many letters of more or less the same tenor—and the continued friendship in spite of the open and frank speaking. "My dear J: Your telegram reached me this morning. You ought to be ashamed of yourself and I believe you are; for you seem to be trying hard to throw on me the responsibility for your own failure to do right. You can't do it, J. There is one person and only one to blame for your present situation; only one person responsible for my loss of confidence in you, and that is a fellow named J. You have been drifting farther and farther from the right course. You know it. But there is enough decency left in you for you to want to give yourself an alibi; you want to make believe that the fault lies somewhere else. Of course I distrust you. Why shouldn't I? What reason have you lately given for my trusting you? You deserve to have me say just one word: 'Good-bye'; and let you go to the devil in your own way. But I am not going to say that; I am going to say this: The door to my friendship is always open, any time you make up your mind to walk back in. My trust in you can be regained simply by showing yourself worthy of it. But between us *words* don't count any more; it is only acts that count. I shall not trust you again until you have shown yourself fit to be trusted.

"However, I shall fall back on the old consolation. F plays a filthy dirty trick on me; but on the other hand B is going straight. If J is going to show himself a yellow turn-coat, at least M is proving himself a man. It all comes out in the wash; a man's true character shows up under the strain. Yours is showing up now, J and the result is a sad disappointment to

all those for whose good opinion you ought to care. Still your true friend—when you want one."

How Osborne really felt about this man is revealed in a letter he had written about him some two weeks earlier: "I want to help him out. One of my best men at Portsmouth was a San Francisco chap, J. He made himself greatly respected among both prisoners and officers. Everybody swore by 'Me and the cops,' as the boys named him. He was restored to the service and has come out with a 'Big Ticket.' (Honorable Discharge). Since his release from the Navy I have been trying to find something for him to do; but haven't got him settled. In the meantime an old venereal trouble has come back on him. I have sent for him to come here, and I want you to help me out. He is worth while; if we can only get him on his feet and get him going at something interesting. What makes him specially worth while is that I find he has had a long 'Criminal Record,' so that as an example of what the New System can do, he is a 'beautiful case.' Please give him a careful examination and tell him just what to do. He needs very exact instructions; although he is over thirty, he is still a kid. He has been bossed so long in prison and the Navy, that it is hard for him to think and act independently. You will like him; for he has a personality the rugged frankness of which is rather compelling. He is sound of heart; he needs to be sound of body."

But more interesting and revealing is the following correspondence. One of the men trusted by Osborne in Portsmouth abused the confidence placed in him, succeeded in hiding his evil doings and was discharged. Later Osborne found out about it, and wrote: "I feel that it is useless for me to go over the old ground. I talked to you so much about fundamentals, and to so little effect, that there is no use for me to argue further. Moreover, I still feel sore to the very center of things over the wretched business. It isn't that one man more has gone wrong, deceived me and betrayed the League; it is that I stand before every man in Portsmouth as the champion four-flusher; that's the one thing that burns. No wonder so many

men have refused to accept my teachings, and leave Portsmouth without benefit. How could we expect anything else but failure. No one could believe such things would be going on in my office without my being aware of it. So I was reduced to the rank of a plain ordinary quack. I feel that my whole work at Portsmouth has been undermined. It makes me sick at heart to think how man after man must go out thinking the whole thing nothing but camouflage of the basest sort. And the confidence lost cannot be recovered. Something has been broken that now can never be replaced. From what I could learn at Portsmouth, it was T who taught you the habit. So you let that miserable whelp—with his good looks and lying—make you a willing victim? It is a good example of the worthlessness of brains without conscience. Of course, granted the dope, all else becomes clear.

"Fortunately, the rotten condition of things you helped to perpetuate collapsed after MacCormick got back and took hold. I had the satisfaction when last at Portsmouth, of having man after man, say, 'Well, Tom Brown, you were right after all,'. . . .

"One thing more I ought to add to this overlong letter. When I was in Portsmouth there was a mass meeting, and I felt it necessary to go pretty fully into our relations—yours and mine. I spoke very frankly, as you know I must; and doubtless some of your friends felt hurt at what I said. But in justice to myself I had to make it clear that I did not stand for the wrong-doing; that I was ignorant of it until the end—except such incidents as the Portsmouth Show—of which they knew as much more. I scored you for being false to the trust placed in you; for committing what amounted to theft from your shipmates—than which I could conceive no baser form of crime. But also I spoke of the loyal work you had done and the devotion you had shown. I said that it was not C at Atlanta or the men in third class I pitied, because their rehabilitation was beginning. I pitied you because you had been successful—you had 'got away with it'—and that was usually only an encouragement to more wrong-doing. I added that so

far as you were concerned I could see one hope and only one. Your mental powers were unusual and you might have the good sense upon reflection to see the facts as they were; that possibly the thought of the depth of the moral pit into which you had fallen, the very sense of unfairness in your escape from punishment, might dog you day and night until the truth was revealed to you. And I prayed that it might be so.

"The League at Portsmouth has weathered its crisis and is on its way to readjustment and good health. How is it with you, my son? Are you going to realize what this all means to you, and humbly in your own heart confess your unworthiness and your failure; and so start again? I have not lost hope of you. There is no occasion for despair. You are young, and the very size of your mistake may be the thing this will bring the remedy. If you had it not in you to sin greatly, you could not have done so. Now that you have done so, be as great in your reaction, and prove to yourself and others that the greatness of your faults was only one sign of your greatness of soul. Write me when you can and tell me how things are with you."

To this letter Osborne received the following reply: "Your letter of June 30th has been received. I have hesitated about answering it because it seems so useless now. I can't ask or expect you to believe what I say now. It was through E that I experimented with morphine—but only once. It was some months after he left that I tried it again—in fact it was during that time only that I pulled any crooked work. Just how much the dope is to blame, I don't know. I do know that since about four days' misery in New York, when I quit using morphine, I have wondered again and again how and why I did not see at the time that accepting money from the fellows was hurting you and the League as much as if I had taken advantage of my position in the office to actually put men on the lists who did not deserve it.

"Your feeling in the matter needs no explanation. I know that it isn't your vanity that is hurt because I didn't measure up to your estimate; but the question of people doubting your sincerity and judgment. In that regard possibly the harm

done isn't as great as you thought—because I didn't deceive you over the whole period of time I was in the office and the fellows who went out up until the last two months I was there didn't go knowing that I wasn't square and thinking that you condoned it. This is no attempt to lessen my guilt but only to give you a correct idea of the extent of the harm done. The developments in Portsmouth, which you foresaw at the time of the election, certainly vindicate your judgment at the time of the election. I was, however, honest in my backing of the ticket. So also were —— and ——. None of us saw as you did the danger in that policy. I am glad that MacCormick is there and straightening things out. He is head and shoulders over any officer you had there—both in loyalty and efficiency.

"For me to say I'm sorry for what has happened seems useless. Many many times I have wished I had those few months to do over again. I would gladly go back to March and do that time over—and more too if I could undo it. For up until then I had been square—with you and with everyone else—and I had worked harder than you ever knew or even imagined, to help you and the work you were doing. It makes me sick at heart to think of all that counting nothing and the loss of the confidence and respect of men like yourself, MacCormick and Garrett is sufficient evidence to me that it doesn't pay. Even my real friends among the fellows—J, S, F, and some few others have lost their respect and liking for me.

"But while I 'got away with it' I am certainly paying in another way. And when I think of the fact that I can't ever fully 'pay' the bill, it makes me shudder to think what a fool I was to throw away your regard, along with that of others, for a few paltry dollars and a fictitious sense of pleasure derived from the morphine and cocaine. I have thought of writing F a letter for publication in the *News*, telling those of the fellows who knew me, just what it has meant to me, not to have 'played the game fair.' I don't know whether it's worth while to tell you how I regret the whole miserable business—most of all the hurt, the discouragement to you. As I said before, I quit the morphine before coming South and will never touch it again.

If I can locate the reimburse the five or six men from whom I accepted money I will do that—as soon as possible. I know I can't 'square up' for the most important things. I am glad you explained to the fellows in Portsmouth. I think, however, you magnified the danger of their thinking that you protected and excused my misdeeds. I doubt if any of them believed that. They have seen other cases where men have disobyed the rules and not played fair without being detected. . . ."

Osborne wrote in reply the following kindly and generous letter: "Your letter of July 10th is received and I am more glad than I can tell you to hear from you. I was worrying a bit in not hearing, for I feared that you had taken my letter amiss, and perhaps were making the mistake that so many men make when they are on the wrong track, in rather priding themselves on their firmness in keeping on. The proof your letter gives that you have thought over the matter seriously and see clearly where the right lies is very comforting to me, not only as your late commanding officer, but as your friend. You shouldn't have hesitated about answering the letter; it is not useless. It isn't the amount of reparation that one can make that counts, for in fact, in the most important matters no real reparation can be made; but the wrong attitude can be balanced by the right attitude, and so the account can be closed and laid away. The idea of your writing F a letter for publication in the *News* is a good one. It will be a hard thing to do, but I do not know of any thing that would have greater weight or do more to make the balance even than that. Without going into details or assuming an attitude of humility—of course you couldn't do that in any event (for you are too honest) a word or two to indicate to the men that it doesn't pay would I think, be of really great force."

But even the letters here cited fail to indicate the depth of feeling—of affection and sorrow—that he poured out upon his friends in the underworld. No father could have felt more tensely the tragedy that was so frequently dodging the footsteps of his friends. Their failure affected him as if they were not friends but children of his. The following letter tells its

own tale and we print it in full: "Dear S. Your note from Chicago with clippings enclosed came all right. When it arrived I opened it eagerly in the hope that I should find what I had so looked for the last evening you were at Portsmouth—a full confession of your mistakes, a prayer for forgiveness and new resolves for the future. Do you remember, my son, how I went to pieces over Kipling's 'If' when I read the lines:

> " 'If you can bear to hear the truth you've spoken
> Twisted by knaves to make a trap for fools;
> Or watch the things you gave your life to, broken,
> And stoop and build them up with worn-out tools;

"When you saw the bitterness which came over me did you not stop to realize that it was you of whom I was thinking; and I longed to draw the son to the father's arms and tell him what a dark and tedious pit lay open before him. But you gave me no chance, and even if I had I doubt whether it would have been of any use. You are no foolish child—you are a grown man of experience—very one-sided experience it is true, still you have had the doors opened to you; you have understood; your letters show you have comprehended; so if you choose the wrong path it is not from ignorance, but choice. This is of course, the supreme pity of it all, when men go wrong who have had a glimpse of the vision and yet go wrong. For one knows that there will be no peace for them. The crook who has never developed a conscience can go on with it—and enjoy life as well, I presume, as most of us. He has his uncomfortable moments when he gets into difficulties, more or less serious; but his heart doesn't trouble him. But have you any idea that E for example, is easy in his mind? Do you think he enjoys his daily existence? I would hazard the guess that if he hasn't committed suicide it's because he is afraid to—he wants to postpone the ordeal of facing God as long as he can—for he dreads more than he ever dreaded anything in his life, the charges which will await him, of having double-crossed his best friends. He won't be able to escape it there, when the secrets of every heart will be laid bare.

"You realize that you have not been doing right; you know that your ideas and intentions have changed. I don't know just why or when the change came; but you don't think I could fail to observe it, do you? Your talk at my house that last night was enough to make me understand your whole altered point of view. The S of a year ago and of today are two very different S's. Now, my son, I have only one thing to say to you. For God's sake don't try to work the two games together. If you want to go back to the old evil ways—that is your privilege—but do it like a regular fellow at least; do it straight. Don't take advantage of those who have trusted you and continue to trust you.

"Write to me, and tell me whether or not it is 'Good-bye'; and be straight with yourself and me. Be a crook if you will, but at least be a decent one, and don't sell the last fragment of your soul—for some day you will need it, for whatever you do now the day will surely come when again your vision will be clear and you will see life in its true perspective. Then you will be glad that you did not go the limit, that you were loyal to your friends. If I am wrong forgive my suspicions; if I am right, be honest and acknowledge the truth; if I can help you, say so. My interest in you and affection for you have not changed; and I still sign myself, your loyal and faithful pal."

Such attitudes evoke their own response. Many of the men we have already indicated developed an affection and love for Osborne which is comparable only to the affection of sons for their fathers. Osborne meant something in their lives which only their own words can express. Far back in 1913, soon after Osborne left Auburn prison, one of the men, Jack Murphy, wrote him the following letter: "My dear friend Tom: I have read your kind and loving letter over a good many times since yesterday 'Tuesday' and I am afraid that you are giving me more credit than I deserve. My kindness towards you Tom while we worked on the same bench was nothing compared to the kindness which you are heaping upon me now, today I received 'a deposit receipt' for $3.00 and when I saw your

name thereon, I said to myself this is some more of 'Tom's Big Kindness' for the little I showed him while we were together. Tom, if 'Jack Murphy' could only do some great act for you, then I would consider myself entitled to your praise whatever I done for you and it wasn't much. Your lecture Sunday made a new joy spring up from the depths of my spirit and through the gates of pain I've entered into fellowship with God and my fellowmen and I thank God for the sunlight that shines in my soul today and for the life that I am trying to lead. Yes, Tom, you have made a man of me, and I shall always love you for it. Well, Tom, I am off of making 'Bottom's.' I found it too lonesome without you, yes, you and I could get along forever. I received permission from the keeper, Mr. Patterson, 'thro my keeper Mr. Kane' to allow my fellow inmates and myself to forward you a signed letter of appreciation, signed 'by all that could put or get their names thereon'.

"Tom, if we could only erect, out of love for you, a 'monument' that would last to the end of time, rest assured it would be done, it nearly brought tears to my eyes to see how anxious all the boys were to get their names on our letter of appreciation to you. Even our Keeper, when I asked him to head the list, done so with the same spirit as those whom he is over, such keepers as he makes life worth living. He asked me if I would let him read the Book, Convict 1776. I said I would and I only wish that every officer in here would read it for they would then learn the lessons which you are trying to teach. It is one of the grandest books I ever read and I found therein a good many things that apply to the lives of nearly every inmate in hear. Tom, I trust you will not think me bold in making the following request of you. I would like very much to obtain from you a 'photograph of yourself'; as a remembrance of 'our first meeting' and also as a remembrance of what your lecture of Sunday Oct. 5, 1913, done for me."

That was from a prisoner still imprisoned and only recently under the touch of Osborne's immediate presence. The letter which follows is from a man who had been released a long

time. He heard that Osborne was sick and wrote, "Having mailed you a long letter this morning, I hasten to forward another trusting that such letters will be beneficial to you during your illness. I know what a lonesome life one has that is confined to his bed. We look for help during our helplessness, and we become peeved if we do not receive the entire attention from those we love. Hence, as I cannot be with you to administer to your wants, at least I can write my sympathy and pray for your speedy recovery. I would dearly love to be with you or near you to help fight the battles that you have taken upon your shoulders for the 'boys.' But as that cannot be, I will at least be with you in spirit always."

This feeling of the men whose life he had touched is perhaps best summarized in the following from a released prisoner who had settled down to a new life. "Your photograph—I want it more than anything else for the children. I suppose their mother will have a picture of the Christ so she can tell them stories about him, see their father wants a picture of the Christian so he can tell them stories about him."

17

CHANGING HUMAN NATURE

No final estimate of the influence of Thomas Mott Osborne can as yet be made. The practices he set in motion are still to find their adaptation and place in the organization and management of penal and correctional institutions. What we can do here is to show that it is possible to take human beings long addicted to careers of crime and divert those careers to other channels. It may perhaps be said that it has long been known that such a thing was possible. But our whole institutional procedure has been organized as if it were not possible—once a thief always a thief has been the common prejudice—and our behavior towards the released prisoners has been consistent with that bias.

We here print a few letters from different men, and covering a period of many years testifying as to what Osborne meant in their lives—and perhaps even more important, as to what the movement he set in motion meant in their attitude toward life. One ex-prisoner calls him "God's delegate of hope":

> Dear Friend Tom:
>
> By and by spells never so I'll not put this job off another day. The papers have kept me pretty well informed regarding your activities. I want you to know, Tom, that my friends have not forgotten you. In their hearts you stand as God's delegate of hope.
>
> Three busy years have passed since I walked out of State's prison a free man—that is—free from the law's

> grip, but welded to many obligations. Not a day has passed since then without kindest of thoughts visiting my soul to whisper of you. Each day my conscience nails a fresh resolve on my inclination to do something for you. I would take sweet pleasure in making manifest my appreciation for what you did for me—and others.
>
> At present my lot in life is respectable. I have a home partly paid for. I've been steadily promoted from hard work to harder jobs.
>
> Wishing you a golden Easter jewelled with the love, faith, and prayers of friends inside and out,
>
> Always and ever your pal,

One anonymous ex-prisoner considers that it was fortunate for him to have been in Sing Sing during Osborne's administration, and to have discovered there was still something worth living for, and, without signing his name, attaches a poem expressing his appreciation: "If such a thing can be possible, I was fortunate enough to be an inmate of Sing Sing Prison since you have been its Warden, and it means to me the beginning of a new life. I was made to feel that there was one human being that had faith in me possibly except my dear old mother and I am afraid she had but very little. This made me feel that there was still something worth while for me to live for although every hand was against me. I have no father. I still have a mother. I am now going to live for her by living down my past life and showing her that in her last days *they shall be her very best if* it is in my power to do it, for you have encouraged me to think right, to act right, and to be right and this to me is the beginning of the end with God's help and the manhood that is still left in me. I shall try and forget the past if that is possible, and look forward to brighter and better days to come, not for my sake alone but for the sake of my dear old mother who has always loved me no matter how bad I have been.

"I am going far away from my old haunts and former companions amongst strangers to begin life all over, and if I succeed, 'pray that I may.' I will come back some day and thank

you for your kind words that has started me in the way of being a wiser and better man. May others follow.

With very best wishes for the success of your humane administration at Sing Sing, I am sincerely one of your Old Trusted Convicts.

"P.S. I annex the following poem which speaks for itself.

A little more tired at the close of day
A little less anxious to have our way,
A little less ready to scold and blame;
A little more care for a brother's name,
And so we are nearer the journey's end,
Where time and Eternity meet and blend
The book is closed, and the prayers are said
And we are a part of the countless dead.
Twice happy, then, if some soul can say:
'I live because he (Osborne) has passed my way.'"

A mother acknowledges the fact that he did more for her son than either she or his father were able to do, as Osborne succeeded in making a man of him when they had failed. "I take the liberty to write you this letter, to thank you for the good which you have done my son. I intended to thank you before this, but I know that you are very busy and I did not want to bother your time but, Dear Sir, you have done more for my son than his father or I could ever have done for him. We have tried with all our might, but failed while you have succeeded to make an honest boy of him.

"I cannot thank you enough in words, but hope you will understand my good wishes, for I can now lift my head and say that my son is a good and respectable boy. I hope God will give you health that you may continue with the good work that you are doing for all unfortunates, is the prayer of a mother."

A man who had been out of prison for eleven years remembers to write Osborne on his anniversary that "even if every other man went wrong he would *make good*." "My dear friend: It seems that every now and then I must write you a few lines. Just to encourage you to continue the work you have instituted in this state.

"Today is the 11th anniversary of my *Liberty* and I am surely feeling fine. This is the longest period that I have enjoyed God's sunshine and the warbling song birds in over thirty-five years.

"When I became a member of the 'Mutual Welfare League,' and promised to *make good*, I meant every word of it. That I have done so is a self evident fact.

"I will admit that there has been times during those eleven long years that I have been hungry, that I wanted to commit a crime, 'pull a trick,' and make the other fellow pay.

"But when I thought of all that you endured for the 'boys,' the friendship you offered them, a friendship unweakened by time and experience, I could not go wrong. I said to myself that if every other man that ever wore the stripes of the plain gray uniform of 'Copper John' went wrong, I, at least was going to *make good*. I am now in a business for myself and making good at that too. I may be in Auburn within the next ten days and would like to meet 'Tom Brown' and talk over old times. You can tell the boys for me that the quicker they leave *moonshine* and *white mule* alone the longer they can and will enjoy the Liberty that God meant should be shared by every man in this dear old land of ours."

"Some folks will say 'This is a tough old world!' But such is not the case. The world is just as we make it ourselves. If we are bad and persist in wrong-doing then we must be the sufferers for it. I sincerely trust that you are well and enjoying the blessings of this happy Yuletide. Give my deepest respects to all the boys behind the walls and say I wish them all a Happy New Year and a Merry Christmas."

Still another prisoner writes to prove that there is hope even for a hardened criminal. "Should any skepticalist doubt the Good you have accomplished in your prison reform work just refer them to me and note the answer that I will give them. Ask them to examine the records of J. F. as follows:

State Industrial School (Rochester) No. 7596
Onondaga Pen. (Syracuse) No. 81
Copper John (Auburn) No. 24,039
do " No. 26,150
do " No.
Clinton Prison (Danamora)
And such other places as Oswego County Jail, 4 times, Monroe County Pen. 2; Erie County Pen. 1.

And then ask them point blank where they get that stuff from 'that once a con always a con.' You won't find upon these records that I lived the life of an angil, but you will find a dam lot of fight reports. You see, Tom, I am Irish and the Devil himself can't hold an Irish lad when the other fellow wants fight. And Begorry, although a few months from the half century mark, I still ready with that same old Irish fighting spirit to fight for Tom Osborne and the boys behind the walls, and if any skalpeen doubts a true Irishman's word let them come foremost me and say so. But be behind them to stop their flight into the middle of next week."

Some of the men released failed to carry out their promise. That was to be expected. But the failures attracted attention. That too was to be expected. What, however, was not to be expected was that other released criminals should feel resentful at the failure of some of their pals. Nothing in the whole story is more interesting, and more significant than the numerous letters to Osborne cheering him along in the face of failure and urging upon him the fact that in the long run, even in spite of failure, the work of the Mutual Welfare League and his own personal influence could not be denied.

"Dear Friend: Your letter reached me on Thursday evening but I didn't open it until today, my birthday, and I spent a very pleasant morning reading it and the opinions of nine other friends—that is the absolute extent of my present-day friendships.

"I am very much pleased with what you said and want to assure you dear friend that you were not in the least mistaken. Of course, I understand that this will sound like self-praise, but I do not consider it so. Had I accomplished five years ago what I have accomplished during this year then it would have been on my own initiative and I might have expected praise for myself but doing these things after having known you and felt your influence for good is to somebody's credit, but surely not mine.

"Your thoughts on disappointments were splendid. As to myself, I no longer fight them—I simply disregard them altogether, but judging by what I have heard from a mutual friend, I'm afraid you are not disregarding them. Why do you let the apparent failure of some of the boys trouble you? They cannot fail absolutely. Nothing can convince me that it is possible for any of them to shake off your influence and that of the League—our League, Tom. What they have learned through association with these new principles will never leave them and, while they appear to fail, it must bear fruit some day.

"I don't believe I ever told you how you brought me around—I am going to do so now. When you came to Sing Sing I was in a frame of mind I would rather not think of now. I distrusted everybody and couldn't see why anyone should do any good without a hidden motive. Before assuming your duties you spoke to us in the mess-hall and this is how you impressed me. I walked to my hole-in-the-wall thinking, 'here's a guy looking for a 'rep' of some sort and he's going to pick on us poor slobs in order to get it.' Not very encouraging, eh Tom? But that was my way of looking at things then. I was walking around the yard one day when one of the boys, rather unkempt looking, stopped you, to ask a question or a favor I presume, and you put your hand on his shoulder, looked him in the eye and did everything possible to make him feel that he was not talking to a warden, but to a *man*. I could never describe the look on your face, but I did know that it bespoke peace and good-will, instead of the sympathy or contempt we were accustomed to seeing in the faces of our friends (?). You didn't say one word to me up to that time, but that look set me to thinking in my tomb that night, which

proved to be the first of a series of thought-fests I indulged in for some little time after. These were my conclusions:—that there are lots of good people in the world that I was not in tune with them and therefore was not and could not be aware of their presence. That there must be some pleasure in doing good for others because of your look when you spoke to that boy. I decided that first of all I was going to tune up a bit so as I could understand people and then *I*, who had done lots of harm and absolutely *no* good in this world, wanted to do something for someone and perhaps acquire that look which by this time haunted me. You simply made it possible for me to *decide* these things, but it was my connection with the League which made it possible for me to carry them to a successful conclusion and Tom, today I am capable of that look. I *have* won! You've won and so has the League! And I am exceedingly grateful.

"Of course you know that I am married and have two children and have wondered perhaps why I have lived alone during this year. You know the circumstances under which our benevolent state releases a man. Naturally it was impossible to start a home then. My wife, wonderful soul, (wish I had understood her years ago) and the children were living with her mother and were more comfortably situated than I have been during this past year. We decided to wait until I was earning more than the twelve dollars a week I was earning then and until I had been discharged from my parole. I have worked every day, saved a few pennies, expect my discharge papers when I report on the first of the month and with what I have and a little help I am going to get from her mother, who never thought very much of me but who thinks the world of me now, I am going to rent a little apartment somewhere, perhaps on the fifteenth of November. My present salary is only seventy-five dollars per month, hardly enough in these times, but I know my wife wants me and the children need me so we are going to brave it and hope for better times.

"I have written more than I had intended to and besides I must answer nine other letters so I must close.

"For the part you've played in my re-birth I can simply say—thank you, and I am sure that when my children are old enough to understand what a noble soul T. M. Osborne was they will also say thank you."

In reply to this letter Osborne wrote as follows: "Your letter of October 14th is received and gives me the keenest pleasure. I am greatly rejoiced at your year's success and I am sure that you will step on and up; because you have taken up your new life in such a steady and sensible way that you are making a good solid basis for the future.

"I can hardly tell you what a cheering thing it is to get such a letter and to feel that we have been successful in this case. The failures get such undue prominence; the negative is so constantly pressed on our attention instead of the positive, that it often seems as if life were so full of disappointments and discouragements that there was no particular use in living; as if clouds were so thick and heavy that we should lose faith in the sun. Then comes a burst of glorious sunshine—and we realize that our discouragement was only our own stupidity.

"Yes, my dear brother, when I think of all those fine chaps at Sing Sing who were showing such splendid qualities and who needed only a little more encouragement to start them off right; and think of the detestable spirit that has been prevailing there and has dragged so many of them down—and back to the old cynical views of the world; then my heart grows faint and sick. The only way I can do is to think about Sing Sing as little as possible; and to hope for the day when the present regime of the prisons may receive the open condemnation it deserves. In the meantime your letter is one of the bursts of sunshine which comforts me so greatly and tells me that all is still right with the sun."

One ex-prisoner on reading that some of the men had gone back to crime writes: "If one has gone astray, don't dispair Tom, think of the hundreds who are making good, that is your most consoling point."

Even one who had, as he puts it, "backslided" wrote: "Dear Friend Tom: I owe you a few lines Tom, so here goes.

"First: am working, second: am married some eight months; Third, am settled down. Tom theres no getting away from it but the seeds that you have sown simply would not be crushed. Have been thinking of you constantly and wondering if I could be of service in any way.

"How have things been going? Well, I hope. Tom do you know that when I backslided I never had any peace of mind and never felt as heretofore. Keep up Tom even if some of us do *temporarily* discourage you. You can't imagine how glad it makes me feel to be able to say that I am right and that you were the 'steering gear.'

"Am taking a course at Y. M. C. A. to become a mechanical chauffeur on the whole am very happy.

"With mighty good wishes, Tom, I am always."

These letters are so varied and their testimony covers such different phases of life that it seems difficult to omit one rather than another. Here is one prisoner who definitely and distinctly says that if not for the influence in Sing Sing during Osborne's regime he would have returned to a life of crime. "My dear Friend Tom: Please excuse my delay in not answering your very welcome letter of some time ago, but to tell the truth I have been so tired after my days (and nights) honest, but hard work, that I have not felt like writing at all, not even to you 'my proven true friend.'

"This morning after finishing twenty hours of hard work I happened to have the *Morning World* at hand, and my dear old loved one, 'Mother' called my attention to a talk you had 'in the Mess Hall,' with the boys.

"Tom, 'true friend,' I cannot write you just what my tongue would like to say, but you can rest assured the mean cowardly curs at Albany would sit up and take notice if my education would but allow me to put my honest thought mind into words.

"If I had left Sing Sing Prison under the old fiendish system I would not 'as I am today' be working hard, but honest, for the small sum of fifteen (15) cents per hour, instead of honest work, and happy home as is now, there would be sorrow, and heartaches at home, and I would be evening matters with society for my long sufferings of over four (4) years before you came to the living hell at Auburn, and helped to start, (with your honestness, and cheerful words) the Mutual Welfare League whose teachings brought out the truth, and right ways of living.

"I have not touched liquor once since my discharge, and never will fall for it again, and I must say, if I can leave rum, and dope alone after the race I run with it there is some goodness derived from the teachings of the M. W. L.

"Before you entered Auburn prison, that is, in the old system, I was the big stick in getting rum, or dope, but I gave you my word not to use either when we started the League, and I have kept that word although I lost many (so-called) friends, they knowing I could get it, but would not do so.

"Now, Tom, don't give up the ship until she sinks, and reaches bottom, then when she hits bottom strike out for shore, and come back strong. It's a long up-hill fight, but the right is always the real master. It was a dear cost to find it out for me, but I come, I fought, I conquered. Those are the words I heard just after I arrived at Manila Bay, 1898.

"Well, I must now close, and can only hope, and trust the system, you, (and you only started), will not fail. If it does I say 'God help the human beings that are in durance.'

"The best of luck be with you Tom at all times is my earnest wish. I am still one of your boys out in free life among many who are making good now, and in the future to come."

Of greatest interest is a letter from one ex-prisoner to an inmate in Sing Sing Prison. Striking in the letter is the strange fact—a fact which the author himself notes to be strange when he says "this is the first time in the history of any prison in the entire world that the boys themselves are sending Godspeed to those that are starting on a different career:" "Dear Old I: I have just come home after a strenuous day's work and I again took your letter out and read and re-read it over, for I. in all my life I have never received a letter from anybody that ever touched me as much as that one did. Words can but inade-

quately express my real feelings for as I read your letter I realized for the first time in my life what real friendship means and the glorifying expressions proved to me that it is the hearts of our friends that are really worth more than money or anything that we can possess.

"I really think that I was rather lucky in getting a 'bit' in dear old Sing Sing for it has brought to me the only real friends that I ever had—friends who a man can be very proud to claim as his; for it is the life we have lived together amidst sorrow and joy that has brought that close relationship which I feel the future will be the means of making a success for us all; for it will be a responsibility on my part to help along those of my pals that have shown the true spirit in wishing me the things that I am wishing myself.

"At first I was under the impression that some of these people I have known all my life would laugh at me, and say that I had lost my nerve, or some such other expression, but I must admit that this is the first time in the history of any prison in the entire world that the boys themselves are sending Godspeed to those that are starting on a different career. I little realized the fine friends I had made and am still making, for I. every day I find that I have gained the friendship of people that in the future will be the means of pushing along my success and you would really be surprised if I was to tell you that in the place I am at present working and where they know absolutely nothing at all about me, I am given a chance that many an honest and clean-cut young fellow would give his very life to get.

"I. from my heart I thank you for the kind sentiments expressed in your letter; for really I little deserve such high praise; but I want you to know that I stand ready at any time or place to go to any extent to be of service to you; and I hope in the future I may be in a position to do something for those of my friends who have so splendidly assisted me through their expressions and kindness.

"I will try to write regularly to all of you, and if at some

future time I happen to be irregular, don't be afraid to jack me up.

"It is a harder battle in the beginning to go straight than crooked, for you hate the restraint and the freedom that is taken away from you; but how can a fellow go back on the word he had promised such a wonderful man as our 'Tom Brown' and Doctor Glueck—and I personally am going to make the hardest fight of my life not to hold a position, but to amount to something in the future. I now realize that the legitimate is a better game than the old one; and the returns are larger. If a man will only place the same amount of cleverness and ingenuity that he used in robbing people. It is a good world after all; and I am thankful that I am in it.

"Well I. be cheerful and tho it is mighty hard to say that to a man in stir—I want you to feel that you have somebody in this village that would do anything and give anything to have all of you with me; and I want you to feel that you should call upon me at all times for the little things that you desire; for my friendship does not extend only to writing letters, it goes to my pocketbook also. So don't be afraid old man. I haven't got much now—but I can share it with my friends.

"Be good I., stick to the Mutual Welfare League for it is a paying and winning proposition even tho it has had a temporary setback—and Thomas Mott Osborne, our Tom—will come back stronger than he ever was; and the stickers are going to be in on the gravy when the cutting up comes around.

"I certainly will be on the look-out for your pictures and the one of Tom that you mentioned you were going to send me, and my room is going to be brightened in that way. No, I., no rooms or apartments for yours truly until I have an account and a large one.

"And I., when the going seems hard and you feel blue, just think of little . . . out in Chicago who has you in mind, for there is not a minute of the day that my mind does not revert back to that dreary Castle on the Hudson, so wishing you a joyful Thanksgiving—if such a thing is possible—and may all that is good fall to your lot, is the sincere wish of

Your pal."

One more letter among many others will have to suffice. It is an expression of loyalty towards Osborne by a released prisoner years after Osborne had ceased being warden: "I sincerely trust that you are well by now, for the 'boys' as well as the 'world' need you. What you have done for the 'Boys' behind the 'walls' will live within our memory until the end of the last 'Old Timers.' And, even then, the 'Boys,' children, wives, mothers, and sweethearts, will remember 'Tom Brown' Osborne with many a prayer and a Thanksgiving for the good you have accomplished amongst the gentry of the 'underworld.'

"I might write a whole book full of the Good you have done and then I could not tell but half the story."

These letters raise the problem of the return from the prison to the world outside and reveal it as a highly complicated and frequently an unsuccessful attempt. The returning prisoner is beset by numerous difficulties and fails for a variety of reasons—the greatest single handicap being the life long habituation to a criminal career. The process of becoming a professional criminal involves years of habituation, of growing attitudes, beliefs, prejudices, relations with the world, with friends, resulting in a specialized technique. The whole career of the criminal seems organized to confirm the original step once discovered and dramatized as the center of interest in the developing personality. The court procedure, the penal institution, the community seem so organized as to deny the opportunity for the possible change in the life habits of the criminal career. One of the reasons for this is the fact that there are so many failures. The failures, however, are in a vast majority of cases due to the fact that the community demands a sudden change, a sort of sudden conversion, a sudden shedding of old habits and the taking on of new ones.

But while such sudden changes may take place—at least there is much testimony in that direction—the change of career means a change of character, a change of habits, of mood, of attitude, of total relationship with the world. That is, it calls for a completely new "total situation" in which both the individual and the community occupy different relations to each

other than are ordinarily provided for in the relation between released criminals and the world at large. The failure to "make good" is thus merely a failure of the re-education process and in a large percentage of cases the failure must be ascribed to the shortness of time. It takes a long time to reconstruct the life habits of the returned being. It is here that the work of Thomas Mott Osborne finds its greatest significance and importance. The place of reconstruction was to be the prison. It was to be that by becoming a community. The "complete situation" or total relationship of the prisoner to his immediate world was to call forth and develop a new set of interests and habits and the change of the individual in the prison was—if it succeeded—automatically to call forth the different response from the community at large. The world outside would react differently to the returned prisoner because the prisoner himself would be different and would call out a different reaction. The failures along the way would be considered failures in adequate readjustment.

APPENDIX A

PRESENTMENT

OF THE

WESTCHESTER COUNTY GRAND JURY

TO THE

JUNE TERM OF THE SUPREME COURT

IN THE

MATTER OF THE INQUIRY INTO THE CONDITIONS OF SING SING PRISON

* * * *

1913

[A year before Osborne came to Sing Sing]

SUPREME COURT, WESTCHESTER COUNTY, JUNE TERM.

IN THE MATTER OF THE INQUIRY
INTO
THE CONDITIONS OF SING SING
PRISON

To the Hon. Arthur S. Tompkins, Justice Presiding,

PART I.

The Grand Jury of the County of Westchester, impaneled for the term of court above-mentioned, herewith respectfully presents to the Court, as follows:

Pursuant to the power and duties imposed upon it by Section 260 of the Code of Criminal Procedure, the Grand Jury has inquired into the condition and management of Sing Sing Prison, located at Ossining, Westchester County, New York.

All conclusions of facts hereinafter set forth are predicated upon the testimony adduced before the Grand Jury by various witnesses, and by personal inspection and examination of the prison by the Grand Jury. With regard to the conditions at Sing Sing Prison, the Grand Jury begs to state, in their opinion, the subject can best be presented under two heads—the one dealing with the physical conditions of the prison and the other, with the interior management.

The Grand Jury is still receiving testimony relative to the prison management, but since this testimony is voluminous, it is impossible, at this time, to formulate a presentment thereon.

Furthermore, the physical condition of the prison is such that, in the opinion of the Grand Jury, it demands immediate and drastic action to the end that remedial legislation be at once adopted correcting the abuses herein set forth.

We, therefore, make our presentment in two separate reports, divided as above stated.

The Grand Jury respectfully reports as follows:

1. AS TO THE PHYSICAL CONDITION OF THE PRISON:

(A.) THE CELL BLOCK.

The cell block, or cell house, was erected in 1825; and in design, accommodation and sanitary arrangements, possesses all the faults of that period of building construction.

In this cell house are 1,200 separate cells. These cells are arranged in tiers of 200 cells each. There are six of these tiers, and each tier contains two rows of 100 cells each, which are arranged back to back. In front of each tier runs a gallery, making twelve galleries in all. Each cell opens upon this gallery, but between this gallery and the outer wall, there runs a corridor of about eight feet in width, so that no cell, in the cell house is directly open to the exterior atmosphere.

On the contrary, many cells, instead of facing a wall eight feet away, which contains a window, face a solid wall, without even the aperture which is called a window.

As a result of this arrangement, there are a great many cells into which the sunlight never penetrates, and many where the sunlight only enters for a brief moment of the day. The exclusion of the sunlight results in a chill and dampness throughout the entire cell house.

This dampness is increased by the location of the cell house itself, and the construction of its floors. The cell house is low, is built directly on the ground, only a few feet above tide water, and adjacent to the river. Its walls are of stone, and the floor of the cells on the ground tier is flush with the flagging of the corridor.

The ground under this corridor is naturally damp because of the location. The flag stones are laid directly on the earth with no concrete to separate them from the ground proper. The resulting dampness penetrates into the cells and is so marked that one can see beads of moisture on the cell walls. It is even possible to wet one's hand by drawing it over the cell walls. The effect of this dampness on the inmates is, in the highest degree, harmful.

There is an ever present predisposition to rheumatic dis-

ease, many of the inmates have contracted chronic rheumatism and have left prison permanently crippled. With this rheumatic affliction, there has developed, in many instances, an organic disease of the heart, directly attributable to rheumatism. This latter frequently proves more disastrous than the rheumatism, and, in some cases, fatal.

The prisoners usually enter the prison in a rundown condition; they are physically below par, since the criminal class naturally comprises those individuals, whose lives are irregular and who are drug or alcohol habitues. Their entire life has been out of a normal course, and their power of resistance is speedily lowered after a few weeks of prison life. This means that they are more than normally susceptible to disease.

A person suffering from tubercular affection finds this affection perceptibly increased upon admission to Sing Sing Prison, while the possibilities for the development of active tuberculosis are overwhelming.

This is due to the dampness, the highly inadequate air surface, and the absence of outside ventilation and sunshine, and although tubercular persons are transferred as rapidly as possible to Dannemora, the transference is never quick enough to prevent repeated opportunities for infection, and there are inmates in whom this disease is latent undiscovered. The chances for disease are increased because of the amount of dust which is ever present in the prison. The prisoners have a habit of sweeping out their cells, and this dust falls from tier to tier, penetrating the atmosphere and filtering through to the cells and cell bedding of the tier beneath.

The cells are unfit for the housing of animals, much less human beings. It is the most crying situation that exists among State institutions and is a scandal to the State of New York.

This condition of the cell house is due to the construction of the cell block itself, which is of such a character that the enlargement of the cells is impossible. They are today exactly as they were eighty years ago.

(B.) THE CELL PROPER.

1. *Air Space:*

The cells are about seven feet long, three feet four inches wide, and six feet six inches high. The cell provides less than half the cubic air space required by law per person in a lodging house. That is, it provides for 168.67 cubic feet only.

A space of that amount is absolutely inadequate and insufficient as a housing capacity for any human being. It is inadequate for any human being. It is inadequate from the standpoint of all hygienists and sanitarians.

The New York Board of Health demands that the East Side lodging houses, i. e., municipal lodging houses, and barrack hotels, etc., have four hundred feet for each individual. That is more than double the amount provided for in the cells of Sing Sing Prison, so that, when two prisoners are doubled up in a single cell, as frequently happens, each has but a quarter of the cubic air space demanded by the Health Department of the City of New York. In this connection it must also be borne in mind that none of the cells have openings upon the external atmosphere.

Seven hundred or eight hundred feet of air space is the minimum required in modern institutions. In general hospitals, the space is much larger, and although in the factories of the city only two hundred and fifty feet are required, we must remember that these factories are not sleeping places.

In addition to this, the only air opening in the cell is a small vent three inches in diameter, opening out in the middle of the cell block and communicating through a chimney arrangement with the attic of the cell house.

This vent is a sort of duct, but there is no fan provided to draw air out.

In the opinion of the Grand Jury this vent or duct is absolutely useless for the purpose of providing or furnishing air to the cells.

The confinement of an average human being in a cell of these dimensions is terrific punishment and if it does not lead to the contraction of some disease it results in an impairment of the nervous system.

Cell life is particularly unfortunate for those prisoners for

whom, nine times out of ten, the cell serves as an abiding place for from one to twenty years.

(a) *The Bucket System.*

Another degrading factor in cell existence is the bucket system. This inadequate method for toilet provision is still in vogue in Sing Sing and owing to the construction of the cell block is the only system possible.

During the week the prison shops close at about five P. M. From that time until the next morning the convicts are celled up. During all that time the bucket which contains the excreta remains in the cell. Its presence there in such restricted space and with the defective ventilation is offensive and unsanitary, and when the cell is occupied by two persons these conditions are intensified.

Furthermore, because of the customary carelessness of the lower type of convict it is an obvious means for the contraction and distribution of disease. This applies more especially where two men occupy a single cell.

These buckets are emptied each morning, as the convicts come out of the cell house, and thereafter are cleaned by means of hot water and swabbing, and then stacked. Twice weekly they are disinfected with a formaldehyde disinfectant.

On holidays and Sundays, however, from eleven in the morning until seven o'clock on the morning of the following day, the convicts are confined in their cells. This 21-hour confinement in insufficient cell space and in the continual presence of the bucket is, especially in hot weather, both noisome and unhealthy. Notwithstanding all efforts to keep the buckets clean, their use is unsanitary, unhygienic and dangerous.

Needless to say there is no running water in the cells. The drinking water is placed in a bucket which stands in the cell for hours at a time, and is therefore subject to contamination. The cups fastened to the cell doors for drinking purposes are sprinkled with particles of dust at all times.

(3). *The Danger from Vermin.*

The cell block is infested with vermin, which, on account of the physical construction of the block, it is impossible to

eradicate. It has been repeatedly proved that vermin are disease carriers.

The vents in the cell act as an insect producer. The space which they provide between the blocks of the two tiers, make an opening which the vermin can easily and naturally get through, and in which they scurry to cover when any eradicating process is going on. The cracks, too, between the flagging provide them with a safe and unassailable breeding place.

The modern methods of construction are such that vermin are more easily combated. Light, air and sunshine are the best possible prophylactics, and in present day construction every portion of the cell is available for disinfecting purposes.

At present vermin swarms in every corner of the cell, on the bedding and in the bed clothes.

(4). *Doubling Up of Prisoners.*

The housing capacity of the prison is 1,200. We find that, during the last two years, as many as 2,000 prisoners have been lodged in the prison at one time, and that the number of inmates has already ranged from 1,500 to 2,000.

A dormitory takes care of 135 inmates. The rest are doubled up in the tiny cells.

The Warden and the Principal Keeper select the inmates who are to occupy a common cell. We learn that frequently men are coupled who are repugnant and dangerous to each other, and this situation has not been changed upon their request.

The physicians of the prison are not called upon to examine men who are compelled to occupy the same cell. Consequently we find that all too frequently a man of diseased physique, mind or habits, is coupled with a clean bodied, clean minded, and clean mannered man.

We find that men in pronounced stages of tuberculosis are housed with men of perfect health.

We find healthy men being subjected to the nightly companionship of syphilitics, etc.

We find young boys condemned to room with habitual criminals and creatures who make a practice of sodomy; no

effort being made to prevent the doubling up of a hardened or habitual criminal with a first offender.

We find negroes and whites have shared the same cells.

Immoral practices obtain among many of the inmates; acts of sexual perversion are taken for granted; sodomy is rife.

It is a condition that ought not to exist and with modern and proper methods of prison construction, providing for separate cells and plenty of out of door work, would not exist.

Gonorrhoea and syphilis are contracted in the prison and are developed by the mode of living there. This condition is emphasized by the doubling up process which provides increased opportunity for the practice of acts of sexual perversion, certain of which acts result in forms of venereal disease.

It is imperative that space be provided for the proper segregation of those suffering from venereal and skin diseases as well as for the seclusion and medical supervision of degenerates.

(5). *The Beds.*

The prison bunk is two feet wide and is hinged to the wall.

The frame is of gas piping, the mattress of vegetable fiber.

Since the bed is less than six feet long, an unusually tall man is uncomfortably placed, unless he has the good fortune to be transferred to the dormitory.

When two men occupy the one cell, the extra bunk is fastened two feet above the other, and they both unfold as do the berths of a sleeping car. Such sleeping arrangements cannot be too strongly condemned.

(C) THE DORMITORY.

These sleeping quarters were arranged for by converting a portion of the old chapel into a dormitory. All the unfortunate features of this unscientific method of housing are present. The bed space is grossly inadequate, the ventilation is insufficient, the close contact of the prisoners is demoralizing. Immorality abounds, disease is fostered, criminal propensities cultivated and inculcated.

(D) THE COOLER.

The normal conditions of the life of the prisoners of Sing Sing we have stated above as we found them to be.

The abnormal conditions are even less tolerable. The prisoner who is guilty of any infraction of the prison rules is dealt with by the punishment board, which consists of the Warden, the Principal Keeper and Physician.

A man who is guilty of any infraction is taken to his cell and locked in—"chalked in" it is called.

The guard makes a report of the prisoners' conduct next morning in Court before the three officials designated. The charges of the Court are read and the prisoner is supposed to be given a hearing.

If the infraction of prison discipline is slight, the convict escapes, usually with suspended sentence. If, on the other hand, the infraction is marked, he is placed in a dark cell.

This series of dark cells, consisting of two padded cells and eight dungeons, is called "The Cooler," and incarceration therein is dreaded by the prisoner.

In addition, however, to the barred door, there is a mask door, made of wood, which closes and excludes all light.

We find that within a short time before this investigation began, men have been driven insane by the incarceration in the cooler, that men have gone into the cooler and during a very short time have lost from twenty-five to thirty pounds, and that, in consequence of the agony and suffering while incarcerated, have attempted suicide.

There are two covered slits in this wooden door which allow for the admission of a small amount of air, but not of light. An additional source of air supply is obtained through the small vent in the cell ceiling, but no open space whatsoever is apparent to the prisoner. So far as he is aware, neither light nor air comes in. This results for him in a feeling of suffocation. Sunlight never penetrates under any circumstances, whether the cell be occupied or not.

The prisoner is confined in this complete darkness for the usual period of three days, frequently for a week, sometimes for ten days and longer.

The mattress, which is flung on the floor for his use at night, is removed during the day, so that his only resting place in the day time, aside from the stone flagging is the bucket.

When he is fed, the wooden door is opened, and he stands up and gets his food. He is fed only once in twenty-four hours, and his food and water rations are restricted. He receives a slice of bread which weighs ten ounces and but eight ounces of water—an amount equal to about three-quarters of a tumbler of water.

So desperate is their condition that they have been known to drink their own urine as well as the disinfectant placed in the cell buckets. This condition exists today, under the present administration, and approved by the present Warden.

Remembering that a man weighing one hundred and fifty pounds requires at least fifty ounces of water a day, it may be easily realized that the effect on his health from the reduction from fifty ounces to eight ounces per day is, in the highest degree, injurious. The eight ounces of water per day is given to all the men, regardless of their weight and capacity, and their physical condition.

If, for example, a man is suffering from kidney disease, a condition which makes continual flushing of the kidneys absolutely necessary, such "cooler" treatment would not only exaggerate the disease, but might render it fatal. This is true of many other diseases including liver trouble, and troubles of the intestines, etc.

Although required by statute to do so, the doctors have never in their prison experience examined any of the men about to be confined in the cooler with a view of determining whether or not, from a health standpoint, they could safely undergo the punishment.

Moreover, although it is the duty of the prison physician to examine daily the convicts confined in the dark cells, we find that there are many days when inmates suffering from thirst, lumbago, rheumatism, dizziness, weakness, nausea, wounds, stomach trouble, hysteria, imminent insanity, etc., are not approached by the doctors.

It is physically impossible to examine each man every day, in addition to the other medical work of the prison.

We find that the medical staff of the prison is entirely inadequate for this and every other purpose. At night there is no physician on the premises whatsoever.

The prisoners complain bitterly of thirst while in the cooler. This situation is as deplorable and pitiful as any we have found.

(E) THE MESS HALL.

The mess hall was built to accommodate 1,200 inmates. It is, of course, inadequate for the accommodation of the number of prisoners now in Sing Sing, and the result is a perpetual overcrowding which makes necessary the feeding of the prisoners in relays. This means that the second relay finds the already inadequate food supply entirely insufficient for their needs, stale, unpalatable and without nourishment.

(F) THE HOSPITAL.

The hospital facilities are inadequate. There is, for example, no possibility of segregating insane patients or patients suffering from contagious diseases. This department needs enlarging and special provision should be made for the establishment of a psycopathic ward. Moreover, the hospital cots are infested with bed bugs. Remembering again, that disease is transmitted by such vermin, the dangers therefrom are obvious.

There is no resident physician at the prison. The head physician lives within six or eight minutes' distance of the prison. The prisoner, if ill, is sent to the hospital and is inspected by the doctors the following morning for the first time.

(G) THE KITCHEN.

The kitchen is inadequate and of unsanitary construction. There is no method of cooking except by steam. There is no roasting, broiling or frying of food. The whole culinary apparatus consists of various large cauldrons in which food is stewed or boiled by means of heated water.

In the very room in which these meals are prepared and cooked, is an unsanitary toilet. The odors from this toilet

penetrate into the kitchen and intermingle with the food as the same is being cooked. Necessarily, the germs arising from the toilet contaminate the food. Cut foods, such as sliced ham, remain in the buckets for several hours, directly adjacent to, and but a few feet away from this toilet. The toilet has no vent pipe, and hence the effluvia permeates the atmosphere.

The Principal Keeper's kitchen is an additional kitchen in which the food is prepared for the Principal Keeper and for the men condemned to die. This kitchen has a wooden floor under which is a cesspool in which water has been drained. This cesspool has no outlet and is caused by the water, grease and other waste liquids seeping through the floor. Consequently, the condition of this kitchen, by reason of germs generated, is wholly unsanitary and dangerous to the health of those who partake of the food.

(H) The Bake House.

The bakery is directly above the kitchen. The same conditions regarding the toilet obtained here as were found in the kitchen.

(I) The Boiler Rooms.

The boilers adjacent to the kitchen are used for the purpose of lighting and heating the prisons. There are four boilers, each of which is over twenty-five years old. One of these boilers has been discontinued, and the others are in bad and unsafe condition, liable, at any time, to explode. The pipes leading into the same are old and in many places patched up, and, therefore, unsafe. The means of egress from the boiler room are totally inadequate in case of an accident from explosion, and the lives of the convicts assigned to duty there are in constant jeopardy. These boilers are obsolete and have been used far beyond the period within which security in use can be guaranteed.

(J) The Bath House.

The bath house is too small for the number of convicts. Half of the showers are out of use. Three and four, and sometimes as many as twelve prisoners, use the showers at one and the same time.

There is no discrimination between the diseased and healthy convicts; both alike are crowded under the same shower. The steamed and cloudy condition in the bath house and the crowding of the men under the shower afford an opportunity for perverts, thus screened from observation to practice acts of sexual degeneracy.

(K) The Laundry.

At the time when the men take their baths, their clothes are removed to the laundry. Those of the diseased and those of the healthy prisoners are intermingled and these are washed without the use of disinfectants or fumigants.

The clothes of syphilitics and of those suffering from sores, ulcers, venereal diseases and tuberculosis, are all washed together. The result is the spread of contagion among the convicts.

Further, the clothes of the patients confined in the hospital, are washed at the same time as are the clothes of the other inmates, and there is no effort made to separate them, nor are any steps taken to disinfect the clothes of the sick. These methods are unsanitary, unhygienic, and without question, result in the spread of contagious and infectious diseases.

In addition, we find that the laundry is totally unequipped for the needs of the prisoners. There is no efficient method of drying the clothes. Each prisoner, after his weekly bath, is supposed to receive a clean suit of underclothes from the laundry. In a majority of instances, the underclothes so received are damp. The change from a hot steam bath to the damp clothing, and the subsequent exposure (in winter) to the icy winds from the Hudson, render the prisoner susceptible to rheumatism and pulmonary troubles.

In addition, we find that the sheets of the prisoners are frequently sent to the cells in a half dried condition, as a result of the insufficient facilities in the laundry.

(L) The Work Shops.

The space occupied by the workmen in the various factories, is inadequate. There is not sufficient air and ventilation. The exits from these factories are too few and, in case of fire, there

is danger that the inmates would be destroyed by crowding, smoke, heat and flames. In many instances, the machinery used in the workshops is uneconomic and out of date.

(M) SPACE.

There is great lack of space in the prison. This is exemplified by the use of the cellar, as a place of storage in the same room for potatoes, onions and other vegetables, together with bedding and blankets. The consequence of this is that the moisture of the vegetables penetrates into the bedding and blankets and destroys them by rot.

This same lack of space is evident throughout.

We, the Grand Jury, recommend to the Governor and the Legislature of the State of New York, the erection of a new State Prison to take the place of Sing Sing Prison, upon a fertile and well-located site of from 500 to 1,500 acres, and the abandonment of Sing Sing Prison.

We further suggest that immediate action be taken at this Special Session of the Legislature to accomplish this result, if the same is within the law.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated June 19, 1913.

(Signed by all the jurors, Francis A. Winslow, District Attorney, Westchester County, and by James W. Osborne, Deputy Attorney General).

INDEX