

was that the necessities of the inclement season might not tempt a discharged convict to a renewal of his offence. But if the fresh memory of his imprisonment, the fear of its renewal, and the lessons then learned (if any) for good during his incarceration, cannot prevent an immediate repetition of his offence, the only result of that provision, upon principle and by experience, is to overcrowd the prison, at a season when the cost of maintenance and clothing bears hardest upon its finances.

Better far would it be to require, in all cases, such extra labor as is now willingly rendered by many, during their term, to be paid for at the discharge, and sufficient to secure the transit of the party to some region where labor would be more remunerative and temptation less frequent.

In other States it has been found advantageous to allow terms of service, for the smaller offences, so short as six months; and no ill results have come of this, even in New York, where, after so short a term and a return to that great and overcrowded city, with its multiplied temptations, evil influences and chances of escape, recommitments, it seems, are not more numerous, in proportion, than they are with us. Indeed I am satisfied that in those cases where a reform is possible, a short term for the lesser offences is more advantageous; since, by it, a sufficient opportunity is given the criminal to know the horrors of seclusion, while his term is not so long as to induce despair; to blot out all good by evil associations, or to indurate him, and destroy pride or lingering self respect and the chance of reform. To punish small thefts, in all cases, with a term of eighteen months or two years is, in my opinion, unjust; and I felt compelled to interfere in some cases of this kind, where the law worked gross injustice; in one, especially, where though it was known at the trial that the petty theft was committed by one unable to procure work, surrounded by children crying for bread, to save whom from starvation a brass coupling was purloined, the term of eighteen months was given as the shortest allowed by law.

It seems to me it would be better to punish a first offence more lightly, and more justly; so as to prevent a second, which, thus committed against full warning, should be visited in all cases more for the safety of society, than out of consideration for the criminal who had thus shown himself incapable of, or unwilling to reform.

But I still think the increase of crime amongst us, which is undeniable, and which goes on to increase notwithstanding these severe enactments, is to be attributed not more to these defects, to which your attention has been invited, than to the unwillingness of those whose duty it is to apply them. Sometimes this may arise from too much severity in the law; for an unwillingness to visit a dreadful penalty, on a light offence,