

DEPARTMENTAL COMMITTEE ON HABITUAL OFFENDERS, INEBRIATES, &c.
(SCOTLAND).

R E P O R T

FROM THE

DEPARTMENTAL COMMITTEE

ON

HABITUAL OFFENDERS, VAGRANTS, BEGGARS, INEBRIATES,
AND JUVENILE DELINQUENTS.

[THE MINUTES OF EVIDENCE, APPENDICES, AND INDEX
ARE PUBLISHED SEPARATELY.]

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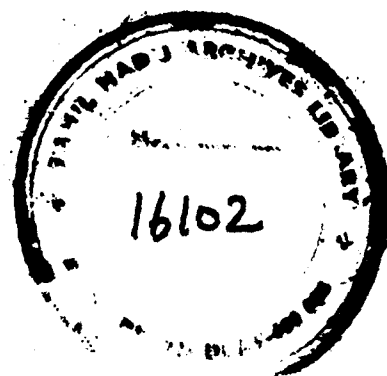
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MAIN FEATURES OF INQUIRY.

- A.—HABITUAL PETTY OFFENDERS** apprehended, convicted, fined, or imprisoned for (1) Drunkenness, accompanied by incapacity or disorderly conduct; (2) Breaches of the Peace and Petty Assaults; (3) Prostitution; (4) Vagrancy and Begging; (5) Petty Thefts, with Sentences of 14 days and under.
- B.—VAGRANTS, BEGGARS, TINKERS, and GIPSIES.**—Their habits and mode of living. Experience in other countries.
- C.—HABITUAL DRUNKARDS OF POORER CLASSES** seldom or never coming under cognisance of the police—The Habitual Drunkards Act, 1879, and the Inebriates Act of 1888—Procedure antecedent to admission to Licensed Retreats—The element of compulsion—Maintenance by friends, Church, philanthropic, or other agencies—Period and conditions of detention in Licensed Houses or Retreats—Experience in other countries.
- D.—WELL-TO-DO HABITUAL DRUNKARDS.**—Habitual Drunkards Act, 1879, and Inebriates Act of 1888—Element of compulsion—Licensed Retreats—Period of detention, &c.—Experience in other countries.
- E.—RESULT OF DETENTION OF VOLUNTARY INEBRIATES AND HABITUAL PETTY OFFENDERS** in Asylums, Homes, Shelters, licensed and unlicensed, in this country—Period of detention—Employment—Maintenance.
- F.—JUVENILE DELINQUENTS.**

[Witnesses, when cited to appear, were supplied with the foregoing.]



WARRANT APPOINTING THE COMMITTEE.

WHEREAS representations have from time to time been made to me by influential bodies, to the effect that there is a large and increasing number of Habitual Offenders, Vagrants, Beggars, and Inebriates in Scotland, and that the existing powers of dealing with such persons, especially with a view to a permanent remedy, are inadequate; and whereas I consider that it is desirable, in the public interest, that a full inquiry into this subject should be instituted,—I accordingly hereby appoint a Committee consisting of:—

Sir Charles Cameron, Bart., M.D., M.P. (*Chairman*);
Lieut.-Col. A. B. McHardy, R.E., Prison Commissioner for Scotland;
R. Farquharson, Esq., M.D., M.P.;
Col. Sir Colin Scott Moncrieff, R.E., Under-Secretary for Scotland;
John Dove Wilson, Esq., LL.D., Professor of Law, Aberdeen University;
J. F. Sutherland, Esq., M.D., Medical Officer, Glasgow Prison;
Miss Flora C. Stevenson, Hon. F.E.I.S., Member of the Edinburgh School Board;

to inquire whether the number of such persons is increasing, and into the cause of such increase; and further, to suggest such remedies as may, while deterrent, be likely to bring about their reformation and to prevent further additions to their numbers, due regard being had to the cost of any remedies which may be suggested, and to the practicability of their being carried into effect. And I appoint Dr Sutherland to be *Secretary* to the Committee.

(Signed) GEORGE OTTO TREVELYAN,
Her Majesty's Secretary for Scotland.

SCOTTISH OFFICE, WHITEHALL,
19th June 1894.

To the above remit was subsequently added by the Secretary for Scotland, on 23rd November 1894, the following:—

And also to inquire into the number of male and female Juvenile Offenders sent to prison in Scotland, the offences for which they are committed, and the extent to which such committals could be lessened, and to report generally on the subject.

PART I.—HABITUAL OFFENDERS.

¹ Sutherland, Appendix I.

² Donaldson, Appendix LVII.

Cases of drunkenness, breach of the peace, assault, vagrancy, begging and importuning, account for seventy-one per cent. of the total apprehensions and citations in Scotland.¹ A large portion of the balance is accounted for by offences against local police regulations, and the remainder consists of indictable offences for which the sentences are so long as to prevent any rapid increase in the number of re-convictions. The average duration of confinement of criminal prisoners in Scotland, excluding convicts at Peterhead, during the five years ending 1893 was under 14½ days²; and when we remember that this includes long sentences as well as short, it will be seen that an opportunity for repeated conviction is afforded in the case of the habitual petty offender which is wanting in that of the more serious criminal, and it is therefore to the class of petty offences that our investigations have practically been confined.

³ Appendix X.

Petty-offender Statistics.—In Scotland the number of arrests and convictions,—including forfeited pledges and cases dealt with by fine, imprisonment or admonition,—for drunkenness, breach of the peace, assault, vagrancy, importuning and petty theft has since 1875 increased, though not proportionately to the increase of population.³ From the police returns furnished to us it appears that the number of arrests and convictions for these offences in the whole of Scotland, in the years to which the figures relate, were as follows :—

Year.	Arrests, &c.	Convictions, &c.	Population as estimated by Registrar-General.	Percentage of Convictions, &c., to Population.
1875	101,182	92,783	3,514,744	2·64
1885	90,873	83,221	3,856,307	2·15
1893	108,603	100,310	4,093,959	2·45

The same returns show, however, that this increase occurs in the case of counties only, and that in the burghs, although there is an increase in 1893 as compared with 1885, there is practically no increase in numbers as compared with 1875. As divided between counties and burghs the figures are * :—

Counties.

Year.	Arrests, &c.	Convictions, &c.	Population as estimated by Registrar-General.	Percentage of Convictions, &c., to Population.
1875	14,275	12,493	2,003,154	0·90
1885	16,029	15,738	2,163,207	0·91
1893	21,823	19,955	2,148,104	1·12

Burghs.

Year.	Arrests, &c.	Convictions, &c.	Population as estimated by Registrar-General.	Percentage of Convictions, &c., to Population.
1875	80,710	76,052	1,511,590	5·03
1885	68,269	63,504	1,693,100	3·75
1893	81,160	75,500	1,945,855	3·88

Pushing the analysis further we find in the smaller burghs that the percentage of convictions to population since 1875 has been practically stationary, while in the larger,

* The division between counties and burghs, which is made in the Judicial Statistics, has necessarily been followed in this Report, though it is in some respects unsuitable for the purpose. The division which these statistics make does not correspond with the division of the population into rural and urban, or with the division between the territory of the county common law and that of the burghal statute law on the subject of petty offences. What are classed as burghs in the statistics are only those burghs which have entirely separate police establishments, and make separate statistical returns. All the larger burghs are in this position, but the small burghs returned as such in the statistics, are only a comparatively small proportion of those actually existing. It thus happens that a large number of burghs, which hold courts and administer law special to burghs, but which are policed by the counties in which they are situated, are massed in the county statistics, so as to make it impossible to distinguish what number of the offences, which are recorded as belonging to the counties, belong properly to them, or belong to burghs massed with them. A return has been made of the burghs which are thus included in slump with counties, and will be found in Appendix XCIII. It will be observed that it includes burghs, such as Wishaw, which are much larger than some of the burghs making separate returns.

ugh, as before, 1893 shows a slightly increased percentage of convictions to population on 1885, it exhibits also a largely decreased percentage on 1875. Dividing the between the smaller and the larger burghs, the figures are as follows :—

Small Burghs.

uding Ayr, Partick, Perth, Hamilton, Kilmarnock, Kirkcaldy, Inverness, Dumbarton, Stirling, Dumfries, Dunfermline, Hawick, Airdrie, Port-Glasgow, Johnstone, Arbroath, Renfrew, Alloa, Galashiels, Rothesay, Forfar, Montrose, Brechin, Broughty-Ferry).

Year.	Arrests, &c.	Convictions, &c.	Population as estimated by Registrar-General.	Percentage of Convictions, &c., to Population.
1875	11,380	9,724	338,189	2·87
1885	12,480	11,339	401,066	2·82
1893	13,955	13,015	446,231	2·91

Large Burghs.

cluding Glasgow, Edinburgh, Dundee, Aberdeen, Leith, Greenock, Govan, Paisley).

Year.	Arrests, &c.	Convictions, &c.	Population as estimated by Registrar-General.	Percentage of Convictions, &c., to Population.
1875	69,330	64,871	1,173,401	5·52
1885	55,789	52,165	1,292,034	4·03
1893	67,205	62,485	1,499,624	4·16

Increase in Drunkenness and Offences arising therefrom.—A carefully prepared gram, to be found in the Appendix to this Report,¹ showing the number of apprehensions and citations for breach of the peace, drunk and incapable, and disorderly conduct, and in another colour the growth of the population since 1880, reveals that the main factor in this increase is an augmentation of drunkenness and offences arising therefrom. Reference to this diagram shows that the number of apprehensions and citations for these offences increased from 80,855 in 1880, when the population was 3,637,000, to 98,427 in 1893, when the population was 4,050,000. Not only do these figures show an absolute increase of 17,572, or 21 per cent., in thirteen years, but an increase beyond that proportionate to the increase of population (10 per cent. between 1881 and 1893) to the number of 9,487 a year. The arrests for the offences specified reached their maximum in 1890, between which year and 1893 they have declined by nearly 8,000, which is so far encouraging; but still the serious significance of the net increase of the percentage of arrests from this cause to the population of Scotland in 1893 as compared with 1881, is shown by the fact that it amounts to more than one-fifth of the total arrests for similar offences in the London Metropolitan district at the present time.

C *Commitments to Prison.*—On analysing the number of commitments to prison in Scotland we find² (a) that the number of commitments to prison in Scotland for petty offences has steadily increased from 26,000 in 1875 to 32,000 in 1885 and 35,000 in 1893, and (b) that the number of commitments to prison for other offences has decreased since 1875, being in that year over 17,200, against 14,000 in 1885 and 15,600 in 1893.

D It thus appears that the number of commitments for drunkenness, breach of the peace and assault, vagrancy or begging, prostitution and petty theft, in 1893 constituted more than two-thirds of the whole number; and, as petty offenders constitute the class among whom the greatest number repeated convictions occur, one would naturally expect a corresponding increase in re-commitments to prison.

Increase in repeated Commitments to Prison.—We find that in 1884 the number A of re-commitments within the year was 14,305, that it then fell considerably, rising again in 1890 to 14,742, and reaching 15,255 in 1893. Although these figures show an actual increase in the number of habitual offenders, as indicated by re-commitments to prison within twelve months, it is gratifying to note that that increase is not proportionate either to the increase of petty offences or to that of the general population in the interval. Had it been proportionate, according to either of these standards the number of re-commitments would have been some 400 greater than was actually the case.

Increase most marked among Confirmed Offenders.—Prison statistics further B prove that it is amongst the most incorrigible class of offenders that the increased re-commitments have principally occurred. This is very clearly brought out if we compare the tables of re-committals to prison, published in the Annual Reports of the Prison Commissioners. Taking the five last years, we find that the total re-committals in Scotland, once and oftener, and the re-committals of those who had been ten times or oftener previously in prison, stood in the years 1889–90 to 1893–94, as follows:—

Year.	Total Re-committals.	Re-committals, Ten Times and oftener.
1889–90	15,783	2469
1890–91	15,060	2494
1891–92	14,677	2674
1892–93	15,911	2714
1893–94	16,532	2816

The increase in the total re-commitments was therefore 749 or 4·7 per cent.; C while the increase of the more hardened offenders was 347 or 14 per cent.

Causes of Increase.—In considering the causes of the increase of petty and D habitual offenders in Scotland several facts require to be borne in mind. For instance, the number of commitments to prison of offenders under 16 years of age has diminished by 471 in 1893 as contrasted with 1861. This is doubtless due to the institution of Reformatory and Industrial Schools and the enactment of compulsory education, which, apart from other considerations, deprives juvenile delinquents of much of the opportunity previously afforded for wrong-doing. Another cause is doubtless also an improvement in public sentiment, which renders magistrates reluctant to commit such cases. To this we believe to be due a considerable portion of that diminution in the ratio of petty offences to population which is noticeable in the case of larger burghs.¹ In the case of the counties and smaller burghs the same causes would, of course, exert an influence in the same direction, but there they have been much more than counteracted by the creation of new offences through the erection of populous places into Police Burghs and by the increased energy of police administration.

¹See ante, p. iii.

Influence of Legislation and Police Administration on number of Offenders.—E The potency of these two causes in influencing the number of arrests and convictions is not generally sufficiently appreciated. To illustrate it, take the case of Glasgow.² In 1866 the principal Glasgow Police Act was passed. Under the Act in vogue prior to its passing, the drunken cases with which the police had to do were classified as drunk and incapable and drunk and disorderly, but the coupling of drunk with disorderly was found to lead to miscarriage of justice when the drunkenness could not be proved. The Act of 1866 therefore omitted the drunkenness in disorderly cases, and charged the disorder simply. The last complete year in which the old Act was in force was 1866, and the number of convictions, admonitions, and pledges forfeited in that year in cases of drunk and incapable, drunk and disorderly, assaults, and disorderly, amounted to 15,656. The first complete year under the new Act was 1868, and in that year the number of convictions, admonitions, and forfeited pledges in cases of drunk and incapable, assaults, and disorderly rose to 16,226. This increase of 570, we may take it, was due chiefly to the change of law. But prior to 1866, and for seven years afterwards, the custom was for the lieutenants in charge of the various police offices to discharge when sober those drunks who could not leave a pledge, as not worth the trouble of bringing before the magistrate. In 1873 the magistrates gave orders that this system should be discontinued, and that every person who did not leave a sufficient pledge should be brought before them. 1873 was the last complete year during which the old system was in force, and in that year the number of convictions, admonitions, and pledges forfeited in cases charged as drunk and incapable,

²Appendix LXXXI.

A assault, and disorderly amounted to 24,324, while the 'drunks' discharged without leaving pledges numbered 29,963. The old system continued for the greater portion of 1874, and 1875 was the first complete year under the new. The result of this purely administrative change was to increase the number of convictions, admonitions, and forfeited pledges, from 24,324 in 1873, to 38,133, and to increase the number of recommitments to prison by 5800 over the figures at which it had stood in the previous year (1874).¹

¹Donaldson, Appendix I.V.

B *Case of Perth.*—Again we may take the case of Perth. In that city, without any special change in the law, the number of arrests, which during the administration of one Chief Constable had been between 500 and 600, sprang up on the appointment of his successor to over 1000. The only reason the new Chief Constable could give was the change in the management of the police. The people, he admitted, were not more drunken or disorderly, but those who were allowed to escape before were dealt with now.² Q. 7357–8.

C *Cases of Govan and Partick.*—Another illustration of the extent to which the number of arrests is influenced by diversity of police administration is to be found in the case of Glasgow and Govan. These police areas are contiguous, and a stranger passing from one to the other would not recognise where the one ended and the other commenced. In Glasgow the number of arrests and citations for all offences is about 84 per 1000 of the population; in Govan it is but 40. But in 1873 the ratio of arrests in Govan was 105 per 1000.³ In 1883 it had fallen to 73·39. In that year a new⁴ Q. 8789. Chief Constable was appointed, and the total number of apprehensions in 1884 fell to 57 per 1000; in 1885 to 41; in 1886 to 34; and in 1887 to 31. Since that date it has fluctuated between 38 and 51 per 1000, and in 1893 was 42, or exactly half the percentage of Glasgow. An attempt was made to explain the difference by an alleged superiority of the Govan population, but the fact that in 1893 the number of convictions for petty theft in Govan was in proportion to its population⁵ more than 30 per cent. Appendix X. greater than in Glasgow, detracts from the satisfactoriness of this explanation, and compels us to fall back upon the admission of the Chief Constable of Govan⁶ that the⁷ Q. 8879–80. percentage of apprehensions 'depends entirely upon the management of the police force.'

D While it is right to state that in no instance did we find any prisoner in a police office whose condition and appearance did not afford strong presumptive evidence in justification of his arrest, we must state our conviction that a judicious management of the police tends to diminish the percentage of arrests to population, and we commend to attention the following extract from a memorandum (to be found in our Appendix) by the Chief Constable of Partick relating to arrests in his district:—'Having had⁸ Appendix LXXII. 'experience in five different Police Forces during the last 23 years, I must say that the 'more efficient the management of a Police Force is, and the more the Police keeps in 'touch with the Public, the fewer will be the apprehensions.'

E In Scotland the Magistrates are indirectly elected by the inhabitants of the different localities, and where any peculiarity in the 'management of the police' is based on definite instructions from them, we may assume that it accords with popular sentiment. Where, however, it results simply from the idiosyncrasy of the local Chief Constable, as appears often to be the case, we think it but proper that attention should be called to it, in order that if it be commendable the example may be held up for imitation, and if it be the reverse, the attention of the local Magistrates may be called to it.

F We therefore recommend that the Inspector of Constabulary should, as part of his duty, inquire into local peculiarities of police administration, and where they seem to him to call for notice, should report on them to the Secretary for Scotland.

G If this were done, although it could not bring about uniformity in the 'management of the police' throughout Scotland, it would tend to discourage those extreme departures from it, to which the fact of so much being left to the unsupervised discretion of individual Chief Constables at present gives rise.

H *Conclusions.*—In response to the question propounded in the first portion of your remit, your Committee have to report—

- (1) That the percentage of convictions to population for graver offences in Scotland has for many years shown a continuous decrease.

- (2) That the number of convictions for petty offences has within the same period gone on increasing at a rate considerably in excess of that of the increase of population.
- (3) That the number of habitual offenders, as indicated by those imprisoned more than once within twelve months, has increased, but that the ratio of increase is less than either that of the population generally or that of convictions for petty offences.
- (4) That there has been a disproportionately large increase in the number of confirmed petty offenders, as indicated by persons re-committed to prison ten times and upwards.
- (5) That the increase in the number of convictions, &c., for petty offences is not due to a falling off in the character of the population, but is due (a) to the effect of legislation in increasing the number of petty offences; (b) to the adoption of Burgh Police Acts in populous places, and (c) to increased vigilance on the part of the Police.

DIFFERENCES BETWEEN SCOTTISH AND ENGLISH LAW AND ADMINISTRATION.

Although at first blush the fact that 38 persons per 1000 are annually apprehended or cited in Scotland against 25 in England, and that 12·3 per 1000 are annually imprisoned in Scotland against 5·6 in England, would seem to indicate the existence of a far greater amount of crime in Scotland than in England,¹ your Committee see no reason to believe that such is the case. In Scotland the system of public prosecution operates in the case of all offences, petty or serious, whereas in England it is resorted to only in that of the serious crimes, petty offences being there prosecuted either by the police or by private individuals. The committals to penal servitude, where the systems of prosecution adopted render a fair comparison possible, are proportionately almost identical in the two countries, being per hundred thousand of population in Scotland 2·4 against 2·3 in England.² In indictable crimes where the public prosecutor intervenes in a large number of cases that in England would be left to private prosecution, the proportion of convictions to population is as one would expect greater, being per hundred thousand of the population 46 against 32 in England. That the crimes and offences treated in the English prisons are of a much more serious nature than those treated in the Scotch, is shown by the fact that in the case of Scotch prisoners 40·2 per cent. had sentences of one month or under, against 21·4 of the English. And on the other hand, of prisoners undergoing sentences of three months and over the percentage in England was 34·4 against 21·2 in Scotland.³

The Offence of Drunkenness in England and Scotland.—By much the greater portion of the apparent excess of crime in Scotland over that in England is due to drunkenness and offences arising therefrom. Thus in 1892 the number of persons charged with drunkenness, breach of peace, and petty assault in Scotland, was upwards of 103,000, whereas in England, with more than seven times the population, it was under 254,000.⁴ This would at first sight seem to indicate the existence of a much greater amount of drunkenness in Scotland than in England, but that by no means follows. The fact is that the law and the practice of the police in the two countries are so different as to render any comparison based on police statistics utterly misleading. Here, for example, is a description of the practice in London extracted from the evidence which Mr. de Rutzen, police magistrate at Westminster, gave before the Departmental Committee of 1892 on the Treatment of Inebriates.⁵

'In a great many years' experience I have never known the police to take anybody to the station for being drunk and incapable, unless incapable, in the sense of either lying down dazed, asleep, either in the middle of the street, or in the gutter, or on the pavement, and so forth. And the mode in which they are dealt with now is, they are taken to the station to be taken care of; as soon as they become sober the police are obliged to let them out, and my experience is that there is not one in twelve whom a magistrate sees after they are let out from the station. The police have the power to summon, it is true, but the persons detained probably have given either a false address or a false name, and nothing more is ever heard of them. . . . The only excuse for taking them to the station is the same excuse that you might have if you found a person drunk outside your door, to take him in for fear of being run over; and in the same way the police only take a drunken person to the station and detain

A 'him there until he is fit to go, and bind him over in recognisances to appear next day. Drunken people having found out that there is no kind of power to enforce attendance, never make any appearance at all, and therefore, one after another, when the name is called, the magistrate marks "no appearance," leaving it entirely to the police to take steps by summoning, which they do not do, and perhaps cannot do in one case out of a hundred, or ten or a dozen, as the case may be.

B Contrast this with the practice in Scotland. In Dundee in 1865 there were 1231 arrests for Drunkenness, Drunk and Incapable, and Disorderly Conduct; in 1875, 1656; in 1885, 1169; and in 1893, 1615. Every one of these 5671 arrests is recorded as having resulted in fine, imprisonment, admonition, or forfeiture of pledge.¹ In Edinburgh in 1893, out of 2206 persons arrested for the offences specified, 15 only appear to have been acquitted; the rest resulted in fine, imprisonment, admonition, or forfeiture of pledges.

C *Differences between Scottish and English Poor Law.*—Your Committee also had to keep in view the differences between the Scottish and the English Poor Law systems. On the one hand, as brought out by Mr M'Neill, and as fully dealt with by us afterwards (p. xxi, C), the Scottish Poor Law system is one of outdoor relief, with the poorhouse only as an auxiliary or as a check. On the other hand, the theory of the Scottish Poor Law, differing on this point totally from the English, absolutely denies relief, not only to all able-bodied persons themselves, but to those persons dependent upon them, who if they were in employment, they would be held to be able to maintain. In Scotland the relief of the able-bodied and of their dependants is left to the charity of public bodies and private persons. This theory is one which Parochial Authorities find it difficult to carry out in its strictness, but we have accepted it as one which is not to be altered, and we have framed our suggestions so as to make the minimum of interference with it.

D *Differences in Prison Administration.*—It is also to be remembered that there is a considerable difference in the details of Prison Administration in Scotland and England. For instance, in Scottish prisons there are no tread-wheels or other mechanical means of inflicting what is known in England as first-class hard labour. Sentences involving hard labour are comparatively rare in Scotland, while in England they form the great majority; and it may thus have come about that the need for mechanical appliances has not been strongly felt in Scotland: nevertheless the tread-wheel and crank have both been tried in Scotland, and abandoned many years ago as improper instruments of punishment.

E The Scottish prisoner is therefore engaged entirely in industrial labour, some kinds of it—as for instance, oakum picking—being unfortunately not satisfactory in their results either as means of reformation or as giving good financial returns; but the profitable employment of prisoners has always been a difficult question, and every effort is made to find suitable and remunerative labour for them.

DIFFERENCE IN LAW AND ADMINISTRATION WITHIN SCOTLAND.

F *In cases of drunkenness.*—In Scotland itself, while the law on the subject of drunkenness is uniform throughout the Counties, however much its administration may differ, both law and administration differ to a bewildering extent in the different Burghs. In the Edinburgh Police Act, for example, there is one definition of a Drunk and Incapable, and he is liable to a maximum penalty of 40s. or 1 month's imprisonment; in the Glasgow and Greenock Police Acts there is a wider definition, but the maximum penalty is 40s. or 14 days. In the Burghs under the operation of the Burgh Police Act, or which have (like Dundee) adopted the same provisions on this point, the punishment is 40s. or one month, and in the case of habitual drunkenness a sentence of 14 days' imprisonment without the option of a fine may be inflicted. Under the Greenock Police Act a man committed as drunk and incapable may, after 6 previous convictions for the same offence, be sent to jail for 60 days, while in the Counties he may get drunk as frequently as he pleases at a maximum penalty of 5s. or 24 hours. In Police Administration too there is the greatest diversity. In Glasgow, drunk-and-incapables, or other petty offenders, are, on becoming sober, liberated from the police cells on leaving pledges of 5s. or 7s. 6d.; and having done so they depart and hear no more of the matter. Those who cannot leave pledges are brought before the Magistrate and dealt with very summarily, especially on busy mornings (Mondays for example), when they are

¹ Appendix E.—Col. M'Hardy's letter, 1st Dec. 1893.

² Appendix F.—Col. M'Hardy's letter, 7th Jan. 1892.

³ Col. M'Hardy's table—Appendix F.

⁴ Appendix E.—M'Hardy's letter 1st Dec. 1893.

⁵ Minutes of Evidence of that Committee, Q. 223 and 224.

brought up, and plead guilty or are dismissed in batches. In this way out of 33,998 A arrested as Drunk or Disorderly, 2488 escaped without fine or imprisonment, admonition or forfeited pledge. In Edinburgh, on the contrary, those released on pledge are only allowed to go on condition that they shall appear before the Court next morning, and if they fail to present themselves their pledges are forfeited and they are proceeded against by summons, and the system is so thoroughly enforced that, as has been mentioned, only 15 out of 2206 arrested in 1893 are unaccounted for under the heads of Conviction, Admonition, or Pledge forfeited. But in Edinburgh, instead of the prisoner being dealt with at once, he only receives immediate sentence if he pleads guilty. If he pleads not guilty his case is remanded for 24 hours for the convenience of the police. The habitual petty offender, knowing this, only refrains from pleading guilty when a Magistrate reputed for his severity happens to be on the Bench, and then he does so in hope of getting off more easily before another Magistrate next day. An innocent novice, however, arrested on Friday afternoon, without friends or money, and ill-advised enough to plead not guilty on Saturday morning, might, and no doubt occasionally does, under such a system subject himself to 48 hours' extra incarceration in the police cells. In Cupar and other burghs in Fife,¹ on the other hand, so careful are the authorities to avoid the unnecessary detention of untried prisoners that Magistrates are appointed to visit the police office on Sundays and discharge or remand as, after hearing evidence, they think fit—an excellent practice which might with advantage be extended. In Paisley a different system prevails. Drunkenness in that town was up till 1892 (when Paisley came under the Burgh Police Act) dealt with under the provisions of the Public Houses Act, 1862. In the words of the Chief Constable of the Burgh:—‘Prior to

² Q. 13,808. ‘the passing of this last Act our powers were limited.’ It was only 5s. or 24 hours then, and it was not worth while paying the fare of a man or woman to Glasgow, and a cab from the station to Duke Street, to get them washed and turned out next morning. We therefore turned them out next morning when they were sober, or if we could get 5s. out of them we took it. We did not try fining. It was no use.’ The new Act, as we have stated, increased the 5s. or 24 hours penalty to 40s. or 30 days, but the old tradition remains, and in 1893, out of 922 persons arrested in Paisley as drunk and incapable or disorderly, only 298 were accounted for by convictions, admonitions, or forfeited pledges, while 624 were, again to quote the Chief Constable,³ ‘turned adrift

⁴ Q. 11,344. ‘when they got sober as not worth taking before the Court. . . . We do not take a man before the Court if we can help it, because a man might be ruined if it was found that he came before the Police Court. We study these things in Paisley.’⁴ We have gone somewhat into detail on this branch of the subject because we desire to make clear the vast extent to which difference of Police Administration in different localities must affect the significance of criminal statistics so far as petty offences are concerned, rendering comparisons between those of different localities in Scotland almost as impossible as between those of Scotland and England.

Habitual Offenders vary their Offences.—One fact it is important to bear in mind in dealing with the whole question—the habitual offender, as a rule, does not confine himself to one offence. The greater number of his convictions may be for breach of the peace, or even for incapable drunkenness, but generally, in the case of males, other charges, such as obscene language, begging, malicious mischief, theft, or robbery, sooner or later appear on the record; and in the cases of females, importuning generally figures among the charges. Thus a return of female offenders⁵ brought before the Dundee City Police Court more than four times during the year 1893 gives the record of 79 women. Among these women were only seven whose repeated appearances were due to one charge—that charge being in three cases breach of the peace and assault, in two, drunkenness, and in the two others, importuning. Of the remaining 72, who during the year 1893 had between them been apprehended 550 times, the charges on which they had been arrested were in 238 cases breach of the peace, in 174 drunkenness, in 169 importuning, and in 5 petty theft.

COMMITMENTS FOR PROSTITUTION.

The number of commitments for petty offences of females to prison in Scotland⁶ in C 1893 was 15,206; of these, 3100 commitments, or over one-fifth of the whole, were

⁶ Appendix XIII. * The exceptional leniency of the Paisley police force does not seem to have blinded them to the fact that the increased fine which could be imposed under the Burgh Police Act inferred a legitimate increase in the pledge that could be exacted in suitable cases. The customary pledge had accordingly been raised to 5s. 6d. or 7s. 6d., and in the case of a prisoner with £1 in his possession the Chief Constable told us that he would make it 10s.

for prostitution. This is such a startling proportion that we feel bound to consider the state of the law and that of the police administration which gives rise to it.

³ *Scottish Law as to Prostitution.*—At common law in Scotland ‘loitering or importuning,’ the offence with which prostitutes are charged, is not a crime, and it is not punishable outside burghs which come under the provisions of the Burgh Police (Scotland) Act or of Local Police Acts. To constitute the offence under the Burgh Police Act the person must be (1) a common prostitute or street-walker, and (2) must either ‘loiter about,’ or ‘importune passengers for the purpose of prostitution,’ and the maximum penalty prescribed is 40s. fine or one month’s imprisonment. In most of the special Police Acts the offence and penalty are the same, but in Edinburgh the penalty ranges to £5, or in the discretion of the Magistrate, imprisonment not exceeding 60 days.

C In police administration and magisterial treatment the greatest diversity prevails in this class of cases. In Glasgow we were informed that women arrested for the first time, when brought to the police station, are dismissed by the Lieutenant with a caution. If again arrested they are brought before the magistrate; the evidence adduced against them being that of two constables, who swear that they have known them for so long as common street-walkers, and that on the previous night between such and such an hour, and in such and such a street, they saw them accost a certain number of men. The evidence of the persons importuned is never forthcoming, and that of the constables is described as almost invariably identical.¹ Of the 2421 cases arrested in 1893, 2214 were dealt with by admonition, fine, or imprisonment, pledges not being accepted in these cases, and the maximum penalty of 40s. or 30 days being imposed in a very large number of instances. In 1894, 1831 of these women went to prison, 778 of them for 30 days or a month.² In Glasgow the average sentence of these women was 21½ days, and the cost of their maintenance to the country, over £2180. In Edinburgh, on the other hand, although the maximum penalty is fixed at 60 days without the option of a fine, the administration of the law on the subject is much more lenient. In that city Sheriff Rutherford shares the jurisdiction of the Bailies in cases of the sort, and he refuses to inflict more than 5s. or 24 hours for the offence, even in the case of repeated convictions. He holds that many of the sentences passed under Police Acts would, if challenged in the Court of Session, be quashed as oppressive, and his views have influenced certain of his colleagues on the Bench. In that city, too, according to the Chief Constable, the police are instructed not to arrest women for loitering, and only to arrest them for solicitation when they persist in it after a warning given on the same night. The result is that the ratio of arrests for ‘loitering or importuning’ in Edinburgh in 1893 was only 13 per 10,000 against 36 in Glasgow.³ Of the 351 women arrested in 1893, 337 were convicted and dealt with by admonition, fine, or imprisonment.⁴ In 1894, 370 were committed to the prison or police cells. Their average term of imprisonment (including 33 sentences of four weeks or a month, one of 40, and another of 60 days), was 7 days.⁵ Respectable witnesses, familiar with the aspect of both cities by night, described the condition of the Edinburgh streets in point of decency as quite equal to that of Glasgow. In Dundee, where the law on the subject is the same as that under the Burgh Police Act, the ratio of arrests for ‘loitering and importuning’ to population is 20 per 10,000; the number of women taken up on the charge being 335, of whom every one was in 1893 accounted for by fine or imprisonment, admonition, or forfeited pledge. In 1894, 252 women went to prison, 74 of them for a month, and the average sentence was 19 days. In point of decency the streets of Dundee did not compare so favourably with what was observed in Edinburgh and Glasgow. In Aberdeen, where the law is the same, the ratio of arrests for ‘loitering and importuning’ was but 10 per 10,000, or 120 in all, of which all but five were, in 1893, accounted for by fine, imprisonment, admonition, or forfeited pledges; in 1894, 100 women were sent to prison, their average sentence being 11½ days, and the highest sentence 14 days. Notwithstanding the exceptionally small ratio of arrests, and the shortness of the sentences, the streets of Aberdeen in point of decency seem to compare favourably with those of any other Scottish city.

D *Wide-Spread Desire to Reform.*—Your Committee interviewed a number of these unfortunate women in gaols and refuges, and the story which they reiterated with striking uniformity was that once they were known to the police as prostitutes they ‘had no chance,’ but were ‘run in’ whenever they appeared; that it was no use pleading not guilty, as two constables were ready on oath to justify their arrest. Many

¹ Temple, Q. 10,807.

² Appendix LXXIV.

³ Sutherland, Appendix I.

⁵ Appendix LXXIV.

Appendix
XX.

of their cases were very sad, one prisoner, for example, telling us that she had taken to A the streets because she was beaten by her husband for refusing to prostitute herself for his gain in a brothel kept by his mother. The sacrifices to which many of these women submit in their effort to escape from their wretched existence are convincing proof of the earnestness of their purpose. In the Magdalene asylums¹ in which so many of them find refuge, they voluntarily undergo close confinement for periods of 12 to 24 months, labouring hard at laundry or other work, and in many cases supporting the institutions in which they are immured by their toil, their monetary remuneration, postponed to the end of the term of voluntary confinement, amounting to about £3 a year, including the value of their outfit. This they do in the hope of being restored to the paths of honest labour. Of those whom we interviewed many were young, the victims of one false step or of unfortunate domestic circumstances, and when spoken to kindly they were easily moved to tears. It does seem a pity that so many girls and women should in our gaols be submitted to a treatment which appears with each committal but to render them more reckless and abandoned. In their case, according to the evidence of those most active in their reclamation, drink is not usually the primary cause of their fall, but it is resorted to in order to sustain them in their repulsive life, and, reacting, confirms them in their degradation.

INEFFICACY OF PRESENT SYSTEM OF DEALING WITH HABITUAL OFFENDERS.

One result of the diversity of the law regarding petty offences in Scotland, and B the still greater diversity in the method of police administration, is that it affords an exceptional opportunity of judging as to the comparative efficacy of a number of different systems for the repression of the class of offences with which we are called on to deal. It was therefore most significant that, with one accord, the witnesses connected with the administration of the law and police throughout Scotland testified to the utter inefficacy of any of the systems adopted to cope with the evil of the habitual offender. They told us that the short sentences of imprisonment imposed, practically only allowed prisoners time to recruit their health, impaired by previous dissipation, and sent them back to the world ready and eager for another bout. Not only so, but we received from representatives of all classes, magistrates, clergy, as well as parochial and police authorities, the strongest assurance that public opinion in Scotland was ripe for action being taken by the Legislature to inaugurate a better system of dealing with habitual offenders.

The Question of Longer Sentences.—Many witnesses advocated increased powers of C imprisonment. Now this proposal raises several questions. In the first place, would the police and the magistrates, if entrusted with extended powers, generally avail themselves of them? When your committee came to the case of towns where the punitive powers of the magistrates had been greatly extended by the provisions of the Burgh Police Act of 1892, we found that in many instances, as in that of Paisley already referred to, little or no use had been made of these new powers in the ordinary run of cases, and that they had only been taken advantage of in one or two very exceptional instances; again, Aberdeen, although like other towns empowered to adopt the provisions of the Burgh Police Act on the subject of drunkenness, has not thought proper to do so. As a matter of fact, in all but a small percentage of cases, penalties much under the maximum are inflicted, and when heavy penalties are awarded, it is generally either in consequence of some peculiar sensitiveness of local feeling (as in the case of the 30-day sentences on women for solicitation in Glasgow), or in consequence of some individual crotchet of the sentencing magistrate or some seasonal coincidence, as in the case of known offenders, who in the latter part of December are often sent to prison for a fortnight instead of the customary five or seven days, with the avowed object of withdrawing them from the temptation of the New Year's festivities. On the whole, however, the punishment meted out to petty offenders, even where they may have been repeatedly in the hands of the police, is in the vast majority of cases very much less than that authorised by law at present, and the fact that a new power of imprisonment without the option of a fine, authorised by the Burgh Police Act in the case of repeated convictions for drunkenness has, so far as your Committee could learn, during three years remained a dead letter—leaves it open to doubt whether, if heavier penalties were authorised, they would be imposed except in very rare instances.

General Adequacy of Present Sentences.—As to the deterrent effect of the present D sentences it seems clear that in the great majority of cases they are sufficient for their

A purpose. In Glasgow, for instance, in the year 1893, the number of persons arrested or cited for various petty offences was over 34,000, while the number of those who were re-arrested within the year was 4328.¹ In the case of over 29,000 the fact of their arrest¹ Appendix IX. and the loss of the pledge forfeited, or the disgrace of their appearance in Court and the fine or punishment to which they were subjected was apparently a sufficient caution. Of the remainder the great proportion owe their second arrest to drunken habits, and among them were about 500 men and women² who were apprehended five times or upwards² Appendix XI. during 1893, and doubtless many more who should be classed as habitual offenders in respect of previous convictions within twelve months. To deal with these habitual offenders the present system is admittedly inadequate, but for casual offenders, who constitute nearly 90 per cent. of the whole, it seems to require no strengthening.

B *Do heavy Penalties repress repeated Offences?*—As to the third question, whether the simple increase of penalties tends to lessen the number of habitual offenders, some most instructive figures will be found in an Appendix which continues down to date statistics as to recommittals drawn up thirty years ago, and for which we were indebted to Mr. David M'Laren³. From these it appears that of 32,017 persons committed to³ Appendix LXIII. Edinburgh, Glasgow, and Dundee prisons during the years 1861, 1862, and 1863, 10,135, or 31·6 per cent., were recommittals within the same year. While of 106,367⁴ Appendix LXIII. committed to the same prisons in the years 1891, 1892, and 1893, 33,666, or again 31·6 per cent., were recommittals within the same year. The percentage of recommittals was the same, therefore, in the two series of years, but in the former series the average imprisonment was over 30 days, while in the latter it was under 15. These figures prove that the shortening of imprisonments by one-half has not increased the number of recommittals, and would seem conversely to show that to double the present sentences would not diminish it.

C This conclusion is emphasized by another set of statistics prepared by the Secretary to the Prison Commissioners, and given in our Appendix.⁴ These figures show that⁴ Appendix LV. whereas in all the prisons in Scotland the percentages of commitments within a year for the decennial periods ending 1873, 1883, and 1893, were 31, 30, and 29 respectively; the average imprisonment had in the interval progressively decreased from an average of 30½ days in the decade ending 1873, to 20½ days in that ending 1883, and 15½ days in that ending 1893. These figures are the more suggestive when it is remembered that the shorter average imprisonment in the latest decade rendered it possible for a man to be twice as often recommitted during a year as he could have been under the longer imprisonments of the first decade. We have also had testimony from a large number of experienced witnesses supporting the view that long sentences of imprisonment effect no good result.

D We may summarise our conclusions on this branch of the subject, thus:—

- (1) That penalties, much smaller than the maximum of those competent under existing laws, are sufficient in the great majority of cases to deter from repetition of the offence, and that therefore any general increase in the severity of penalties is uncalled for and to be deprecated;
- (2) That although the number of confirmed petty offenders appears to have increased, the number of commitments to prison has decreased coincidentally with the shortening of the average term of imprisonment.

E With reference to the first of the above conclusions we have one single exception to make. As we have said, in Counties and in one or two Burghs, 24 hours' imprisonment is the highest penalty competent for the offence of being drunk and incapable. We consider it very undesirable that any person should be sent to gaol except with a view to a substantial punishment. A 24 hours' confinement in all probability enables him to realise that his night in prison has passed more comfortably than the previous one in a police cell, and that, with a recovered appetite, prison fare is not unpalatable if somewhat frugal. In many cases, moreover, a sentence of four-and-twenty hours' imprisonment does not involve a night's detention.⁵ The Governor of Aberdeen prison, for example, told us that he⁵ Q. 7766 et seq. received a good many prisoners on short sentences 'for 24, for 6, and for 4 hours,' and that those sentenced on Saturdays to 24 hours are sent to prison and liberated on the same evening between six and seven o'clock. This involves considerable trouble, and so little of punishment, that we think increased powers to be called for in this particular case. While believing that penalties considerably less than those contained in the Burgh Police (Scotland) Act would sufficiently meet the case—we suggest later on a modification

of some of the penalties which it lays down—that Act embodies the general law on the subject of drunkenness in Scotland, and its provisions are to a large extent identical with those of the Police Acts of the larger Burghs. To extend its provisions would therefore be a step towards the most desirable end of uniformity in the Scottish law as to petty offences, and in the counties, both magistrates and police, would, we are sure, use its powers with moderation.

We therefore recommend that those sections of the Burgh Police (Scotland) Act, B 1892, which relate to drunkenness (modified as afterwards explained) should be extended to the counties, and that in all cases prisoners whose sentences do not involve a night's detention should not be sent to prison but detained in police cells.

OPTION OF FINE OR IMPRISONMENT.

Before passing from the question of punishment we have to call attention to another C matter. In Scotland, in the case of petty offences, the repealed Lindsay Act and the various Local Police Acts and the Burgh Police Act which follow its drafting, prescribe in almost every case a money penalty, and that penalty, under the Scottish Summary Jurisdiction Act and the Burgh Police Act is enforceable by a scale of specified equivalent periods of imprisonment. The result is that, if the prisoner has the money, he, and not the magistrate, exercises the option as to whether he shall go to prison. There are certain exceptions to this rule, as in vagrancy and begging, punishable under the Burgh Police Act by 30 days', and if repeated by 60 days' imprisonment without option; the case of persons thrice previously convicted of being drunk and incapable within twelve months, whom under the same Act a magistrate may sentence to imprisonment for 14 days without the option of a fine, persons six times previously convicted as drunk and incapable, whom under the Greenock Police Act the magistrate may sentence to 60 days' imprisonment, or importuners, who in Edinburgh may be sent to prison for the same term, without the option of a fine. Such provisions, however, are exceptional, and in the majority of cases the magistrate has no authority in dealing with police offences to impose imprisonment without the option of a fine. This, we think, is wrong in principle. It enables the rich offender to get off without imprisonment, however frequent his offence, while his poorer fellow, it may be convicted for the only time in his life, has to go to prison. This inequality we propose to remedy by allowing the magistrate, in dealing with cases aggravated by previous convictions, to impose imprisonment without the option of a fine.

Imprisonment in Default of Fine.—But there remains another anomaly. In our D Appendix will be found details of the sentences imposed on 461 prisoners admitted to Glasgow and Barlinnie Prisons during the week ending March 25th, 1895, and the money in their possession when admitted.¹ Among the females we find one, with a sentence of 15s. or 14 days, who had 8s. in her possession; another, sentenced to 10s. 6d. or 7 days, who had 4s. 5d.; a third to 7s. 6d. or 5 days, who had 2s. 6d., and so on. Among the males was one sentenced to 40s. or 14 days, who had 18s. 11½d.; another sentenced to 42s. or 30 days who had 10s. 8½d.; a third to 21s. or 14 days who had 10s. 3½d., and so on. Some of these prisoners, or their friends, by pawning their effects or borrowing money, may have raised the amount of the fine and obtained their release, but unless that is effected within the first day or two after committal it is almost never done; so much so that the Governor of Greenock Prison informed us that within a year he could only recall one case where it had occurred—that, namely, of a woman committed for 30 days, in default of payment of a fine of 40s., whose husband died during her imprisonment, and his life being insured, her friends borrowed the 40s. on the security of the funeral benefit, and paying the fine, after she had been locked up for 21 days, set her free to attend the funeral. Had that woman, when convicted, possessed 40s. she would not have gone to prison at all, and would possibly have experienced a more improving and reforming influence in ministering to the wants of her dying husband. But being moneyless at the time of her conviction, she had ultimately to expiate her offence by payment of the full fine imposed and three weeks' imprisonment into the bargain. Now the law, in imposing a fine as the penalty for an offence, and prescribing imprisonment only in default of payment, evidently meant to mitigate and not to aggravate the punishment, for it authorises magistrates to give time for the payment of the fine, to require securities for it, or to order its payment by instalments. Owing either to some defect of machinery in the Act which confers this power, or to intentional or unintentional disregard of its provisions, so

¹ Appendices LXXXVI. and LXXXVII.

A far as Police Courts in Scotland are concerned it is practically a dead letter. The result is that a considerable number of prisoners are sent to prison only to be liberated after a few hours' detention on payment of the fine, and a large number of others, who cannot scrape together its full amount, are kept in prison at the public expense for the full term of the alternative sentence. In order to inform ourselves as to the proportion or prisoners incarcerated in default of payment of fines, we had a return compiled showing the actual numbers of them in the various Scottish prisons at midnight on March 28th, 1895.¹ The result showed that they numbered 678 out of a total of 1951 prisoners, and that they constituted 24 per cent. of the male, 62 per cent. of the female, and close on 35 per cent. of the total prison population.

¹ Appendix LXXXIII.

B *Fines Paid after Admission to Prison.*—As we have said, in a few cases fines are made up and paid within the first day or two of the prisoners' committal. These, in the case of Police Court fines, are handed over to the Local Police Authorities, and in that of Sheriff Court fines, are accounted for to the Treasury. Police Court fines amount to by far the larger portion, and Sheriff Court fines so paid constitute so small an amount, that for the sake of simplifying the reform which we are about to propose, we suggest that both should be dealt with in the same manner, and that instead of being surrendered to the local Police Authorities or the Treasury, as the case may be, all fines paid after a prisoner's admission to prison should be paid to the Governor of the Prison, to be by him accounted for as we shall hereafter explain. The result of this would be to prompt local magistrates to avail themselves of powers which they possess to recover fines without committing the prisoners on whom they have been imposed, and to discourage the practice which very generally prevails of sending men and women to prison without allowing them reasonable opportunity to raise money.

C *Combination of Fine and Imprisonment.*—We further propose that prisoners committed in default of payment of a fine should be permitted to work out their sentences by a combination of fine and imprisonment, and that it should not be necessary for them, having worked out half their term of imprisonment, to remain in prison for the full term unless they pay the entire fine, but that they should be liberated on any day of their imprisonment on payment to the Governor of such proportion of their fines as the term of imprisonment still to be undergone bears to the entire sentence. We are informed that this system was at one time prevalent in Scotland, but that it was given up because it was found to be illegal, but so far as the Committee is concerned, it is but fair to give the entire credit of the suggestion to Mr Napier, Governor of Greenock Prison, in whose letters in our Appendix will be found a detailed description of the manner in which his proposal could be best worked out. The fines recovered, and which are at present altogether lost, would, for administrative reasons pointed out by Mr Napier, be paid to the Governors of Prisons, and we propose that they, together with all full fines paid to them, should be accounted for as hereafter explained.

D *The Greenock Experiment.*—In order practically to test the effects of Mr Napier's suggestion, your Committee placed £5 at his disposal to be applied in paying the balance of fines in cases where prisoners could raise a part but not the whole. Mr Napier received the £5, and instructions to apply it in illustration of his scheme, on March 20th, 1895. On March 25th he sent in his report, which will be found in the Appendix.² W. J. C., a case of assault, committed for 5 days in default of payment of 7s. 6d., had, after 3 days in prison, succeeded in raising 3s., and the balance of 4s. 6d. being provided out of the fund, he was liberated and 2 days of his imprisonment saved. J. S., a case of assault, committed for 10 days in default of payment of a fine of 20s., after 5 days' imprisonment raised 10s., and the balance being paid out of the fund, 5 days' imprisonment was remitted. E. M., another case of assault, committed for 20 days in default of payment of a fine of 40s., after 5 days' imprisonment raised 30s., and the balance being paid out of the fund, got 15 days remitted. At a cost, therefore, of 24s. 6d. to the fund, 43s. was collected in the shape of fines paid, which would never otherwise have been got, and the State was saved 22 days' maintenance of a prisoner in jail. During the 5 days that this experiment was being carried on, 42 prisoners were confined in Greenock Prison in default of payments of fines. Mr Napier thought it would be waste of money to continue the experiment, as, to secure it full justice, it would be requisite that the system should be generally known; but he expressed his belief that if it were known that less than the fine imposed would be accepted, 'a large number of prisoners, probably a half, would take advantage of it.' Even at the rate shown by the actual results of the experiment, the saving in Greenock Prison was at the annual rate of 1606 days' (or 4·4

² Appendix LXXX.

years') maintenance of a single prisoner, or at the rate of 4·4 prisoners for one year. A Greenock Prison, however, contains only $\frac{1}{27}$ th of the total prison population of Scotland, and assuming the actual results of the Greenock experiment to apply to the entire prison population, the adoption of our recommendation as to allowing persons committed to prison in default of payment of fines to work out their sentences by a combination of imprisonment and fine, would result in a saving to the State of the cost of the permanent maintenance of 118·8 prisoners, and the collection of over £4,200 per annum of fines at present not recovered; and for the reasons stated by Mr Napier, we consider that this estimate is much under what the actual figures would prove when the system was once fairly at work and generally understood.

This concludes what we have to say on another branch of the subject, as to which B our recommendations are:—

- (1.) That in all cases of drunkenness, disorderly conduct, breach of the peace, petty assault, vagrancy, begging, or solicitation, aggravated by previous convictions, where not already punishable by imprisonment, police magistrates should be empowered to inflict imprisonment without the option of a fine, such imprisonment, however, in no case to exceed that prescribed by the Burgh Police (Scotland) Act (amended as hereafter proposed), for the particular offence, or the equivalent term of imprisonment in default of payment prescribed in that Act as the alternative of a fine in offences for which a pecuniary penalty only is at present enacted.
- (2.) That the Burgh Police Act should be amended by enacting that no police magistrate should in the case of the offences just specified, notwithstanding anything contained in the table of equivalent fines and imprisonments in that Act or in the Summary Jurisdiction (Scotland) Act, be authorised to impose a maximum term of imprisonment exceeding 14 days whether with or without the option of a fine;
- (3.) That in all cases in which a prisoner is committed to prison in default of the payment of a fine, the prisoner should be released at any period of his detention, not solely on payment of the whole fine imposed as at present, but on the payment of such proportion of that fine as the number of days' imprisonment still to be undergone bears to the entire sentence of imprisonment in default of payment;
- (4.) That all fines paid by prisoners after their admission to prison should be paid to the Governor of the Prison, and by him remitted to the Secretary for Scotland as the administrator of a special fund, supported by such payments, and to be appropriated to uses hereafter described;
- (5.) That in all cases of persons brought before Sheriffs charged with being habitual offenders, where the offence charged is by statute punishable by fine, and only by imprisonment in default of payment according to the scale laid down by the Summary Jurisdiction or other Act, the Sheriff should be empowered at his discretion to impose imprisonment not exceeding that which would have been competent had the fine not been paid.

The effect of these amendments of the law would be—

- (a.) To enable police magistrates to inflict short sentences, and Sheriffs full sentences, of imprisonment, in cases where they thought imprisonment deserved;
- (b.) To do away with the invidious anomaly under which inveterate offenders possessed of money or monied friends, meriting in the opinion of the judge 30 days' imprisonment, can go free on payment of 40s., while the casual but moneyless offender, whose friends may have to starve themselves in order to raise a 7s. 6d. fine, may have to undergo 4 or 5 days' imprisonment, in addition to the payment of the whole fine imposed while they are scraping together its amount; and
- (c.) To prevent the possibility, except on the responsibility of a trained Sheriff, of such excessive sentences as 60 days for begging or vagrancy or repeated drunkenness; or 30, 40, or 60 days for importuning, hurriedly proved by the uncorroborated evidence of two police witnesses, who in hardly any case have other than visual evidence to rely on. These long sentences may be necessary now when there is no other means of dealing with habitual offenders, but if, as we shall propose, three successive commitments to prison within twelve months sufficed to bring habitual offender before a Sheriff armed with the full powers, there would no longer be any reason or excuse for them.

BASIS OF A DEFINITION OF HABITUAL OFFENDERS.

A Before attempting to formulate any scheme for dealing with habitual offenders, we have first to determine the basis on which any definition of an habitual offender should be founded. If we go on that of a certain number of convictions, we are at once brought face to face with the great diversity of practice in different parts of Scotland—(1) as to records of previous convictions, and (2) as to liberation on deposit of a 'pledge.'

B *Proving Previous Convictions.*—The diversity of practice as to records of previous convictions has arisen within the last few years. Under Lord Kingsburgh's Act, Sec. 67, in case of jury trials it was enacted that the system which has long prevailed in England should be extended to Scotland, and that, in cases aggravated by previous conviction, evidence on that point should be withheld until after the jury had found the prisoner guilty, when it should be given only for the purpose of guiding the judge as to the sentence to be pronounced. The 71st section of the Act which extends the same principle to police-court cases is somewhat obscure, and the result is that the public prosecutors in some towns, as in Glasgow for example, use every precaution to prevent the fact of previous convictions being brought before the magistrate until the prisoner has been found guilty, while in others, as in Edinburgh, the police as systematically prove previous convictions as part of their case. Mr Dewar, the Chief Constable of Dundee, who appears to have looked into the law of the subject very closely, handed in some weighty opinions,¹ Appendix LXXXVIII. from which it would seem that in point of law there is something to be said in favour of the Edinburgh system. From a practical point of view too it is doubtful whether it is possible in some cases to withhold from the presiding magistrate a knowledge of previous convictions. The point, however, should be decided one way or the other—if necessary by legislation—as it is obviously too important, and bears too directly on the rights of the subject, to be safely left to the determination of the police authorities in each locality. We must add that it seems to us most desirable that, if previous convictions are to be used for the purpose of aggravating the punishment, they ought, at the proper stage of the case, to be regularly proved. There is an extensively entertained doubt, which should be removed by legislation is necessary, whether this can be done; and magistrates and police are often found trusting to their recollections and impressions on the point,—which undoubtedly seems to us to be an objectionable practice.

C *Diversity of Practice as to Pledges.*—As has been already mentioned, a very large number of persons arrested for petty offences are in every part of the country liberated on pledge. But in some places, as in the City of Edinburgh, in Fifeshire and elsewhere, it is held that this pledge is simply bail, that the prisoner is bound to appear for trial, and that if he fails to do so his pledge should be forfeited in consequence of his non-appearance, and proceedings taken to bring him before the magistrate for trial for his offence. In the majority of towns, on the other hand—in Glasgow, Dundee, and Paisley for example—a pledge is exacted which the Inspector in charge at the police office considers would cover the probable fine that would be inflicted in each case. No inconvenient questions are asked, and, when the case is called, forfeiture of the pledge takes the place of the fine, and the offence is considered to have been purged. So well understood is the system that we were told of frequent offenders whose practice was to be present in Court if they thought there was any chance of getting off with a smaller fine than the amount of their pledge, and to answer to their names or not according as the sentences which they saw given in similar cases convinced them of the hopefulness or the futility of recovering half-a-crown from the deposit they had left with the police.

D Although the theory of the system pursued in Edinburgh is evidently the correct one, we had no complaints regarding the opposite practice elsewhere, and we may take it that in a rough and ready manner it suits the local circumstances and requirements.

E It is quite obvious, however, that any definition of habitual offenders based on the number of convictions would work very unequally in two places—in one of which every offence is followed up and noted, while in the other a prisoner can four times out of five escape any record of his offence by giving a false name or address and forfeiting his pledge. It is clear, therefore, that it would be very difficult to formulate any equitable scheme for dealing with habitual offenders based solely on convictions, the record of which is often most imperfect, and which, when correctly recorded, may be hidden away in the archives of different police authorities. What in practice seems to us to be

required is a plan which will deal with those inveterate offenders for whose case the penalties at present in use are found to be of no avail. In Scotland, under the various Police Acts in force, the penalties prescribed for drunkenness, disorderly conduct, breach of the peace, and importuning—offences which make up the great majority of those with which we have to deal—are fines, with imprisonment only in default of payment. As a matter of fact, however, the finances of habitual offenders generally soon fall into such a state that the greater number of them have to go to prison. Thus, in Scotland in 1893, about 1068 persons were apprehended five times and upwards within the year,¹ and 669 were imprisoned five times and upwards within the year,² while the number of those imprisoned four times and upwards within the year³ was 1083, or almost the same as that of persons apprehended five times and upwards. The prison records are not absolutely accurate,* but they are the most accurate we possess, and might easily be made more so. By taking the number of imprisonments as our basis we should, if allowing a certain number of habitual offenders to escape, at least make certain of dealing with those who at present are the most troublesome to the police authorities, and whose maintenance in prison most heavily taxes the national exchequer. The 1083 persons imprisoned four times or more during 1893 comprised 238 men and 845 women, and accounted for 6569 commitments, or close on 13 per cent. of the total commitments for the year. In the case of these Habituals, and especially in the case of the women, the universal testimony is that the repeated imprisonments do them no good. Many of them when not in prison are to be found in the poorhouse, and when out of prison they occasion a great amount of trouble to the police, and are a source of serious moral contamination to those with whom they come in contact.³ If, then, some scheme could be devised by which they could be dealt with, and by which they could effectively be kept out of mischief, and educated in habits of industry and self-control, a very important object would be gained.

Adult Reformatories.—The suggestions of many witnesses, the example of our own Reformatory and Industrial School system, and the experience of various foreign countries, and notably the United States, suggest the establishment of institutions to which habitual offenders might be sent on their discharge from prison, and where their treatment, extending over a considerable period, would be purely reformatory, its object being to train them in such a manner as to enable and encourage them, when sent forth into the world, to fall back into the ranks of honest workers.

Prisoner-Paupers.—Any plan for such a purpose to have a reasonable prospect of success must be framed with a careful regard to the classes of persons with whom it is proposed to deal. There is, for example, a large class which seems to oscillate between the prison and the poorhouse. In Scotland it need hardly be said the law does not entitle the able-bodied to relief, but a large number of habitual offenders are not able-bodied, and of those who are another large proportion know that by feigning obscure symptoms and alleging illness they can compel the medical officer of the parish either to certify them as fit subjects for temporary relief, or to undertake a very grave responsibility in case of real illness assuming a serious character.

With a view of forming an estimate of the number of habitual offenders who fluctuate between prisons and poorhouses, your Committee have procured returns⁴ showing the number of men and women in the ten largest prisons in Scotland, on 17th September 1894 and on 15th January 1895, recognised by Poor Law Officers as ex-inmates of the poorhouses to which they were attached, and showing also the number of inmates of fourteen poorhouses on the same dates, recognised by prison officials as ex-prisoners. The result was to disclose in the prisons on the first occasion 212, or 9 per cent. of ex-paupers out of a population of 2341; and on the second 164, or 8·8 per cent. out of 1861; in the poorhouses on the first occasion 279, or 5·1 per cent. ex-prisoners out of a population of 5431; and on the second 568, or 8·7 per cent. out of 6833. As the prison officials only visited the poorhouses in their own towns and the Poor Law Officers the local prison, it was only in cases where the district of poorhouse and prison happened to coincide that recognition could be effected, and the figures obtained so far understate the extent of give-and-take which occurs between prisons and poorhouses

* In Edinburgh prison, for example, we found a female prisoner who, we were told, had been twenty or thirty times in prison. Dr. Sutherland, a member of our Committee, and medical officer to Glasgow prison, recollected her as having been nearly a hundred times in that prison, and on being interrogated the prisoner admitted that it was so. The Edinburgh prison authorities did not know anything of the previous Glasgow record.

A in this class of inmate. In a large number of cases their history is that they go into the poorhouses for a short time, get tired of its monotony, leave it, beg, get drunk, and are sent to prison, on their discharge from which they repeat the same round of life.

B *Weak-minded Habitual Offenders.*—Another class who bulk largely among habitual offenders is that of weak-minded persons. Thus, in Greenock prison there was, and probably is imprisoned, a woman of over seventy, who, when she leaves the poorhouse, which she regards as a pleasanter abode than prison, proceeds to steal in the most open fashion, and so strong is her propensity that even when in gaol if an opportunity occurs she will appropriate her fellow-prisoners' oakum or knitting. At first she was constantly under punishment, but for long her mental weakness has been recognised, and her offences against prison discipline are, as far as possible, overlooked. Again, in Edinburgh, we met a man who had borne an excellent character as a soldier, but who had had a sunstroke, and since his discharge had taken to swindling lodging-house keepers. Whenever he left prison he took lodgings, lived in them as long as he was permitted, and then changed his quarters until again arrested and imprisoned. He could not work, he said, as he had a mission to watch over the conduct of persons frequenting public parks, and as that brought in no income he could not pay his landladies. Another case of the sort was that of a woman whom we found in Edinburgh prison awaiting trial, but who had been several times previously in prison, and when out of it had been twice in a lunatic asylum.

PROPOSED TREATMENT OF HABITUAL OFFENDERS.

C *Instruction as to Financial Considerations.*—In your remit to us we are directed in any remedies we may suggest to have due regard to their cost, as well as to the practicability of their being carried into effect. This instruction we have kept steadily before us, and we feel that it would be useless to propose any scheme involving a large initial expenditure on brick and mortar, or to recommend what, after all, must be regarded as an experiment and judged by results, on the extended scale which would be requisite to afford it the fullest prospects of success. A person who having been twice in prison within twelve months is arrested for a third offence within that period may fairly be regarded as affording *prima facie* evidence that he ought, if again convicted, to have his case looked into with a view to his being dealt with as an habitual offender; but the number of persons in Scotland who were imprisoned twice or oftener during 1893 amounted to many thousands. With each extra commitment during the year the number falls rapidly, being for persons committed four times and over 1083, and for those committed six times and over 419. Now, as the 419 are responsible for 3744 commitments, or 7 per cent. of the whole, and the 1083 for 6569 commitments, or 13 per cent. of the whole, it would clearly be a very great public gain to deal with even the smaller category of cases; but it is equally clear that they would, from a reformatory standpoint, present a very hopeless material to work upon as compared with the thousands committed twice or thrice during the year.

D *Proposals for Definition and Treatment.*—In seeking for a manageable number, we would suggest that it might be found in those who, having been imprisoned three times within twelve months, are again within that period brought before a magistrate. What we propose is

That this class of prisoners should no longer be dealt with summarily by the police magistrate, but should be remitted to the Sheriff, whose duty it would be to try them for the offence charged, and also to determine whether or not they should be classed as habitual offenders. In respect of the offence itself, we propose to retain existing penalties, but recommend that the Sheriff should in all cases be empowered to inflict imprisonment without the option of a fine. If he considered the evidence as proving that the prisoner is an habitual offender, he should be authorised to add that finding, and to order his name to be recorded in a Register of Habitual Offenders where it should remain for say thirty months, and to warn the prisoner of the effect of this addition to his sentence, which would, if our recommendation were adopted, be this—that if at any time while his name remained on the Register he was again charged with an offence, he would again be dealt with by a Sheriff, the option of a fine in this case being abolished, and that in addition to his sentence the Sheriff should have power to order on discharge from prison his detention in an adult reformatory for a period of not less than twelve and not more than thirty months.

Further, we propose that in the case of registered habitual offenders apparently of weak intellect, or not able-bodied, or whom the Sheriff might deem better suited for reception and detention in a poorhouse, the Sheriff should have power, either directly, or on the expiration of any sentence of imprisonment which he might impose, to order their reception and detention in a poorhouse, subject to the same conditions as if they were ordered to be received and detained in a reformatory.

And that in all cases the Sheriff should have power, instead of committing an habitual offender, to release him after passing sentence, on his entering into a recognizance, with or without securities, and during such period within the thirty months as he may direct, to appear and submit to the sentence pronounced when called upon.

Object of the Recommendation.—Before explaining the details of our proposal we wish to make perfectly clear its object. As we have shown, in Scotland lengthy sentences of imprisonment have not been found more efficacious in preventing re-commitments to prison than shorter ones, and we agree with the Lord Advocate that 'while short sentences may not be so punitive . . . they do not bring about the listlessness, helplessness, deprivation of energy and capacity for earning a living, which so often result from long sentences.'¹ We therefore deprecate lengthy imprisonments for petty offences. The tendency of the time is in favour of shorter sentences. Within the last 30 years the average term of imprisonment has progressively decreased by about a half, and it would be still less than it is were it not for the heavy sentences pronounced on repeated offenders whom magistrates, in default of other remedies, often send to prison for the maximum term. In many cases these long sentences are a matter of local accident. In Glasgow,² 778 women were in 1894 sentenced to 30 days each for loitering and importuning; and the average sentence in 1831 of such cases sent to prison was 21½ days. Had they been convicted on the same charge in Edinburgh, they would have got off with an average of 7 days. It serves no public interest to crowd our gaols with prisoners who, with every re-admission, and with every day's imprisonment, become more callous to their punishment. The one object which these heavy sentences achieve is temporarily to clear the streets of a demoralising and troublesome element of the population. But this we propose to deal with much more effectively in another manner, and, that having been done, we are of opinion that the power of inflicting such heavy sentences as we have quoted should be confined to Sheriffs, and that the maximum penalties laid down in the Burgh Police Act as competent to be inflicted by police magistrates in the case of begging (60 days), drunkenness (30 days), and importuning (30 days), might with advantage be greatly reduced, and we have already recommended an amendment of that Act to that effect.

In every town we were told that there are 50, or 100, or 500 persons who are responsible for a very large proportion of the offences and disorder that prevailed, and that, if we could effectively grapple with these, the police force might be materially reduced. It is with this class that our recommendation is designed to grapple. In order to restrict the experiment to persistent and troublesome offenders, we have based our selection, not on the number of convictions, a correct record of which it would be often impossible to obtain, but of imprisonments which can be easily verified. To prevent injustice being done by the inclusion of persons of whose spontaneous reform there are reasonable hopes, we propose that the Sheriff shall decide whether or not a prisoner brought before him is an habitual offender, and that he may, if he thinks fit, liberate him on recognizances to come up for punishment when ordered. In the case of persons pronounced to be habitual offenders, there is, as we shall show, good reason to hope that a considerable number would be pulled up by the warning; and in every case we propose to allow the Sheriff a wide discretion in dealing with them, such as would enable him to select the most merciful and most hopeful method of securing society against further offences at the hands of those with whom he deals.

We propose that the particular offence with which the habitual offender is charged should be punished with imprisonment before his committal to a Reformatory in order that the punitive part of his sentence should be absolutely distinct from the reformatory, the object of which would be to dis sever the inmate as far as possible from every association suggestive of crime.

A 'Labour Settlements.'—To assist this object, we recommend

That the institutions for the reception of habitual offenders should not be designated Reformatories but Labour Settlements; that in those Settlements the inmates should be put to such labour as they are capable of; that so far as practicable such labour should be in the open air; that in selecting the labour care should be taken to employ the inmates at such remunerative work as would give them the best prospect of employment after liberation; and that every effort should be made to encourage the co-operation of charitable and temperance associations and selected visitors in the moral improvement of the inmates, both during their detention and after their liberation.

B These Labour Settlements we propose to place under the control of the Secretary for Scotland, who should have power to frame rules for inmates and officers (any infraction of which should constitute a statutory offence), to liberate inmates unconditionally or conditionally, or to send them out on licence to approved institutions or persons in the same manner as is at present done with the inmates of juvenile Reformatories.

C *Licensing out.*—This last suggestion we regard as a most essential one; and it is in view of the probability of its being largely made use of that we have ventured to recommend that the period of commitment to a Labour Settlement should be for so long a period as 30 months. In average cases it might be quite safe to allow an inmate to depart much sooner, but it would strongly tend to assist him in resisting any tendency towards relapse if he knew that he was under control, and could be sent back to work in a Labour Settlement on the occurrence of the smallest irregularity. In the case of women of the prostitute class, too, it would enable the machinery of Magdalene Asylums to be utilised, and a large number of cases to be dealt with by private institutions which at the present moment, without any compulsory or other powers, effect a vast amount of solid reclamation work. We believe that a number of this class of women sent to such Asylums on licence from Labour Settlements would prove amenable to their good influences, and would be permanently reclaimed.

D *Enforcement of Discipline.*—In Labour Settlements the means of maintaining discipline would require to be effective. The machinery which we propose is similar to that laid down in the Inebriates Acts, under which the Home Secretary is empowered to make rules, any infraction of which constitutes an offence rendering the offender liable to penalties prescribed by those Acts. Under such rules the officer in charge might, as in the case of prisons, be authorised to inflict minor penalties; while, as in the case of prisons, punishments for more serious offences would be meted out by order of visiting Magistrates. On the other hand, inducements to work, such as allowances of tea and tobacco, gratuities on liberation, and remission of period of detention, should be freely offered.

E *Selection of Labour.*—As to the sort of labour in which inmates might be engaged, we have already laid down the general principles which, in our opinion, should guide its selection. It is of the utmost importance that it should as far as possible be selected with a view to the class of work for which each inmate had an aptitude. We have no wish to suggest that a labourer who through his bad conduct found himself an inmate, should, at the expense of the country, be taught a trade which on his liberation would place him at an advantage over his well-behaved fellow; but the man who had learned a trade, even imperfectly, would evidently be able to contribute more towards his maintenance by working at it during his detention, and would also have a better chance of earning a living when dismissed, if perfected in that trade, than if employed on unskilled work. We should therefore hope to find, as in Wakefield prison¹ which we visited, workshops where skilled labour of various sorts would be employed for the good of the community, and any surplus production of which could be appropriated for use in Government institutions. Unskilled labour is already utilised in a number of our Scottish prisons, notably at Barlinnie, and opportunity for its employment would, of course, require to be an important factor in the selection of the site of a Labour Settlement. In all cases, what should be aimed at is real and useful hard work, and all such punitive and unremunerative employments as picking oakum should be excluded.

F *Employment for Women.*—Women constitute a majority of over two-thirds of habitual offenders, and although your Committee have on every opportunity sought suggestions as to suitable employment for them, the result has not been very encouraging.

¹ Appendix G, Minute of Lord Advocate in reply to Col. M'Hardy's letter of January 7th, 1892.

² Appendix LXXIV.

¹ Appendix LXXXIV.

as most of the remunerative manual employments in which women are engaged are A branches of industries in which men are also employed, and could not be suitably carried on in Homes intended for women only. In prisons, sewing, knitting, cleaning, washing and cooking, make up the principal useful work to which female prisoners can be put; while in Magdalene Asylums the almost invariable industry in which they are employed is washing. In addition to these, fruit market and poultry farming have been suggested as likely to afford a useful and healthy employment, and where land was available occupation for a number of them could be found on that. An interesting memorandum on that subject by Professor Wright will be found in our Appendix.¹ A large number of female habitual offenders have been employed in mills; and as a profitable means of utilising their labour and fitting them when discharged to earn their living, we would suggest the establishment of a small factory where blankets, sheeting and cloth for use in Labour Settlements and other Government Institutions could be manufactured. Such a factory exists in Wakefield prison, but those employed in it are males. In our opinion, such work would be admirably suited for females who have commenced life as mill-workers. In the Salvation Army Refuges a number of women are employed in binding Bibles and Prayer-Books for the Salvation Army, and as a great many books are used in prisons, there would seem to be an opening for similar employment in Female Labour Settlements. As to laundry work and domestic service, we should expect that a large number of female settlers would, under judicious regulations, find their way into these occupations through transfers under licence to the various asylums which at present deal with women of very much the same class.

¹ Appendix
XXXV.

Susceptibility of Women to Reformatory Treatment.—Although women seem B to lose their self-respect and become utterly reckless more readily than men, it is encouraging in dealing with them to know that they are, in the vast majority of cases, more easily governed, in their better mood more earnestly desirous of restoration to an honest life, and more susceptible to humanising influences. We arrived at this opinion after interviews with many female inmates of Magdalene and inebriate institutions—interviews at which no official or fellow-inmate was allowed to be present, in which the frankest statement of opinion was invited, and in most of which the women interviewed appeared genuinely grateful for the assistance they were receiving for the purpose of enabling them to abandon their former life. But one illustration, which by itself proves the remarkable aptitude for reclamation possessed by women is afforded by the fact, to which we shall have to recur later on,² that in Scotland the percentage of female prisoners who have been inmates of Reformatories to the total persons living who have been discharged from these institutions since their commencement, is nearly $3\frac{1}{2}$ times less than the analogous percentage in the case of males.

² See Table,
p. xxxiv.

That hopeful material to work on is to be found even in apparently the most C abandoned was shown by the case of a woman, who, with her husband, was described to us by the Inspector of St Cuthbert's Parish³ as a typical pest, oscillating between prison and poorhouse, and causing a great amount of trouble. That woman we afterwards came across in Edinburgh prison, and Canon Donlevy, the chaplain who visited her, assured us that on one occasion he procured a situation for her at a farm in the country, that she remained there six months working steadily and well, and that she owed her relapse to a pardonable desire to revisit her husband, whom she found in Edinburgh, and with him she returned to her old mode of life. So convinced was Canon Donlevy that there was at bottom something good in the woman, that he expressed the intention of endeavouring to find another suitable place for her on her discharge.

³ Q. 3817.

Liberation on Licence.—Our proposal to send out settlers on licence to approved D persons is an adaptation of a system adopted in connection with juvenile Reformatories, where young men and women are in a large number of cases licensed out to approved employers before the expiration of their term, with a view of gradually accustoming them to their freedom; and it is analogous to the system under which criminal lunatics detained during Her Majesty's pleasure are on their recovery allowed their freedom, on some approved person undertaking their charge and the duty of reporting their conduct to the authorities from time to time. In dealing with Labour Settlers, such a provision would not only be suitable for cases like that of the *protégée* of Canon Donlevy, to whom we have just referred, but it would enable well-conducted settlers to be utilised for public works, such as the building of fishing harbours, the reclamation or planting of waste land, &c., under the charge of an approved person, who might be a trustworthy warder or retired petty officer accustomed to responsibility and control.

COMMITTAL TO POORHOUSES.

A It will have been observed that in the case of habitual offenders apparently of weak intellect or not able-bodied, or whom the Sheriff may deem better suited for reception and detention in a poorhouse, we recommend that the Sheriff should have power, either directly or on the expiration of any sentence of imprisonment which he might impose, to order their reception and detention in a poorhouse, subject to the same conditions as if they were ordered to be confined in a Labour Settlement. The object of this is to enable that class of cases to be dealt with who are unfit for the discipline of Labour Settlements, or who have passed an age at which there is reasonable hope of their conversion into useful citizens. Had your Committee not been instructed to have a strict regard to financial considerations, they would probably have suggested special institutions for dealing with this class, but any financial margin that can be looked for is so small compared with the demands which might, were it larger, with advantage be made upon it, that we believe that in suggesting the use of the poorhouse for this class of cases we have made the only practicable suggestion open to us. Two objections may be urged against our proposal: (1) That the inmates of Scottish poorhouses consist in large number of decent poor, whom it would be unfair to associate with habitual offenders; and (2) That it would be unfair to the parish ratepayers to cast upon them the burden of maintaining habitual offenders.

B *Question of Fairness to Decent Paupers.*—As we have already mentioned, on September 17th, 1894, fourteen, and again on January 15th, 1895, sixteen of the largest poorhouses in Scotland were visited by officers from prisons in their vicinity, who took a note of the ex-prisoners whom they recognised among the inmates. The number recognised was, of course, below the actual number; for an Edinburgh, Dundee, or Aberdeen prisoner, however well known, lodging in a Glasgow poorhouse, would pass unnoted, and *vice versa*. But the result on the last occasion was that 8·7 of the total population were recognised as having been in jail, and the average of the two visits showed 6·9 per cent. of ex-prisoners among the inmates. Among them were, doubtless, many of the very worst type of habitual offender, men and women who had been scores and even hundreds of times in both prison and poorhouse, of whom one Inspector of Poor after another gave us lists of instances. Any evil which might result from the introduction of the habitual offender into our poorhouses therefore already exists. It may, however, be neutralised, and is, we believe, largely avoided, by a proper classification of the inmates. Habitual offenders would, of course, at first be classified apart, and would, where admitted at all among the ordinary inmates, be only so admitted on good behaviour. They would be all the while under a sterner set of rules—which we suggest should be drawn up by the Local Government Board, with the approval of the Secretary for Scotland, and which, when so approved, should have the same statutory force as in the case of Labour Settlements—and they would, if at all turbulent or troublesome, be at once relegated to the stricter discipline of the probationary class. As a matter of fact, however, when deprived of drink, habitual offenders are readily amenable to discipline. Of 568 ex-prisoners found in the sixteen poorhouses¹ on 15th January² referred to, whose conduct is reported on, we find that it was 'good' in 464 cases, or nearly 81 per cent. of the whole, and 'fair' in 71 more, or nearly another 12 per cent., leaving only 33 cases, or 5·8 per cent. of 'bad,' 'indifferent,' 'troublesome,' or 'discontented' cases, of whom only one is returned as 'very bad.'

¹ Appendix
XIX.

C *The true principle of Law as to Decent Paupers.*—The real answer to this objection, however, is to be found in the evidence of Mr Malcolm M'Neill,² who spoke as representing the Scottish Local Government Board, of which he is one of the ablest and most experienced officials. The poor law of Scotland, he told us, is not one of in-door but of out-door relief. Parochial authorities do not nowadays use the poorhouse for all and sundry, but only for selected cases, as suggested by the Local Government Board, and there is a growing tendency among them to board out the respectable poor. Parochial authorities have learned and are learning the true use of the poorhouse, which paupers in Scotland have always shown the greatest reluctance to enter, and which should be utilised not for the purpose of starving out respectable and deserving cases, but as a test in the case of the dissolute and lazy. In other words, the aged respectable poor, under the principle of the Scottish poor law, if the system were administered in accordance with the Local Government Board's interpretation of that principle, should be rarely met with in other departments of the poorhouse than the hospital or lunatic asylum.

² Q. 5872-3.

Question of Cost to Poor Rates.—As to any additional burden which, under A our proposal, might be thrown upon the poor rates, it must be recollected that if an additional cost were incurred through the prolonged detention in poorhouses of weak-minded, feeble, and aged habitual offenders, the rates would be relieved of the support of a large number of persons at present chargeable to them who would be dealt with in Labour Settlements. To show the effect of this system of give-and-take, we may mention that on the second occasion of our prison-and-poorhouse census, of ex-paupers recognised as having been in prisons, and ex-prisoners recognised in poorhouses, 244 were under forty years of age, against 488 who were over fifty. Moreover, the trouble and expense of dealing with the habitual-offender pauper class is so great that every Inspector of Poor whom we examined demanded further powers of detention, and Mr M'Neill, on behalf of the Local Government Board, said that such powers 'were very much required.'

¹ See Motion, Ferrier, Greig, &c.

Troublesomeness of Present System.—Under the present system the rule is that a B pauper can at any time leave a poorhouse on giving twenty-four hours' notice. In some of the larger parishes the Local Government Board have, under their powers, granted authority to extend the requisite notice to seventy-two hours in the case of paupers who within six months have been twice in the poorhouse.² The late chairman of the City Parochial Board, Glasgow, told us that in their poorhouse there were not less than thirty paupers in the habit of 'running in and out,' and he thus explained the reason for wishing for further powers of detention³ :—

Q. 3757.

Q. 641, Ogilvie.

'Where a woman comes like this so often, four or five days in and out, it is a very C great hardship to our officers. The woman has first to make an application, after this she has to be interrogated, and the result of those inquiries has to be written down in a schedule; she has then to attend the medical officer in the district and be examined by him; then she attends a meeting along with the inspector and one of the members of the Board—that is what we call our relief committee; then she has to go and be admitted through the gate of the poorhouse; and when she is admitted she must undergo the changing of her own for the poorhouse clothes, undergo a bath, and go through all the necessary cleaning operations, and we have the trouble of fumigating the woman's clothes and stowing them away. We think we should not be put to that trouble for three or four days' residence.'

Q. 5875.

'We have cases,' said Mr Malcolm M'Neill,⁴ 'where 50 times a year the same thing D —clothing and so on—has to be gone over again.'

Costliness of Present System.—In Edinburgh we had some amusing evidence on E another branch of the subject. Thus, in St Cuthbert's Parish the inspector told us that there were a dozen or more people who lived between the poorhouse and the prison, and were very troublesome. Knowing the rules of the parish they generally turned up after office hours, which meant that, pending medical examination next day, they were sent under a local arrangement to the Night Asylum, where they got their supper, bed, and breakfast, and then if they chose they could go their way. If after entering the house a man chose to leave it, which he could do on giving twenty-four or seventy-two hours' notice as the case might be, the parochial authorities were by no means certain that they had got rid of their guest. If the latter chose he might and often did go on the tramp at their expense. 'Last year one man thus visited ten 'different places': Stirling, Dunfermline, Dysart (twice), Paisley, Hamilton, Old Monkland, New Monkland (twice), and the cost of the bills will come in at the end of the 'half year—a considerable amount.'

Q. 3729.

For these travellers can claim relief in whatever parish they find themselves, and F the inspector of that parish at once advises the inspector of the pauper's parish of settlement, which must refund the relief given. Accounts are squared every six months. The only remedy possessed by the parish of settlement is to order the pauper to be sent back, but before that can be done the man is away to another parish, and runs up another bill.⁵ All this involves an immense amount of correspondence and bookkeeping, and when the wanderer, who may have got as far as Perth or Inverness, considers it time to return to Edinburgh, he allows his parish of settlement to order him back and pay his railway fare, and, if his health is not strong, the expense of an attendant to look after him. 'Although they find their way to Perth or Stirling by themselves,' continued the inspector, 'in many cases we have to be at the expense of having an attendant with them when ordered back.' Mr Greig, the inspector of the City Parish, Edinburgh, mentioned a claim of this sort, and told us how he got rid of it. One of his paupers went

Q. 3734-5.

A to Inverness last year.¹ 'I got a claim for him. He told the inspector I knew him very well, which was quite true. I said that was so, but I could not find that he had a settlement in Edinburgh, and therefore I refused to have anything to do with him. He left Inverness. He tramped further. I got another claim. I gave the same refusal, and he had to tramp all the way home, applying to five or six parishes on the journey. He came back and is in the poorhouse again. He is a very useful man in the house.'

Q. 3854-5.

B But even Mr Greig was not a match for a pauper expert, for Mr Ferrier of St Cuthbert's told us that 'he knew in his experience of many paupers who, having been provided with tickets to their parish of settlement, and having been seen into the train at Waverley Station by attendants, have left the train at Haymarket, and the same day applied perhaps for relief to my friend Mr Greig of the City Parish.'

Q. 3744.

C *Economy of Proposed Change.*—This will serve to explain the costliness of the habitual-offender in-and-out class of pauper to the parochial authorities, and enables us to understand their universal demand for further powers of detention, and to appreciate the economic soundness of the proposal of the inspector of the Glasgow Barony Parish—that certain cases of the sort should be detained in poorhouses for periods ranging from six months up to two years. It will, therefore, be seen that if our proposal in one direction would impose a slight extra charge upon the poor rates—a charge which we shall show would be equitably distributed, and would not amount to $\frac{1}{375}$ of the present expenditure—in others it would materially relieve them. In any case, the habitual offender is at present a burden on the poor rate, on the imperial exchequer, and on the local police rates, as well as a nuisance to the public. In any scheme for dealing with him, the poor rates should be made to bear a part, and we consider that under that which we suggest the parish would make a fair contribution to a work which most intimately concerns it by keeping out of mischief, without unnecessary restraint or severity, that class of habitual offenders who, from age or other causes, are unfit for severe reformatory discipline, and converting them at least from disreputable and troublesome 'in-and-out' sojourners into respectable members of the pauper community.

D *Liberation on Recognisances.*—Our final recommendation as to the powers of the Sheriff, viz., that he should in every case have power, instead of sentencing an habitual offender, to release him on his entering into a recognisance, with or without sureties, and during such period as may be prescribed, to appear when called upon and submit to the sentence pronounced, is intended to meet cases where, for example, parents or respectable relatives may be willing to take back girls or weak-minded lads who for a period may have got beyond their control, but who, with a suspended sentence of imprisonment and possible detention as habitual offenders hanging over their heads, might, and in many cases would, prove amenable to the influence of their friends.

E *General aim of Proposal.*—It will be thus seen that the proposal which we submit aims not at increasing punishments but reducing them, and that its object, based on many years' experience of a similar system in the treatment of youthful delinquents, is to safeguard society from the injury and annoyance which it at present suffers at the hands of habitual offenders, and with the minimum amount of compulsion and restraint, by industrial training and discipline, to restore as many as possible of them to the ranks of law-abiding citizens. With this object in view we have endeavoured to shape our proposal in such a manner as to avoid initial expense, and avail ourselves to the utmost of existing agencies, parochial and voluntary.

THE HOUSING OF LABOUR SETTLEMENTS.

F Coming to the question of the Housing of Labour Settlements, the most satisfactory solution would, of course, be the erection of specially designed buildings on sites specially selected for the purpose. That, however, would involve a cost which would probably prove a fatal preliminary objection, and we have therefore to fall back on existing structures which might be utilised for the purpose. These are most obviously to be found in our prisons or in our poorhouses. A number of prisons throughout the country have recently been closed. Some of these might at a small expense be adapted for labour settlers, but they have been handed over to the different Local Authorities, by whom they have already been converted to various public uses, and in many cases it would be difficult to recover them for State purposes. Besides these there is in several of the existing prisons, such as Perth, and Peterhead, so much surplus accommodation that at small expense wings, capable of accommodating several hundred

persons, might be cut off from the main buildings and practically converted into A separate establishments, and at these places there is available adjoining ground belonging to the Prison Commissioners—at Perth to the extent of about four acres, and at Peterhead about 17 acres. At Peterhead there is, too, a practically unlimited field for male labour in connection with projected works, capable of being carried on without the slightest risk of contact with the convicts employed at the quarries and breakwater. These prisons being national property, no difficulty or expense would present itself in the way of their acquisition, and under our proposal a further very large diminution might be expected in the number of ordinary prisoners to be provided for in them.

On the other hand, we feel that it is most desirable that Labour Settlements should be B kept entirely distinct from prisons, and that any association, even of ideas, which should connect them in the public mind with prisons or convict establishments should be avoided.

Poorhouses available.—Another class of public property is, however, available, which C on this consideration seems greatly to be preferred. In the Appendix to our Report¹ will be found a map showing the position of 66 poorhouses in Scotland, and attached to it a table grouping together those that are contiguous, giving their accommodation and the number of vacancies in each, and showing how, by transfers of the inmates to other poorhouses in the group, 23 poorhouses, with accommodation for 2400 persons, might be made available for other purposes. All of these might not be suitable for Labour Settlements, but one advantage which they present is that, being scattered over the country, they offer a wide field for the selection of suitable localities, and their structural arrangements would require little or no modification. On the other hand, being the property of their respective parishes or combinations, they would have to be leased or purchased by the nation, and provision would require to be made for the reception of their pauper inmates elsewhere. This, however, should not be a matter of insuperable difficulty as, under the Local Government Act of last year, several important parishes have already been amalgamated with the result of consolidating their poorhouse accommodation. Besides, it must be remembered, as stated by Mr McNeill of the Local Government Board,² that the poorhouses in Scotland are emptying because Parochial Authorities are learning their true use, and are displaying a growing tendency to board out the respectable poor. This being so, it seems to us that, in cases where it is requisite to apply the poorhouse test, arrangements could easily be made with adjoining parishes similar to those already in being in those parishes where no poorhouse exists.

Your Committee, therefore, think that every effort should be made to obtain D possession of such vacant poorhouses as may be capable of being adapted for the purpose of Labour Settlements, and that vacant prison accommodation is not to be recommended if other accommodation can be obtained.

PROBABLE NUMBER OF HABITUAL OFFENDERS.

Coming now to the number for which it would be necessary to provide accommo- E dation, we find, from a carefully compiled return given in our Appendix, that the number of persons who during 1894 were imprisoned in Scotland for the specific offences with which we have to deal, and who in every case had been imprisoned four times and upwards during the twelve months preceding their last conviction in 1894, was 497 males and 1290 females—in all 1787.³ This number, or say 1800, is therefore the number which we estimate would probably be brought before Sheriffs charged with petty offences aggravated by their being habitual offenders, during the first year of the operation of our proposal. Some of these the Sheriffs would acquit; others they would punish for their offences, but refuse to pronounce habitual offenders; in other cases they would probably suspend execution of sentence, on friends or charitable institutions undertaking the charge of the prisoners; and in the balance they would punish the offence, pronounce the prisoners habitual offenders, warn them of the effect of that rider to their sentence, and explain to them that if within 30 months they were again brought up on a charge, they would again be tried before a Sheriff, and that, in addition to imprisonment, they would be liable to detention for two and a half years in a Labour Settlement.

Deterrent effect of pronouncing Persons Habitual Offenders.—The effect of F such a warning would unquestionably be to pull up a very considerable proportion, especially amongst the women. If anyone doubts this let him consider the following

A facts. Prior to 1874,¹ as we have said,² in connection with drunken, disorderly, and assault cases the custom in Glasgow was for the lieutenants, on the prisoners becoming sober, to dismiss them wholesale, and so avoid the trouble of bringing them before the Magistrates. In 1873, the last complete year during which this practice prevailed, 54,287 such cases were brought in to the Police Offices, and 29,963 discharged without pledge by the lieutenants. The Magistrates, having resolved to put an end to the system, gave instructions that no prisoner should be liberated by the lieutenants unless he left a pledge. Ten months of 1874 passed under the old system, and 22,892 prisoners were discharged by the lieutenants. But during the last two months of that year the new rule was in operation, and the result was that, during 1874, the numbers of arrests of drunken, disorderly, and assault cases fell to 49,629. 1875 was the first complete year during which the new rule was operative, and in that year the number of arrests for the same offences fell to 38,133, and, in 1876, when the new arrangement had become thoroughly understood, it dropped to 34,276 being a decrease of almost 37 per cent. on 1873. Or, to put the matter in another form, the number of arrests for those offences which, in the two complete years (1872–3) immediately preceding the adoption of the change of rule, amounted to 106,702, in the two complete years immediately succeeding its adoption (1875–6) fell to 72,400,—a reduction of 34,302, or over 32·1 per cent. This shows the deterrent effect of greater certainty of punishment upon the offender class, and though that effect would probably be less in the case of habitual offenders, it must be remembered that while what produced the reduction in Glasgow was the dread of 7s. 6d. pledge, or fine, or a week's incarceration, the habitual offender would have before him the unfamiliar and repulsive prospect of two and a half years' compulsory abstinence and steady work. Assuming, however, this warning to prove considerably less efficacious than it proved in the case of Glasgow, and that instead of pulling up between 32 and 37 per cent. of offenders as it did there, it only sufficed to pull up 25 per cent. of the 1800 charged before the Sheriff as Habitual Offenders, that would leave us with 1350 to be subsequently provided for. Of these, however, all would not require under our proposal to be provided for in Labour Settlements. At least one-third would probably, from age and bodily or mental feebleness, be unfitted for their discipline, and would be relegated under powers of compulsory detention to poorhouses, or to their friends. This would reduce the number for whom provision would have to be made in Labour Settlements at the outset to 900; a figure which, after the first few years, would be largely reduced from the fact that the individuals who constitute the class of habitual offenders would perforce be prevented from offending. It must be recollected, too, that our 900 habitual offenders would consist in round numbers of 250 men and 650 women, and that of the latter we anticipate that after a short probation it would be practicable to place a number out on licence with Magdalene Asylums and other similar institutions, so that vacancies might soon be created sufficient to meet the reduced stream of incomers after the first year or two. In any case the exceptional demands of the first period of the experiment might be cheaply met either by the erection of temporary structures in suitable situations, or by utilising the empty prison accommodation of which we have already spoken.

B *Elasticity of Proposals.*—But if our proposal was considered to be on too large a scale, or if in its initial stage it was anticipated that there was a likelihood of larger numbers of habitual offenders being consigned to Labour Settlements than could properly be dealt with, or if it were desired to proceed tentatively with the experiment, this could easily be effected in the following manner:—

C We have proposed that the liability of a prisoner to be registered as an habitual offender should be constituted by the fact of three imprisonments followed by a conviction by a Sheriff within a given period. The period which we have selected has been twelve months, and on that we have based all calculations. But nothing could be easier in any legislation on the subject than to introduce a provision cutting down that period to eight months, or even six, during the first five years of the operation of the new system, and empowering the Secretary for Scotland by Order in Council from time to time during the currency of those five years to extend the prescribed period up to twelve months gradually and as the capabilities of the system were developed. If, on the other hand, the success of the system turned out such as to render admissible its extension beyond the limit proposed by us, the Secretary for Scotland might be empowered, say after it had been ten years at work and its financial and reformatory efficacy had been proved, to extend the prescribed period from time to time to fifteen or sixteen months, by an order to be

¹ Sutherland, Appendix VIII.

² Q. 5873.

³ Appendix LXXXV.

laid on the table of both Houses, and to become law, as in the case of the Education A Codes, unless within a given time an address was carried against it. With each month's reduction of the prescribed period below the twelve months which we have proposed a large reduction would be made of the cases falling within the category of Habitual Offenders, and with each month's extension beyond the twelve months a number of fresh cases would be brought in, without in the slightest degree affecting the other machinery of the scheme. It would always require to be borne in mind, however, that the smaller the class embraced within the scope of the scheme the more inveterate would be the offenders of whom that class would consist, and that its possibilities of success from a reformatory point of view would increase almost in geometrical ratio with each enlargement of its scope. For to afford the system fair play in that respect it is of primary importance to deal with the habitual offender at the earliest possible stage, and the more promptly the work is taken in hand the better will be the results for the offender, and ultimately for society.

Cases of Relapse.—In cases where habitual offenders, after undergoing detention in B a Labour Settlement or poorhouse, resume their old habits and again fall into the hands of the police, the reasons would be wanting for delay in dealing with them which have led us to suggest so many preliminary steps before final committal in the case of persons for the first time declared habitual offenders, and we would therefore propose

That in cases of the relapse of persons so committed, the commitment shall be C deemed to have been an imprisonment at the date the said commitment expired, and that if after two subsequent imprisonments they are again charged with an offence within twelve months of the expiration of their term of commitment, they should again be brought before the Sheriff, who in such case should, on conviction, again order them to be registered for 30 months as habitual offenders, and should in that case deal with them by committing them to a Labour Settlement or poorhouse, or otherwise disposing of them, as if such prisoners' names had been upon the Register of Habitual Offenders when charged with the offence.

FINANCE.

Value of Male Labour.—As the backbone of our proposal is that able-bodied D Habitual Offenders should be compelled to work for their maintenance, the first question to be dealt with is the value of the work which they could be made to do. In estimating this in the case of males, we have the following data to go upon:—At Peterhead Convict Prison¹ the average daily population, according to the last report, was 331·37. The convicts are principally employed in quarrying, stone-breaking, concrete-making, and other operations connected with the Admiralty works, and the work accomplished, which is measured and valued, is returned at £9061, 7s. 2d., or £27, 6s. 8d. per convict per annum. In the English convict establishments the work done per convict constantly employed is set down as ranging in value from about £15 per annum in cases where the labour is reclamation work, to £45 where it is the construction of fortifications or building. Taking all the English male convict establishments,² we find from the last report of the Directors of Convict Prisons that the average daily population amounted to 3457·76 men, and the earnings for the year to £93,010, 0s. 6d., or £26, 18s. per convict per annum. Again, in our Appendix³ will be found a 'return showing the financial results of the industrial departments in Wakefield Prison, based on the market value of articles supplied by it to public departments, not allowing for initial cost of buildings, but allowing for wear and tear of tools.' According to this return a daily average of 53½ prisoners employed earned profits amounting to £1727, 3s. 8d., or over £32 per man per annum. On this evidence, we consider ourselves justified in assuming that, if we set down the labour of male settlers at £26 per head per annum the estimate should, with proper management, be within the mark. As the total average cost of a Scottish prisoner is £20, 0s. 7d.,⁴ even if we allow of an extra £3 for food and clothing, it is clear that a considerable margin remains within which the labour of the male settlers could be made to pay for their maintenance.

¹ Report, Scottish Prison Commissioners, 1893-4, page 61.

² Report, Directors of Convict Prisons, 1893-4, Appendix X.

³ Appendix LXXXIV.

⁴ Scottish Prison Commissioners' Report, 1893-4, p. 52.

A *Value of Female Labour.*—Coming now to the case of females, there will be found in our Appendix¹ a statistical return concerning a number of Magdalene Homes and Shelters in Scotland. From this it appears that in 9 such institutions in Edinburgh, Glasgow, Dundee, and Greenock, the average daily population during 1893 was 520, and that the profits from work amounted to £15,204, or £29, 4s. 9d. per head. The results of female labour in the Scottish prisons give us no data to go on, for the reason that the female convicts are very few, and their work is not distinguished from that of the other female prisoners, 59¾ per cent. of whom are imprisoned for a month or under, and almost 21 per cent. for a week or under, and much of whose labour, therefore, is practically worthless. If, however, we turn to the English female convict establishment at Woking, we find that with an average daily population of 212·46 its earnings are set down at £2549, 9s. 8d., or £12 per head per annum.² With these facts before us, if we put down the value of the labour of a female settler at £12 a year, we consider that we should be within the mark.

¹ Appendix XX.

² Report, Directors of Convict Prisons, 1893-4, Appendix X.

B *Debit and Credit.*—Starting from these premises, and estimating as we do for the maintenance of 900 persons (250 males and 650 females), at our Labour Settlements, our figures for labour would be:—

250 men at £26 per annum	£6,500
650 women at £12 per annum	7,800
	£14,300

C We have seen that the sentences of the 1083 prisoners committed four times and upwards during 1893 amounted in that year to 79,646 days, which would represent an average daily number throughout the year of 218·2.³ We propose to deal with 1800⁴ of precisely the same class, and at the same ratio their imprisonments would give a total representing a daily average number throughout the year of 362·7. Besides this we have shown how the experiment of allowing prisoners to work out their sentences, partly by imprisonment and partly by fine, secured in the course of five days in Greenock Prison⁵ a saving of twenty-two days' imprisonment, equivalent to 1606 days' imprisonment, or 4·4 years' imprisonment of one individual in the year, or to one year's imprisonment of 4·4 individuals.* We have pointed out that as the average daily population of Greenock Prison is only ¼th of that of the Scottish Prisons as a whole, assuming the same proportion to hold good over all, the saving would amount to the permanent cost of an average daily prison population of 118·8 prisoners; and the experiment having been sprung upon the Greenock prisoners, we may take its results as much under what might be expected if the system were practically at work. Allowing for a 50 per cent. increase on the actual result, as we think might safely be done, it would give a saving of 178 in the present average daily number of prisoners in Scotland. Besides this we have proposed a large curtailment of the sentences of imprisonment competent to be imposed by Magistrates in Police Courts, and it will be seen from our Appendix,⁶ that, if the average term of imprisonment so imposed on the 1222 prostitutes last year sent to prison for more than 14 days were reduced to the maximum term of 14 days which we have recommended, a saving would be effected equal to the cost of the maintenance of one prisoner for 45·9 years, or an average daily prison population of 45·9 prisoners for one year. Allowing, however, that this saving has already been partly taken credit for by half of the women concerned having been pronounced Habitual Offenders and relegated to Labour Settlements, there would remain a saving under this head equal to the cost of an average daily population of 23. We estimate therefore a reduction of the average daily population of Scottish Prisons thus:—

	Daily Average Saving.
Under the proposals for Labour Settlements, &c., of 362 prisoners.	
Under the working out of sentences by combination of	
Fine and Imprisonment	178 "
Under Shorter sentences in Police Courts (case of	
Prostitutes alone)	23 "
Total diminution in average daily number of Prisoners	563

* A repetition of the same experiment at Barlinnie Prison, made since the above was written, and particulars of which will be found in our Appendix,⁶ gives much more favourable results as regards the saving of imprisonment, for though the trial was confined to a single day and to seven petty cases, it resulted in the remission of imprisonment amounting in all to 20 days.

³ Appendix LIX.

⁴ Appendix LXXX.

⁵ Appendix LXXXIV.

⁶ Appendix XCI.

As the total average daily population of ordinary prisoners in Scottish Prisons in 1893 was 2196, this would be equivalent to over 25 per cent. of our prison population. When the incubus of Habitual Offenders with which the scheme would start had time to be cleared off, and its full effect to be felt, we should be disappointed if its efficacy in emptying the prisons did not bring out a figure very considerably higher. Even taking it at 560, however, this at the rate of £20 per prisoner per annum would show a saving to the Treasury of £11,200. If the Habitual Offenders were all drawn from one prison, and that prison suppressed, the full saving would be effected, but they would be drawn from a number of prisons, the principal establishment charges of which would remain unaffected. In a few years after the system of Labour Settlements had been at work, however, unless it belied altogether the results both of Juvenile Reformatories in this country and Adult Reformatories abroad, the average daily number of our prison population would be decreased by a much larger number than we have set down; and by closing our smaller and more expensive prisons savings much in excess of the figures we have stated might be brought about. But taking only the saving on prisoners, and assuming that not a prison was closed, it is estimated by Mr Donaldson, the Secretary to the Scottish Prisons Commission, that the actual economy on a reduction by 560 of the average daily population of our prisons would be £7840¹ (or £14 per head per annum), and with that sum slightly increased, or say £10,000 a year, we propose that the Treasury should endow the Labour Settlement Scheme.

¹ Appendix
XCIIA.

Alien Habitual-Offender Paupers.—But there remain several other items to be provided for. In the first place, we have assumed that 450 of the 1800 Habitual Offenders with whom we started would be found unfitted for the discipline of Labour Settlements, and would be committed for detention to poorhouses. Those who possessed a 'parish of settlement' in Scotland, in whatever poorhouse they might be interned, would be chargeable to that parish, and from it the cost of maintaining them would be recovered under well understood existing rules and arrangements. But there would be a certain proportion without any Scottish settlement. Mr Donaldson² considers that this might be set down at 20 per cent., which, to be on the safe side, we will put down as 100 individuals. It would be necessary to make provision for the maintenance of this 100 persons out of the central fund, and if this were done at the rate of £8 per head per annum (the average annual cost of a pauper in Scottish poorhouses is slightly over £7 per head), £800 more would be absorbed.

² Appendix
XLVIII.

Provision for a new start in life.—Again, to give the settlers a start in life when they left the Labour Settlements it would be necessary to provide for gratuities payable on dismissal. In the case of convicts the official calculation is that by good conduct a gratuity of £1 per year can be earned. In the case of labour settlers we would propose a much higher scale of gratuity, and for this reason. The conditional possession of a considerable sum on discharge, to be given not as a matter of right but as a gratuity, which might be withheld if likely to be injudiciously expended, and the judicious expenditure of which could be secured through the medium of philanthropic agencies like the Discharged Prisoners' Aid Societies—the possession of a sum which would enable a discharged settler to be sent away to a new home with still a sufficient balance in hand to allow for a fresh start, would constitute one of the most important factors in securing his permanent reformation. We should therefore fix the gratuity (subject of course to deduction for laziness or insubordination) at the rate of £3 a year, which in thirty months would furnish £7, 10s.—a sum sufficient not merely to enable those who chose to settle in this country to do so far from their old haunts, but those who preferred it to emigrate. To provide gratuities at this rate would run away with another £2700 per annum.

Necessity for a Surplus.—In order to avail ourselves of the labour which constitutes the foundation of our revenue, a considerable surplus would be necessary. Not only would all labour not directly applied to the maintenance of the Settlements themselves, require to be paid for by the various Departments for which it was performed or which purchased its products; but in the case of labour employed on reclamation work, there would need to be sufficient money in hand to carry on until its value could be realised. We are quite aware, also, that an estimated margin of £2000 or £3000 a year would be too small on which to start a scheme involving many calculations, and encroaching on a region where no actual experience is available for our guidance. Knowing this, we have endeavoured to keep our estimates on the safe side. Thus we have put

A down for the cost of a settler £23 per annum, a sum £3 in excess of that which in the case of a prisoner covers every expenditure, administrative and otherwise, although these administrative charges in the case of the prisoner include £12, 3s. 5d. for pay and allowances of officers, against £4, 9s. 7d. for 'victualling' and 'clothing, bedding, furniture, &c.,' and include besides 7s. of gratuity on dismissal, of which we have taken no account. But, in order to provide for every contingency, we have another resource to fall back upon.

B *The Labour Settlements Fund.*—It will be remembered that we proposed that in order to encourage in Scotland the application of those provisions of the existing law, intended to secure for prisoners sentenced to fines, reasonable facilities for payment before commitment to prison, and to discourage the practice which prevails of sending them off to prison if they cannot pay at once—we have proposed¹ that all fines paid after admission to prison should be paid to the Governor of the prison, and accounted for by him through the Prison Commissioners to the Secretary for Scotland, to be credited to a fund the application of which we promised to explain; and we proposed to deal in the same manner with all monies arising from the new mine that would be opened up by permitting prisoners, committed in default of payment of fines, to work out their sentences by a combination of imprisonment and fine. We have shown how, even on the basis of the results of our Greenock experiment, these reduced fines would amount to £4200 a year, and have pointed out that that experiment having been conducted under great practical disadvantages, the actual results might be reckoned at a much higher figure. Let us take the new reduced fines at only £5000, and add to them the fines at present paid after admission to prison (which amount to some £3000 a year),² and if we put down the total at £7000 to £8000 we should be well within the mark. This we propose should be paid into a fund to be administered by the Secretary for Scotland, and to be called the Labour Settlements Fund.

¹ Page xiv.,
Recommendation (4).

² Appendix
LIIIA.

C *Provision for Initial Expenditure.*—It will have been observed that up to this point we have made no provision for the large initial expenditure which would be required for the adaptation of buildings, furnishings, acquiring ground, &c. The capital required for this purpose, which might amount to any sum from £15,000 to £25,000, we propose that the Treasury should advance as a loan, repayable as to principal and interest by substantial instalments (say £2000 to £3000 a year) out of the Labour Settlements Fund, which would also be drawn on to meet any other expenses incurred in connection with the general working of Labour Settlements.

D *Balance Sheet.*—To enable financial position of this Scheme to be seen at a glance, we will now put it into the form of a balance sheet.

Dr.	£	s.	d.	Cr.	£	s.	d.
By Cost of 900 settlers at £23 per annum,	20,700	0	0	To Value of settlers' labour (as per estimate, page xxviii), per annum,	14,300	0	0
" Board of 100 aliens without settlement, interned in Poorhouses, per annum,	800	0	0	" Treasury grant out of savings on diminished prison population, per annum,	10,000	0	0
" Gratuities to settlers on dismissal, per annum,	2,700	0	0	" Labour Settlements' Fund, as above, say,	7,500	0	0
" Temporary annual charge for repayment of capital borrowed for initial expenditure, say	2,600	0	0				
" Balance,	5,000	0	0				
	£31,800	0	0		£31,800	0	0

This surplus of £5000 should, in our opinion, amply suffice to provide for every contingency.

E *A Substantial Guarantee.*—But in order to meet the objection that experience might prove our estimate of the monies to be derived from the sources indicated to have been exaggerated, or the demands upon it greater than we have allowed for, or that from causes which we have not foreseen, it might prove inadequate, we propose, in case in any year it should prove inadequate—and in that case only—to authorise the Secretary for Scotland to make up the balance required by a levy of the amount per pound necessary to restore equilibrium, on the fines and 'pledges' at present paid in to the various Police Authorities throughout the country. That this would place the financial position of the

scheme beyond question is at once evident from the fact that, as will be seen from a A return in our Appendix,¹ the fines and pledges received by the Police Authorities in eleven of the larger burghs in Scotland during 1893, amounted to over £20,000, and we are safe in saying that throughout Scotland their amount exceeded £25,000. We do not propose to confiscate these fines and pledges. We do not even anticipate that it would often be necessary to encroach upon them materially, or at all; but behind the financial provisions which we have already proposed, this solid guarantee of over £25,000 per annum would stand to protect the scheme against all possible deficit, and to assure its credit. The Police Authorities in every town visited by us told us that if we could devise means to rid them of a few scores or hundreds of Habitual Offenders in their respective communities, their labours would be immensely lightened and their expenses decreased; and we consider that in proposing that they should guarantee the financial soundness of our scheme to the extent of the fines and pledges which they receive—a guarantee which in all probability would never require to be drawn on,—we are asking them to pay a very moderate price indeed for the attainment of the object that with one voice they professed their anxiety to secure.

At the commencement of the new system, when the whole Habitual Offenders of a B generation would be to be dealt with, unless provision were made for its inauguration on a gradual and restricted scale, there might not improbably be so much stress put upon it as to lead to a breakdown. We have already anticipated this difficulty,² and shown how it might easily be avoided.

Briefly stated then, the financial basis of our proposal is this—

The exceptional expense of governing and maintaining Habitual Offenders in Scotland, so far as it does not directly fall on the public, is borne by the Imperial Exchequer (which maintains the prisons) and the Police and the Parochial Authorities.

That exceptional expense, if our proposal were adopted, would almost entirely devolve upon the Administration of the Scottish Labour Settlements, by which all the revenues of the Settlements would be received and disbursed.

To enable the expenditure of the Administration to be met, we propose to look to the labour of the settlers, which we put down at about £14,000 a year, assisted by £10,000 a year from the Imperial Exchequer in the shape of an annuity, which would represent—and in a few years under-represent—the amount of its savings in the maintenance of prisoners.

In addition to this annuity, we recommend that the capital necessary for the initiation of the scheme should be advanced by the Imperial Exchequer as a loan amply secured and to be rapidly repaid.

To enable this to be done we would call into existence a fund arising out of fines at present lost, which, together with fines now paid by prisoners after their admission to prison (which for reasons of policy we propose to alienate from their present recipients), would amount to £7000 or £8000 a year.

This fund, which we propose to call the Labour Settlements Fund, we propose to apply in the first place to the repayment by annual instalments of the money borrowed from the Imperial Exchequer for initial expenditure, and in the second to the general administrative purposes of the scheme.

This Labour Settlements Fund would, we believe, prove amply sufficient for those purposes; but lest its amount should fall short of our anticipations, we propose to give to the Secretary for Scotland power from year to year to make up any deficiency which might arise, by a levy to the extent required on fines and pledges received by the Local Authorities in Scotland, which at present amount to over £25,000 a year, and which would thus form an unquestionable guarantee for the solvency of the Labour Settlements Fund.

The Police Authorities would contribute to the scheme by consenting to this guarantee, which, we believe, would never require to be drawn on heavily, and in all probability would never require to be drawn on at all.

As to the Parochial Authorities, their contribution to the scheme would consist in the detention and maintenance of—in round numbers—100 infirm, aged, and weak-minded, alien, habitual-offender paupers at the expense of the Labour Settlements Fund, and 350 native habitual-offender paupers at the expense of their respective parishes of settlement.

The expense of the detention and maintenance of these habitual-offender paupers, which would be thus devolved upon the ratepayers throughout Scotland would

A barely increase by £3000 the £894,500 at present expended on the relief of the poor; and in return for it the Parochial Authorities would get rid of the trouble and expense to which they are now exposed at the hands of the 'in- and-out' habitual-offender pauper class, a trouble and expense of which they everywhere demand to be freed and everywhere loudly complain.

PART II.—VAGRANTS AND BEGGARS.

B Having dealt with habitual offenders generally, we now come to those special classes to whom attention is specially called in our remit, first among which comes that of vagrants and beggars. According to a night census of this class, taken by the police in June 1893,¹ the vagrants and beggars in Scotland numbered 9655, giving¹ Appendix a ratio to population of 20 per 10,000. Of these, 6326 were men, 1927 women, XVII. and 1402 children; 6728 were found in counties where their ratio to population was 26 per 10,000, and 2927 in burghs where their ratio to population was 13 per 10,000.

C *Tinkers or Gipsies.*—The persons grouped together as beggars and vagrants may be sub-divided into three classes—Tinkers or gipsies, professional vagrants, and working men on the tramp. The tinkers and gipsies form a class apart. They live principally in tents, and marry among themselves, according to their own rites; support themselves ostensibly by petty industries, such as tinker-work, umbrella mending, and occasional field labour, but really to a large extent by begging. The number of them reported by Chief Constables as having encamped in their respective counties in 1893 was 977 adults and 725 children.² As their movements often extend through several counties, the same gipsies must have been returned as passing through their districts by several Chief Constables, so that the number reported should be considerably over the truth; but taking the figures as we find them, the number of arrests among them was 232, or 136 per 1000, as against 37 in the general population. They differ from the ordinary vagrant in the high proportion of women and children to men,—the numbers of the women being nearly as great as that of the men, and that of children 50 per cent. greater; while, among vagrants and beggars generally, men figure to women in the proportion of over 3 to 1, and to children in the proportion of over 4½ to 1. These tinkers and gipsies are represented by Chief Constables, landowners, and others³ as not given to stealing or poaching, but as inveterate beggars, levying contributions in the shape of food, money and sites for their encampments on the rural population, spending what money they obtain in drink, and when drunk fighting amongst themselves. In their domestic relations they are depicted as faithful to their own marriage ties, and fond of their children. The charges against them, so far as the general community is concerned, is that they are troublesome beggars; that their unions not being recognised as marriages, their children increase the illegitimacy ratio of the counties in which they abound; and that, owing to their wandering habits and mode of life, their children are exposed to hardships amounting to cruelty, and grow up practically devoid of education, except in the border counties, where they seem to have settled down. Various drastic proposals were made to us, especially in Perthshire, for getting rid of a nuisance which was described as intolerable. These included the suggestion that living in tents should be made illegal, and that the children should where necessary be forcibly removed from their parents and sent to industrial schools.

D The law already makes it an offence for gipsies to encamp on any ground without permission of the occupier. The Public Health Act provides for the suppression of an unsanitary dwelling of whatever description, condemned as a nuisance by the Medical Officer for Health; and the Prevention of Crimes Act,⁴ 1871, already enacts that 'any person wandering about and lodging . . . in the open air, or 'under a tent, not having visible means of subsistence, and not giving a good 'account of himself,' is to be deemed a rogue and a vagabond, and may be apprehended and imprisoned with hard labour for three months. With all these provisions of the law to fall back upon, we cannot endorse the suggestion that the mere fact of living in a tent should itself be made a crime. Examples of neglect of children amounting to cruelty were mentioned, but for the punishment of such cases the ordinary law provides. As to marriage, the law of Scotland is one of the most liberal in the world, recognising it as constituted by contract however proved. Further, the Registrar-General informs us⁵ that if parents state that they are married it is the duty of the Registrar to enter their child as legitimate, warning

the parents before doing so of the consequences of making any untrue statement. He A admits that, in dealing with persons of nomadic habits, Registrars are often placed under difficulties, as they have to dispose of the case on the spot, and the parties sometimes make ambiguous averments, stating that they are married for the time being, or using other qualifying expressions. Nevertheless, he adds that for the most part he believes entries made by the local Registrars would stand the test of a trial in a court of law or any other investigation.

Public policy evidently demands that if the gipsy contract constitutes a legal B marriage, it should, in as many cases as possible, be registered as such, and this could be done, and we believe would willingly be done, by the Sheriffs in every case where no legal impediment to marriage exists, and where the desirability of such a step could be brought home to the spouses by missionaries, clergy or others who take an interest in their welfare. Whether the marriage is registered or not, if it is a legal one, it is important, both in justice to the child and in connection with the law of settlement, that the child should be registered as legitimate; and we would recommend

That, to remove any doubt as to this being done, the Registrar-General might issue C to each Registrar a circular suggesting questions as to whether, in cases where nomadic parents registered the birth of a child, they were incapacitated from marriage by relationship, affinity, or prior existing ties, and directing him to explain that if this were not the case, if the parents had taken each other as man and wife, they were, according to Scottish Law, married and their child legitimate, whether the marriage had been registered or not.

With regard to begging and vagrancy the Chief Constables of several counties D explained that, although under the Local Government Act, 1889, County Councils were empowered to make bye-laws for their suppression, owing to a judgment recently given in the Court of Session (*Eastburn v. Wood*, 1892, 19 R. 100), doubt had been created as to whether a bye-law, couched in the language of the vagrancy sections of the Burgh Police Act, was not *ultra vires*. To remove any doubt which may exist on this point, we would suggest

That the vagrancy clause of the Burgh Police Act (with limitation of the penalty E as we have already proposed) should be made specifically applicable to counties.

Education of Gipsy Children.—As to the education of gipsy children there is a F twofold difficulty. The families being constantly on the move, it is practically impossible as the law now stands to enforce the compulsory school attendance of the children. In the second place, witness after witness informed us that if the gipsy children were to go to school they so abounded with vermin that the general population would not allow their children to sit in school alongside them,¹ and Mr Stewart, schoolmaster,² told us that were they to present themselves at his school he would refuse to receive them. Suggestions were made that the law should step in and forcibly separate gipsy children from their parents by sending them to Industrial Schools, or that the parents, while their children were of school age, should be compelled to select a district of settlement, and to send their children to school within it. Your Committee see grave objections to any legislation that would render migration, which to other men is lawful, a crime in the case of one particular class, or which would deprive parents belonging to that class of rights of guardianship of their children which other parents enjoy. If, as a class, gipsies and tinkers are remarkable for the excessive percentage of their offences, as would seem evident from the number of their arrests, the law prescribes conditions under which law-breakers of all classes may be deprived of the custody of their children. At the same time, we fully recognise the evil of permitting any class of children to remain outside the pale of the law which enforces compulsory education. We believe, however, that the enforcement of the law against begging, vagrancy, cruelty to children, and drunkenness, on the one hand, and of existing powers as to committal to Industrial Schools on the other, might greatly mitigate the evil of the want of education among tinker children, and we believe that one of the chief reasons why the law is not enforced is because to do so would entail expenditure on the parish enforcing it. In illustration of this we would refer to the evidence of the Chief Constable of Perthshire.³ He issued a circular to his police explaining how the law stood. One of them acted on his circular and arrested a little girl for begging, but the Magistrates declined to proceed with the case because of the expense that would be incurred in sending the girl to an Industrial School. In order to diminish this cost as falling on any particular parish we would suggest that

¹ Q. 6635.
² Q. 6640.

³ Q. 6491.

A powers should be given to School Board districts and parishes in a county or adjoining counties to unite for the purpose of enforcing the school attendance of vagrant children. Where districts refrain from thus uniting, and where there is evidence that a class of vagrant children is growing up in their midst without education it may even be advisable to enforce their duty on the School Boards by withholding from them their share of the Imperial grant.

B We recommend therefore that powers should be given to School Board districts and parishes in a county or adjoining counties to unite in enforcing the attendance at school of the children of nomadic parents, and that such united districts and parishes should be empowered to frame bye-laws for the purpose of carrying on the education of such children, which bye-laws, if approved by the Secretary for Scotland, should have the force of law.

C The effect of this recommendation would be (1) to enable the powers of co-operating compulsory officers to extend over a very large area, and so to bring home to the parents responsibility for the education of their children, and remove the obstacles which exist to their being brought within the scope of the ordinary law; (2) to enable to be borne by an extensive area the expense (a) of contributing to the maintenance of children liable to be sent to Industrial Schools, under any of the provisions of the Industrial School Acts, but whom, to avoid expense, Local Authorities at present refuse to send there, and (b) of the erection of a special Day Industrial School or schools, with provision for lodging children when their parents were out of school range, or the setting up of any special educational machinery which might be deemed necessary in consequence of the aversion of the general population to receive gipsy children into their public schools.

D *Professional Beggars and Vagrants.*—As will be seen by reference to the Appendix,¹ the Prevention of Crimes Act, 1871, embodies very stringent provisions for dealing with vagrants wandering about and lodging in out-houses, &c., not having any visible means of subsistence, and unable to give a good account of themselves. Such persons are liable to be dealt with as rogues and vagabonds, and imprisoned with hard labour for three months. The fact, however, that in those counties where the complaints against vagrancy are most acute, these powers, and even the milder provisions of the Prevention of Trespass Act, 1865, are little used, would show that what is wanted to check vagrancy is not the power of inflicting heavy penalties, but facility in bringing home the offence. The offence most widely complained of and most easily proved in the case of vagrants is begging, and that in Scotland is not an offence at common law—at least since an old Scotch statute inflicting branding on the cheek and banishment upon unlicensed beggars fell into desuetude. In burghs begging is an offence under the Burgh Police Act and the special Police Acts of the various excepted towns. We have recommended that the Vagrancy Clause of the Burgh Police Act (with restricted penalties) be extended to counties. The only further recommendation which we have to make is

¹ Dove Wilson, Appendix XXI.

That, in view of the trouble and expense caused by pauper vagrants, and already described,² the Local Government Board should make regulations, if necessary³ P. xxii. by an extension of their powers, authorising the detention in poorhouses for a week or ten days (instead of 24 or 72 hours as at present) after they have notified their intention of leaving, of pauper vagrants known to have been inmates of poorhouses, say more than twice or three times during the preceding six months, and thus obviate the trouble and expense caused by these vagrant paupers.

THE WORKING-MAN TRAMP.

E This class of wanderer constitutes the great difficulty of dealing with the question of vagrancy. What proportion of the total number of vagrants embraced in the police census are genuine seekers after work it is impossible to say. Some estimates put the figure very low, but the fact that when any great public work, such as a new railway, is being carried out, a stream of tramps sets in towards it from distant towns, shows that the number of tramps honestly in search of employment must be very considerable. These naturally suffer far greater inconveniences than the professional vagrant, being unfamiliar with the various halting-places in the shape of night-shelters, brick-kilns, &c., along the road, and with the tricks and subterfuges by which they, though able-bodied, might obtain parochial relief. In England they would be entitled to food and lodging in casual wards; in Scotland, so long as they are able-bodied, the poor-law

forbids them relief. Even if they break down on the road and become eligible for relief, A they may be unable to obtain it, 507 parishes in Scotland having no casual sick poor accommodation. Circulars issued by the Board of Supervision, and the evidence of Mr M'Neill,¹ show that in certain parishes inspectors of poor, when applied to by vagrants suffering from disease or injury, assisted them with money and sent them on to the next parish, with the object of getting rid of liability for their maintenance.* In some cases, to quote the circular of 1887, 'the vagrants have proceeded on their journey till, wholly disabled, they have at length become finally chargeable to the parish where their final breakdown took place, and have even died within a few days.' The Board therefore called the attention of inspectors to the inhumanity of the practice as regards the applicants and its injustice towards the parish where the ultimate chargeability took place, and instructed them as to the duty of providing casual-sick homes for such cases. If a vagrant dies through neglect of duty on the part of an inspector of poor, the latter may be tried for manslaughter.

'Shelters' and their Results.—In some of the southern counties this responsibility B seems to have created a panic, and caused them to exceed their duty in one direction as far as they had previously fallen short of it in the other. At all events the explanation which we got from Mr Porter, the Chief Constable, of a system which prevails in Roxburgh² was this:—'Some years ago the Board of Supervision came down upon Parochial Boards. Some two or three instances of starvation had occurred, people lying out being found dead in the morning, and the consequence was that every parish was called upon to provide a shelter—a place for the reception of tramps. I know that was the case in Kelso, Jedburgh, Selkirk, Hawick, and Galashiels. The number of tramps was so great that shelters were established on a pretty extensive scale. They were fitted with benches on which the tramps could lie down and huddle together for the night, and they received so many ounces of meal night and morning, and were passed on.' The Parochial Boards (without any legal authority) defray the cost of this entertainment, which is about 2d. per head per night, and entrust to the police the duty of granting tickets of admission to the shelters, which they do after entering the applicant's name and description in a book, and searching him for money if they suspect him of possessing it. ('We don't want to be imposed on,' remarked the chief constable, and 'the British police are often obliged to take powers.'³) The result was that the number of tramps in Jedburgh and Kelso alone increased from 2095 in 1890 to 5290 in 1894, which convinced both the Parochial Boards⁴ and the Chief Constable that the system was a mistake. The Parochial Boards had, therefore, given instructions to the police to reduce the number of tickets issued, while the Chief Constable stated that the system only tended to increase the number of tramps, and that 'it had been discovered that these fellows went the round. It was a day's march from Jedburgh to Kelso, and from Kelso to Galashiels, and then back they went the opposite way. It was a common thing for them to go from Kelso to Galashiels, Galashiels to Selkirk, Selkirk to Hawick, and into Dumfries,' where he believed there were shelters also. From Mr M'Neill's evidence⁵ it appears that the Board of Supervision had strongly remonstrated against the system, but they had no power to put it down, and the Local Authorities would not be guided by them 'because, as was said, they objected to these able-bodied beggars going about the town at night.' An analysis of the persons sheltered at Jedburgh and Kelso yielded the following results:—3012 of them were under 40 years of age, and 1857 above it; 4633 were men, 455 women, and 202 children. Of the men 1235 were Scotch, 2534 English, 829 Irish, and 35 foreign; and of the women tramping by themselves 106 were Scotch, 69 English, 49 Irish, and 3 foreign. The Chief Constable considered that the majority of the tramps sheltered were men in search of work,⁶ and he attempted to account for the recent increase by the fact that at Newcastle extensive waterworks were being constructed, and the southern counties were covered with tramps going back and forward to the works. This explanation might possibly account for the increase of some 439 Scotchmen and Irishmen shown in the figures of 1894 as compared with those of the previous year, but it certainly could not account for an increase of 653 in the number of Englishmen or for the fact that the number of Englishmen who have obtained shelter at Jedburgh and Kelso during the past two years is more than twice the number of the Scotch. These facts admit of but one explanation, and that is that the offer of a plank bed and a rug in a warmed room, and 2d. worth of meal, afford an inducement sufficient to attract hundreds even of able-bodied men from a dis-

* The chief constable of Fifeshire informed us that it was formerly the practice in that county for the police to arrest all vagrants and ship them across the Frith of Forth or Tay, and that the practice was only put a stop to by an action being raised or threatened against one of his predecessors in office.

A trict where work is plentiful to distant towns where there is no chance of work but where these luxuries can be got without payment either in money or equivalent labour.

B *Experience of Musselburgh.*—This is corroborated by other evidence. Thus Lieutenant-Colonel Borthwick, Chief Constable of the Lothians and Peeblesshire, told us the result of a Mr. M'Kelvie having left in trust to the Town Council of Musselburgh £700, the interest of which was to be applied to assisting persons passing through that town in search of work. The interest amounts to £22 per annum, and the inspector of police looks after it, and gives tickets to persons who may apply for food and lodging. The arrangement came into operation in February 1892. During eleven months of that year 715 persons received tickets. In 1893 the numbers rose to 956, and in 1894, by the end of October, it had risen to 1124. Besides these, many more applied and were refused, either because they had been relieved a short time before or because the annual £22 had been exhausted. The consequence was that tramps and beggars multiplied in Musselburgh so much that an application was made to the Court of Session to get rid of the charity, but the decision was that it must remain, 'and,' added the Chief Constable, 'the tramps swarm into Musselburgh, and the number gets larger every day.'

C *Experience of East Lothian.*—The experience of Dunbar, Haddington, and Tranent demonstrated the same fact in a different way. In these towns, up to 1891, shelter houses were maintained by the Burghs and Parochial Boards for the accommodation of tramps. In 1884 the system was in full swing, and 2721 tramps were accommodated. Then some of the Boards dropped payment, and the number of shelters was reduced. In 1888 the number accommodated dropped to 2584. In 1891 the County Council and in 1888 the number accommodated dropped to 2584. In 1891 the County Council resolved to abolish the shelter houses, and in 1893 the number of tramps challenged in East Lothian dropped to 349, representing, according to police calculation, only 116 individual tramps. In other words, the withdrawal in that county of free shelter and breakfast sufficed to reduce the number of tramps to less than one-twentieth of its previous amount. On the other hand, in Edinburgh, Glasgow, Dundee, and many other towns, night shelters worked by charitable organisations exist, which certainly meet a crying want, and regarding any evil effects of which we heard no complaints.

D *The Ayrshire Mendicity System.*—The Committee has had a large amount of information placed before it by Mr Loch, the Secretary of the London Charity Organization Society, and others with reference to the methods adopted in England in dealing with the vagrant class. Captain M'Hardy, R.N., the Chief Constable of Ayrshire, which has always been a favourite county for the tramp, told us that having studied the plans on which various English Societies, more particularly those of Dorset, Hereford, Kent and Worcestershire, grant relief to tramps, he had devised a system on similar lines, and with the assistance of the Ayrshire Mendicity Society, had put it into operation in that county. The method in which the Society, which was founded in 1885, set to work was as follows:—The tickets could be given to tramps when they begged for relief, were supplied Bread tickets, which could be given to tramps when they begged for relief, were supplied to the public at a very moderate rate. These tickets could be exchanged for bread in the various towns and villages in the county, so that at about every five miles of his journey the tramp, if he had a ticket, would be able to get two pennyworth of bread. Lodging tickets were also provided by the Society and sold to the public at a slight loss. These tickets were for issue to beggars who asked for money to pay for a bed, and a wayfarer, on presenting one at a Police Station received an order for a night's lodging. The object of the Society was to repress mendicity, and at the same time to assist the deserving travelling poor.

E The experience which has been gained by the operations of the scheme is very instructive. In the first place, the public interest in the matter seems to have varied considerably. In 1887, 1,418 tickets were purchased, while in 1891 only 94 were bought. Altogether in the nine years tickets providing for relief of the value of £656, were sold under the scheme and £609 received by the Society for them, thus leaving a deficit of £47 which had to be covered by subscriptions and donations. Strange to say only half of the bread tickets given away were used by the tramps, but it was otherwise with the tickets for lodging, which were in great demand. Indeed, Captain M'Hardy found that they were abused, being used by men who were earning wages as well as by vagrants who had sufficient money in their pockets to pay for a night's shelter. One man was found to have £1, 5s. 11d. in his possession when he applied for a free bed. Having regard to the experience gained in Ayrshire by this lengthened experiment of a system based on the English plan, Captain M'Hardy, although he did not think that providing for the relief of tramps in the manner above described had led to an increase of vagrants in the county, nevertheless hesitated to recommend it for adoption generally in Scotland.

- Indeed, he stated that he had been unable, after investigation, to establish the fact that A one really respectable man had ever used the tickets.¹ Asked if he could recommend a National scheme for the repression of the professional tramp, and at the same time for helping on his way the honest labourer actually in search of work, he replied—'No, I see all the schemes which have been tried have failed.'²

³ Chisholm, Q. 46. *Some Hardships of the present System.*—Certainly some provision for sheltering B and feeding the honest workman, who has exhausted his funds in a search for employment, is urgently required. If, in a county, he is caught sleeping in the open air or an outhouse, he is liable to be taken up as a rogue and vagabond; if, in a town, he seeks shelter in a close, he infringes some provision of the local Police Act, and is liable to thirty days' imprisonment. If he begs in a burgh, he brings himself within the grasp of the law, and so long as he is technically able-bodied, he is ineligible for parochial relief. Under these circumstances, it is not astonishing to learn that in 1893,³ 5300 persons sought and obtained shelter in police offices in Glasgow alone. There, when there is room, applicants for shelter are allowed to be locked up for the night, and receive a slight supper and breakfast, the expense being defrayed out of the police rates, and this system prevails very generally over the country. There is, however, no legal sanction for this expenditure, and when the system of audit enacted under the Local Government (Scotland) Act, 1894, comes into operation, it will probably be disallowed and the practice put a stop to. To prevent this and to legitimise the practice so far as it affects the honest workman we recommend

That the police authorities should be empowered to grant temporary relief to the C extent of a night's lodging and food to the necessitous, homeless, and travelling poor, where they think it expedient to do so, and that they should also have power to exact, if they think right, a labour equivalent from those that are able to work.

In order to secure this it would be necessary, as in Germany, to constitute it an D offence to refuse to work after accepting assistance on the condition of paying for it by work. We recommend that this duty should be entrusted to the police rather than to the parochial authorities, because police stations are much more thickly scattered over the country than poorhouses; because the system is already adopted—though without any labour test—over a large extent of Scotland, so that it would involve less dislocation of existing practice than any modification of the able-bodied disqualification of the Scottish Poor-Law; and finally, because we think it desirable to keep the honest searcher for work as much as possible out of contact with the pauper vagrant, under whose tuition he would soon acquire a knowledge of the devices necessary to sham sickness and insist on parochial relief. We would give the police wide discretion in the matter of exacting a labour equivalent, in order that travellers who could show that they were really in search of work might not be impeded in their mission, and we would limit the lodging to be given to a single night, and make it optional and not compulsory, in order to avoid inconvenience to the primary work of the police. If, in addition to this, it were made lawful for Local Police Authorities to contribute to approved night asylums, as a condition of persons sent by them being received, and with power in these cases also to exact a labour equivalent, a much wider provision might be made for the respectable class of tramp than at present exists, while the labour test would safeguard the community against those evils which experience has shown to result from the giving of unconditional assistance, even to a small extent.

Permanent Organisation for Relief Works.—As to the question of dealing with such E exacerbations of vagrancy as may result from time to time through the indirect effect of a great strike or exceptionally severe weather, we might suggest that most of our large towns possess what is known as a 'Common Good,' a reserve of property which is drawn on for a great variety of purposes, but which, it has, in some places been held, cannot legally be applied to the relief of local destitution, however acute. If the doubt, believed to exist on this point, were removed and expenditure for such a purpose sanctioned, money would be available to meet temporary crises, while the local authorities might be trusted not to draw on the fund unless driven to it by necessity. The experience of relief works instituted at the cost of private charity in Scotland, as elsewhere, has proved that when labour is paid for by the day as little work as possible is done. At present it is not until a crisis has lasted for some time in an acute stage that subscriptions can be raised and work provided, and when that is done the struggle is to provide for all and sundry, and piece-work is never, or almost never, at first

A insisted on. If permanent public funds were available the destitution could be met promptly while it was manageable in extent, and relief given solely on the principle of piece-work, without danger of attracting loafers from a distance. The experience of Glasgow,¹ where relief works were opened in the beginning of this year, 1895, and in 1893, went conclusively to show that with the substitution of payment by results for payment by time, the number of men at work underwent a rapid and marked diminution, although the piece-work was intentionally calculated at a scale which allowed of maximum weekly wages being earned in three or four days, so as to afford ample opportunity to the men at work for seeking regular employment.

B By means such as we suggest above it would be possible at the shortest notice to carry out the leading recommendations contained in the circular on the subject of the granting of relief issued by the Board of Supervision in the winter of 1879², namely that 'means should be adopted to apply what may be termed an artificial labour test, and that no person who refuses to submit to it should be admitted to participation; that covered sheds should be erected, so as to admit of work being carried on in all weathers; that labour masters should be appointed to superintend this work, whose duty it would be to check and report idleness or absence; and if any person alleges inability to do the work required of him, he should be examined by a Medical Officer, whose report would guide the administrators of the Fund; and that in the case of women, work for which they are fitted should be provided for them, either in rooms lined for the purpose, or at their own homes.'

PART III.—JUVENILE DELINQUENTS.

C Owing to the general adoption of the option given to magistrates, under the Act of 1893, of committing juveniles to reformatories without sending them to prison, the number of juvenile offenders imprisoned in Scotland has been greatly reduced. A return to be found in our Appendix³ shows that during the month of January 1885, there were confined in our Scottish Prisons 21 prisoners under 16 years of age with aggregate sentences amounting to 35 months. This is equivalent to a permanent average daily number of slightly over 7, and accords with another return which we had taken on the 18th of December 1894, which showed that the number of prisoners under 16 on that date was 8. A third return⁴ which we also give shows that in 1893, 64 children under 12 years of age were committed to prisons and legalised police cells in Scotland. Of the youthful offenders incarcerated during January 1895, one child of 11 had been sentenced to 24 hours' imprisonment, and a boy of 15 to 7 days, in default of payment of a fine of 20s. All the girls except one of 13, who was imprisoned as a witness, were locked up in default of payments of fines ranging from 5s. to 10s. 6d.

D Mr Morrin, who ceased to be a magistrate of Glasgow in November last, after having served as a bailie for five years, in the course of his evidence said,⁵—

E 'We have an enormous number of apprehensions for very trivial matters. We have boys brought up in great numbers for kicking pieces of paper on the street in the form of a ball, and any number of lads who are perhaps found standing at the street corner and obstructing the free passage of the people. We get such cases brought up in great quantities. The apprehensions with regard to football-playing on the streets are enormous in the football season, and it is a difficult matter for the magistrate to know how to deal with them—and I speak all their minds—because if it happens to be a damp day, and the ball flies up and goes against the passengers, the ladies get their dresses soiled, or the passengers get their ankles kicked. As I say, there is an enormous number of little boys from six to twelve years brought up for such offences as these.'

F For first offences,⁶ Mr Morrin went on to say, they are usually admonished. For playing football, after having been admonished, he had sometimes felt it to be his duty to fine them a shilling with no alternative of imprisonment; and he did not know of boys who had been sent to prison unless they were habitual offenders.⁷ Even for thieving he preferred to order whipping rather than imprisonment, but he believed his colleagues were of a different mind.⁸

G Having interviewed a number of young persons in various prisons, we are most strongly convinced that no boy or girl under sixteen should be sent to prison if it can by any possibility be avoided. Once imprisoned, the fear of imprisonment and its deterrent influence seems to vanish, and they are found in prison again and again.¹ In an analysis² of the ages of female prisoners in

¹ See Reports in Appendices LXXXIII. and XC.

² Report of Board of Supervision on the Unemployed, Scotland, Paper c., 7410, 1894, page 5.

³ Appendix LVIII.

⁴ Appendix LVI.

⁵ Q. 1696.

⁶ Q. 1772.

⁷ Q. 1775.

⁸ Q. 1779.

¹ Rev. H. M. K. Glasgow Prison on the 27th of October last, will be found a girl of fourteen, one of fifteen, and one of sixteen years of age. Two of these whom we interviewed were in for 60 days for malicious mischief. They had found a box of matches, and happening to pass a sheet that was hanging up to dry, they set fire to it, and by doing so nearly ignited the building from which it was hanging. One of them had been twice imprisoned for short periods for disorderly conduct (apparently simply horse-play) within the previous six months. A boy, whom we found at Barlinnie committed for a serious offence, had a short time previously been imprisoned for kicking a football into a 'sweetie' shop. Till recently, all inmates of reformatories were committed to prison before being sent to a reformatory. The percentage of commitments to prison among men who have passed through reformatories is, as we shall see, nearly four times that of the commitments among men who have passed through industrial schools, but who, as children, were never familiarised with prison. The fact is that the life of many children of the class from which criminals chiefly spring is a very hard one, and when they find that in jail they are regularly fed and comfortably housed in warm cells,—that they are not starved, or kicked, or beaten, or even sworn at, and that, for children at least, there is no hard work or harsh discipline in Scotch prisons, the terror vanishes with which, when known only from the outside, the prison is regarded, and the salutary deterrent effect disappears.

We recommend, therefore—

- (1.) That no child under fourteen years of age, who is not charged with a crime punishable by penal servitude, shall be committed to prison before trial; and
- (2.) That no person under fourteen years of age shall be sentenced, after trial, to imprisonment, except by a sheriff or superior judge.

² Report by
Inspector of
Reformatories,
p. 22.

The number of juvenile offenders (under sixteen years of age) committed to prison in Scotland in 1893 was 741, of whom only a comparatively small number were committed by sheriffs.³ The effect, therefore, of the adoption of these rules would be largely to reduce the number of juvenile commitments. As Mr Morrin explained, magistrates often experience great difficulty in knowing what to do with the juvenile petty offenders who are brought before them. Cases of petty theft, especially of coals, are very common, and boys and girls, convicted a second time of such offences, certainly deserve some punishment.

Appendix
XLVIII.

Whipping of Juveniles.—By 23 & 24 Vic. c. 105, sec. 74,⁴ whipping is authorised for males under fourteen years of age who are guilty of any offences for which it is competent to imprison or fine with the alternative of imprisonment, and the whipping may be inflicted instead of the imprisonment, or in addition to it; but, from the way in which the Act is worded, it is held to be doubtful whether a whipping can be made the alternative of failure to pay a fine.

We recommend that this doubt should be removed, and that it should be made clear that whipping could be ordered as a substitute for any fine in default of payment of which the prisoner would have to go to prison.

⁵ Q. 2757.

In certain courts, as in the Glasgow River Bailie's Court, the magistrate does not seem to have the power to order whipping, and other magistrates, from a mistaken idea of mercy, prefer to send boys to prison to having them whipped. So much is this the case, that Sheriff Rutherford, who, under an arrangement peculiar to Edinburgh, has sat on the bench of that city since 1882, told us⁵ that before he took his seat on the bench the provisions of the law as to whipping had never been put in force. He introduced the punishment, which he thought was much better than sending boys to prison. No other magistrate, however, resorted to it, and Sir J. A. Russell, ex-Lord Provost, told us that he, as a bailie, had once ordered a boy to be whipped, but he believed that was the only case of this punishment being ordered except by Sheriff Rutherford which had ever occurred in Edinburgh. In the year 1893 in all Scotland, 335 boys were whipped. These whippings, under a regulation issued by the Lord Advocate in 1886, are inflicted without the boys being sent to prison. We are of opinion that in police-court cases, where punishment of some sort must be inflicted, whipping is infinitely preferable to imprisonment, and that the age up to which it is competent might with great advantage be extended. Whipping with a birch is not a punishment suitable for girls, but so lamentable does your Committee consider the results of sending young girls to prison that they venture to recommend that in cases similar to those in which whipping can be inflicted on boys, girls might be subjected to a punishment which is meted out to them at public schools, and which has been sanctioned in the case of certain female industrial schools,⁶ namely, strokes on the hand with a leather strap or 'tawse.' Such a punishment would meet the case of boisterous conduct in the streets, or a petty

⁶ See Report,
by Inspector
of Reform-
atories, &c.,
1893, p. 25.

A theft of coals, much more fitly and with infinitely less disastrous results to the girl's future than a sentence of imprisonment.

B We therefore recommend that in convictions of persons under 16 years of age, whether the punishment enacted be imprisonment or a fine with the alternative of imprisonment, the magistrate should have power at his discretion in the case of males to order whipping as an alternative, and in the case of females strokes on the hand with a leathern strap or 'tawse.'

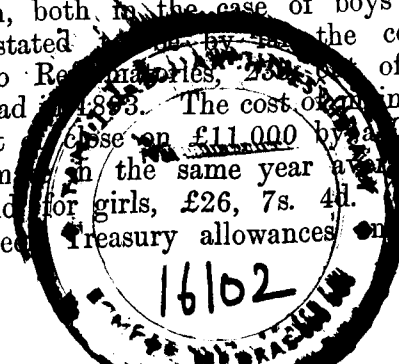
C As among certain Magistrates there appears to be a strong dislike to whipping as an alternative to imprisonment in the case of young persons, on the ground that it stirs up public ill-feeling, we would point out that our recommendation of it in such cases as preferable to imprisonment is supported not only by the practice of many Sheriffs, but by the resolution of the Petty Offenders Committee of the Glasgow Association for Improving the Social Condition of the People, and the admission of Mr Tallack, Secretary to the Howard Association¹, and Mr. Quarrier.² To meet the widespread objection to the use of the birch, however, it might be well to allow Magistrates in all cases to order the punishment to be inflicted on the hand with a leathern tawse, an implement to the innocuous yet deterrent effects of which many of them will be able to testify from personal experience.

D It may be well here to bring to mind that the necessity for either whipping or imprisonment in the case of a very large proportion of young offenders can be avoided by a judicious use of admonitions addressed by the Magistrate, either in public or in private, both to them and to their parents, and by a free use of the powers of the First Offenders Act.

REFORMATORY AND INDUSTRIAL SCHOOLS.

E Under the Reformatory Schools Act of 1893 a youthful offender may be sent to a certified reformatory school, either in lieu of punishment or in addition to it, if—(1) being under 12 years of age he is proved to have been previously convicted of a crime punishable with penal servitude or imprisonment, or being not less than 12, and not more than 16 years of age, he is convicted (without need of proving a previous conviction) of a similar offence. Every boy or girl therefore sent to a Reformatory must have been convicted of a crime punishable by imprisonment or penal servitude, and the period of detention prescribed is not less than three years, nor more than five, and never beyond the age of 19. In the case of committals to Industrial Schools, the inmates must not have been convicted, and there is no limit of the period of detention beyond the stipulation that it shall not extend beyond the age of 16.

F Prior to the Act of 1893, it was necessary before committing juvenile offenders to a reformatory to subject them to a term of imprisonment, and many Magistrates whenever it was practicable, refused to convict, and committed the boy or girl to an Industrial School. The Act of 1893 by giving Magistrates the option of sending youthful offenders direct to Reformatories has met the objection entertained to the preliminary imprisonment, and the number of commitments to reformatory schools, which, in Scotland in 1892 only amounted to 199, in 1893 suddenly rose to 270, the number of girls included in that total rising from 24 to 42. In 1894, however, it fell back to 207, the number of girls included being 29. The number of commitments to Industrial Schools was correspondingly checked, falling from 1020 in 1892 to 1006 in 1893, and 955 in 1894. There are nine Reformatory Schools in Scotland, and there were under detention in them at December 31st, 1893, 781 boys and 91 girls, numbers much larger in proportion to population, both in the case of boys and girls, than in English Reformatories. Larceny is stated to be the commonest offence for which juveniles are committed to Reformatories, 233 of a total of 278 having been committed under this head in 1893. The cost of maintenance is a little over £17,000 which is met to the extent of £11,000 by a Treasury Capitation Grant. The total cost per male inmate in the same year averaged £18, 1s. 8d. (against £21, 2s. 3d. in England), and for girls, £26, 7s. 4d. (against £20, 1s. 4d. in England). The balance between Treasury allowances and total cost is made up of subscriptions,



legacies, payments from voluntary associations, payments from county and burgh authorities, payments for hire of labour, 'sundries,' and the profits of the industrial departments of the Schools which in 1893 amounted to £2,482. To entitle them to receive the grant, Reformatory must be certified by the Home Office, under whose control they are, and they must submit to inspection, and comply with prescribed regulations, but otherwise they are managed by local committees, without whose sanction no boy or girl ordered to be sent to a Reformatory can be received.

Interim detention.—One result of the latter provision is, that juvenile offenders, except in cases where local authorities have made special arrangements, cannot be sent direct to a Reformatory, but must be detained, and often they are sent to prison for detention until arrangements for their reception in a Reformatory can be made. Such interim detention is permitted where necessary for a period not exceeding 14 days. The Act of 1893 permits of this temporary detention taking place in a poorhouse or other approved place not being a prison, and in view of our strong conviction of the undesirability of sending children to prison when it can be avoided,

¹ Report by Inspector of Reformatories, 1893, p. 11.

We recommend that the power of committing children consigned to reformatory for interim detention in prisons should be abolished.* We further recommend that local authorities should be encouraged or compelled to make arrangements with reformatory for the reception of children committed to them by Courts within their district.

This might easily be done by requiring such arrangements to be made as a condition towards the payment of the imperial grant in aid of the police. At present, juveniles committed to a reformatory when the statutory period of interim detention expires, unless some reformatory has consented to receive them, must be discharged, and the same in similar circumstances is the case with juveniles sentenced to imprisonment and subsequent detention in a reformatory. The arrangement we suggest would obviate this in the great majority of cases, but not in all. Under a regulation of the Home Office a medical certificate of health is in every instance required before admission to a reformatory. In Dundee prison, for example, we found a boy who had been repeatedly convicted. He had been ordered to be sent to a reformatory, but as he suffered from lupus of the face no reformatory would receive him. He had consequently to be discharged, and was rapidly degenerating into a regular gaol-bird. To meet such cases, we would recommend

That when a juvenile offender committed to a reformatory is found to be ineligible for admission on the ground of health, he should be sent to a poorhouse to be detained there for medical treatment until liberated on a report by the medical officer of the poorhouse to the magistrate or court which had committed him, which magistrate or court should have power at his or its discretion to cancel his commitment, or modify its terms if the obstacle to his reception had been removed, and to make such order generally as would best meet the exigencies of the case.

The same rule might, with modifications, be with advantage made applicable to the much rarer cases of friendless reformatory inmates discharged before completion of their sentence in consequence of illness.

The Success of Reformatory Work.—The question of the efficiency of reformatory schools for the purpose for which they are designed has a very important bearing both on the proper treatment of juvenile delinquents and on the probable success of any reformatory treatment of adult habitual offenders. We have, therefore, gone into this branch of the subject with great care. The Inspector of Reformatory receives reports concerning pupils discharged from reformatory and industrial schools for three years after their discharge, and his annual reports contain tables showing the number of cases reported on, the number of those doing well, of those convicted, and of those classed as 'doubtful' and 'unknown.' Concerning ourselves only with those respecting whom there is a positive report, we find that in Scotland

* In view of the case of the girl of 13 imprisoned as a witness, referred to page xxxvii, paragraph C., we would further suggest that the provisions of the Act of 1893 as to the temporary detention of youthful offenders committed to Reformatory in other places than prisons, should be extended to include the case of witnesses under 16 years of age whom it is deemed necessary to retain in custody.

A the number of cases reported as 'doing well' or 'convicted' for the last five years for which reports have been issued, has been as follows:—

EX-REFORMATORY INMATES.				EX-INDUSTRIAL SCHOOL INMATES.			
Males.				Males.			
Year.	Number Reported on.	'Doing well.'	'Convicted.'	Year.	Number Reported on.	'Doing well.'	'Convicted.'
1889	549	441	84	1889	2,208	2,009	84
1890	529	414	84	1890	2,264	2,056	101
1891	522	411	72	1891	2,232	2,053	106
1892	567	413	102	1892	2,222	2,022	111
1893	588	440	130	1893	2,106	1,888	91
Total,	2,755	2,119	472	Total,	11,032	10,028	493

Showing a total of 76·91 per cent. of boys reported on as 'doing well,' and 17·13 as 'convicted' within three years of their dismissal from the Reformatory.

Showing a total of 90·9 per cent. of boys reported on as 'doing well,' and 4·46 as 'convicted' within three years of their dismissal from Industrial Schools.

Females.				Females.			
Year.	Number Reported on.	'Doing well.'	'Convicted.'	Year.	Number Reported on.	'Doing well.'	'Convicted.'
1889	92	65	2	1889	665	608	7
1890	106	73	3	1890	673	620	8
1891	136	100	6	1891	671	617	6
1892	62	33	3	1892	625	571	10
1893	58	41	2	1893	613	564	10
Total,	454	312	16	Total,	3,247	2,980	41

Showing a total of 68·7 per cent. of girls reported on as 'doing well,' and 3·5 per cent. as 'convicted' within three years of their dismissal from the Reformatory.

Showing a total of 91·7 per cent. of girls reported on as 'doing well,' and 1·26 per cent. as 'convicted' within three years of their dismissal from Industrial Schools.

B In connection with these statistics, the curious fact deserves to be noted that while the percentage of females reported as 'unknown,' i.e., as having escaped from surveillance, during the three years reported on, is twice as great in Scotland as in England in the case of Reformatory (being 10 per cent. in the latter country against 20 per cent. in the former),—in the case of Industrial School girls, exactly the reverse holds good, the ratio of such 'unknowns' being under 5 per cent. in Scotland, as against 12 per cent. in England.

C The report of the Inspector of Reformatory each year contains a further paragraph quoting from reports sent to him by the prison authorities, the number of prisoners in English and Scottish prisons who during the year had been identified as having been inmates of Reformatory Schools. In the case of the Scottish prisons, the figures for the last five years for which we have the annual report on Reformatory is as follows:—

	Males.	Females.	Total.
Year.			
1889,	127	6	133
1890,	142	11	153
1891,	204	11	215
1892,	202	15	217
1893,	178	13	191
Total,	853	56	909

D Before passing from the reports of the Inspector of Reformatory, we would point out that the proportion of ex-reformatory prisoners recognised in Scottish gaols is very much larger than that in England.

INDEPENDENT INVESTIGATIONS.

Being struck with the number of persons whom we encountered in prison who were stated to have passed through Reformatory or Industrial Schools, we obtained from the Secretary to the Scottish Prison Commissioners independent returns for 1894, which will be found in our Appendix.¹ These returns show that 248 prisoners received in Scottish prisons during 1894 were recognised as former inmates of Reformatories, and 317 as former inmates of Industrial Schools.

¹ Appendix LXXVI.

A Statistical Comparison.—For the purpose of ascertaining how the percentage of ex-reformatory and ex-industrial school population committed during the year compared with the corresponding percentage in the general population, we obtained from the office of the Inspector of Reformatories a return showing the number of inmates annually discharged from Reformatories and Industrial Schools in Scotland since their establishment there. These figures we submitted to Mr J. Stewart, F.F.A., F.I.A., actuary to the City of Glasgow Insurance Company, who most obligingly calculated for us actuarially the probable surviving population which the respective numbers represented,² and the following table gives the results worked out on this basis:—

² Appendix LXXV.

	Population in 1895 actuarially estimated or actual.		No. of Individuals committed, 1894.		No. of Commit- ments during 1894.		Percentage of Individuals committed to Population.		Percentage of total Commit- ments during 1894 to Population.		Average total No. of Com- mitments per Individual recorded.	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Ex-Reformatory,	6,450	1,614	231	17	315	39	3.58	1.05	4.9	2.4	7.4	14.0
Ex-Industrial School,	16,188	5,109	282	85	367	77	1.74	0.68	2.27	1.5	4.4	27.0
General Population, Scotland,	in 1893. 1,976,487	in 1893. 2,117,472	in 1893. 24,588	in 1893. 11,665	in 1893. 32,088	in 1893. 18,660	in 1893. 1.24	in 1893. 0.55	1.62	0.88	...	...

In dealing with these figures we must of course bear in mind that in the case of ex-reformatory and ex-industrial school pupils identified, they necessarily fall short of the actual percentage. In view of the information required by the Reformatory Department, prison officials naturally question young prisoners as to whether they have been in a Reformatory or Industrial School, and in many cases recognise them as having been imprisoned before being sent to Reformatories. So long as a prisoner so identified is sent to the same prison, he is recognised and identified; but if he shifts his quarters, and after the lapse of a few years is sent to prison elsewhere, unless he happens to have been placed on the register of habitual criminals, the trace of his Reformatory career may be, and doubtless often is, lost. The same considerations, however, apply to the case of males and females and to ex-inmates of Reformatories and Industrial Schools; and the foregoing table is instructive as illustrating the different results afforded by the ratio of imprisonment to living population in the case of males and females and of the former pupils of Reformatories and Industrial Schools, respectively. The results shown do not lead one to doubt that the high percentage of cases 'doing well' reported during the first three years after their dismissal from Reformatories and Industrial Schools to a large extent holds good in the later portion of their career. It indicates, too, very markedly the much greater amenability to reformatory and educational influences become habitual offenders they find their way to prison much oftener than males, doubtless owing to the shortness of the sentences inflicted for the offences into which they are prone to fall (offences connected with drunkenness and prostitution) as compared to the long terms which males run the risk of incurring when they gravitate into the ranks of habitual criminals. That this is the case is shown by the fact that at Peterhead 20 of the 330 male convicts confined there during 1894 had at one time been inmates of Reformatory or Industrial Schools.⁴

³ See ante, Table, p. xli.

⁴ Appendix LXXV. c.

A Speaking roundly, the proportion of ex-pupils convicted within three years after their discharge is about four times as great in the Reformatory as in the Industrial School class,¹ and this general result accords, though not to the same extent, with the results brought out in our last table. The latter shows that while the percentage of individuals committed to population in the ex-reformatory class was largely in excess of the normal ratio of commitments to population, that of the ex-industrial school class pretty closely approximated to it. Reformatories, and especially male Reformatories, are therefore institutions where, in our opinion, young persons should not be lightly sent, and we recommend

¹ See ante Table, p. xli.

That no young person in future, who has not been convicted of a crime punishable by penal servitude, shall be committed to a Reformatory except for a second or subsequent offence.

We further recommend that the period of residence in those institutions should be shortened by a more extensive use of the power of licensing out, and that in the case of males, a much more frequent use should be made of the power of apprenticing to trades as provided for by the Act of 1891, a system which is adopted with the greatest success by some Parochial Boards in the case of boarded-out children under their care.

B This appears at present to be generally the practice in the case of girls who are in large numbers sent out 'to service,' in the first place under licence, and find themselves established in the ranks of honest workers, and probably removed from all old associations, before they become free agents.

C An Unwise Economy.—Male prisoners who have passed through Reformatories, whom we have cross-examined, have shown a wide acquaintance with other ex-reformatory pupils. They have told us that on returning to their native towns after their discharge they got among old companions; that youths discharged, even when not personally known, were recognised as from a Reformatory by the clothes they wore, and so introduced into the set—and on inquiry we find that this statement is not unfounded. While so much money is expended on our Reformatories, it is folly to permit their work to be neutralised, even to a slight extent, for the sake of petty economies in the clothes presented to pupils on leaving, and no trouble should be spared to settle them in a district removed from all old associations, and to avoid all chance of their being tempted back into the criminal ranks.

INDUSTRIAL SCHOOLS.

D There were in Scotland in 1893 in all 28 certified Industrial Schools. Two of these were training ships for boys, the 'Empress,' the 'Mars,' (with her tender the 'Lightning'), and of the remainder three were mixed schools for boys and girls. The total inmates under detention in schools, on the 31st December of that year, were 3298 boys and 1294 girls; on licence, 213 boys and 53 girls; and retained in school, sentence expired, 8 boys and 7 girls—in all, 4873. Their ages ranged from 6 to 16. These schools are maintained by a Treasury allowance,—varying largely according to class and age of case, and amounting in 1893 in all to £55,384,—by subscriptions, legacies, &c., contributions from county, burgh, and district authorities; by payments from parents and Parochial Boards (amounting in 1893 to £5585); hire of labour (£1189); and 'sundries'; and the nett profit of their industrial departments was £4962, 19s. 11d. The average cost per head in 1893 was for boys £14, 18s. (against £19, 0s. 4d. in England) and for girls £13, 10s. 9d. (against £17, 10s. 5d. in England).²

² Report Inspector of Reformatories for 1893, page 33.

E The children who may be sent to industrial schools are (a) those found begging; (b) those found wandering, and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence; (c) those found destitute, or orphans, or having a surviving parent, who is in prison or penal servitude; (d) consorting with thieves. In addition to these, under another sub-section of the Industrial Schools Act, 1866, children under 12, charged with a crime, may be sent to an Industrial School, but they must not be formally convicted, otherwise they are disqualified; and under a third section, unmanageable children can be committed at the parents' request. Under the Industrial Schools Act, 1880, children living with prostitutes, and frequenting their company, can be committed to industrial schools, as they can also now be under the Day

Industrial Schools Act, 1893, and the Prevention of Cruelty Act, 1894. Details as to the whole legal position of the matter are fully and clearly given in Memoranda drawn up by Miss Flora Stevenson and Professor Dove Wilson,¹ which will be found in our Appendix, and we need not therefore repeat them.

In his report for 1893, p. 11, the Inspector of Reformatories and Industrial Schools writes as follows:—‘I should like to see powers given to managers of Industrial Schools to deal with their children beyond the age of 16. Children who have found their way into the schools, less from any fault of their own than from the culpable negligence of their parents, should not be allowed to fall under their influence again. A good deal has been done in this direction of late years, by allowing managers to place in situations, to enlist, or even to emigrate children, without their parents’ consent, where the character of the parents or of the homes is notoriously bad. But something more than this is wanted; and where parents are not to be trusted with their children, the managers should be allowed to act *in loco parentis* until the age of 18 at the earliest. In Victoria, managers have very extended powers till the juvenile is of age, the parents being completely set aside where they have entirely neglected their duties towards their children. I cannot help thinking that the Colonial Legislature has taken a sensible view of the case.’ We observe with satisfaction that the recommendation embodied in the above extract has been given effect to by an Act passed in 1894.

With regard to these institutions, we repeat the recommendation that we have made for Reformatories—viz., that every opportunity should be taken to secure that a large proportion of the boys should be efficiently taught a trade, whether in the school itself or by sending out the boys, after their literary education has been completed, into ordinary workshops.

ADMINISTRATION OF REFORMATORY AND INDUSTRIAL SCHOOLS.

Finally, in the case both of Reformatories and Industrial Schools in Scotland, we are strongly of opinion that the control and supervision should be transferred from the department of the Home Secretary to that of the Secretary for Scotland, in which is already centred the control of Scottish Prisons, Poor Law Administration, and Education.

The Irish Reformatories and Industrial Schools are administered from Dublin Castle, but independently of this precedent, it is of great practical importance, in order to enable the results of a system on which much public money is spent to be efficiently checked and followed up, that these institutions should be administered by the same head as the Prisons and the Poor-Law. From an educational point of view, too, it is absurd that the inmates of Reformatories, Industrial Schools, and Day Industrial Schools should be taught according to the English Code, and the rest of the community according to the Scotch. As illustrating the practical effect of this anomaly, we may mention that on visiting a girls’ Industrial School at Dundee, we found in the highest class a number of girls going through the Fifth (English) Standard. About half of them had already passed in that Standard; about a quarter of them had already passed it twice, and were now going up a third time, while one girl had passed it three times, and was now going through it for the fourth time. Under the Scotch Code, these girls could have advanced to Standards VI. and Ex-VI. Again, in the case of Day Industrial Schools, whence children are constantly being transferred to Board Schools, the anomaly of working under distinct codes requires no argument to make manifest its bad effect. Independently, however, of purely educational considerations, we have already remarked on the importance of avoiding anything that in after-life may ear-mark pupils trained at Reformatory or Industrial Schools, and nothing can be more likely to lead to their identification than the fact that, being Scots, the standards as known to them differ entirely from the standards familiar to the general Scottish population. The transfer of Reformatory and Industrial Schools to the administration of the Secretary for Scotland, involving, of course, the control of their education by the Scotch Education Department, would get rid of this evil, extend the choice of Scottish teachers available, and enable the inspection, so far as educational requirements are concerned, to be undertaken by the Inspectors of the Department instead of being intrusted to an officer who, however willing and able he may be, has other

A important details to attend to, and whose responsibility extends over an area, the size of which alone must render effective supervision a matter of extreme difficulty.

B *The Orphan Homes of Scotland.*—We must not pass from the subject of Reformatory and Industrial Institutions without a reference to the excellent work done at Mr. Quarrier’s Orphan Homes. These Homes, a magnificent range of buildings situated at the Bridge of Weir, have been constructed and are maintained by voluntary contributions. Although, if Mr. Quarrier chose, he might claim a handsome donation from the Education Grant, he informed us that he prefers to keep himself entirely free from Government interference and control. The average daily number of children resident at the Homes is about 1,200, while that in the Reformatory Schools in Scotland is 872, and in the Industrial Schools 4,873—together 5,745. Besides a considerable sum made up by voluntary contributions, each Reformatory inmate costs the State about £13 per annum, and each Industrial School child over £11; while the total cost at Mr. Quarrier’s Homes, including outfit and emigration expenses, is only between £11 and £12 per head.¹ Of the children who pass through these Homes many have been in prison, and the rest belong to very much the same class as Industrial School children. The training they receive too is very similar, comprising not merely primary education but instruction in a variety of trades and industries. There is one essential difference, however, between the system pursued at Mr. Quarrier’s Homes and that adopted in Reformatory and Industrial Schools, and that is to be found in the much shorter period of training at his institution which he considers necessary in order to transform the mannerless, ignorant, and, it may be, criminal waif or street arab into the civilised and God-fearing boy or girl, who with a very moderate amount of help, guidance and supervision will honestly make for himself a respectable position in the world. Acting on this principle, out of his average daily population of 1,200, 250 are annually drafted to Canada and about 200 placed out in this country—a percentage very much in excess of that shown by Industrial Schools. The results of his Canadian emigration scheme have been especially satisfactory. Some 4,000 children have already been sent out to the Dominion. Many of them are married; some of them are now grandparents; and many of them have achieved excellent positions. In Canada their career is carefully and permanently watched by Mr. Quarrier’s son-in-law and daughter, who superintend his work on the other side, and by Mr. Quarrier himself in the course of his frequent visits to the Colony; and he assures us that 98 per cent. of the 4,000 are known to be doing well, and that he does not believe that it would be possible to find the names of 1 per cent. on the prison records of Canada. This is a much better result than that claimed for our Industrial School children, even within the three years during which they are kept under observation; and in view of this fact, it seems to us that a useful lesson is to be drawn from the results of the two methods of reformatory treatment of the young, and that the principle adopted by Mr. Quarrier—that of a comparatively short moral and educational training and a speedy transfer of his charges to a country where they are kept under supervision and effectually cut off from old companionship and old surroundings—might with advantage be borne in mind by those in charge of our Industrial Schools.

PART IV.—HABITUAL INEBRIATES.

C The remaining class regarding which your remit calls on us to report is that of Habitual Inebriates. These may be divided for practical purposes into two classes: (a) those who find their way into the hands of the police and into prison, and (b) those who simply come within the definition of the Habitual Drunkards Act, 1879, as ‘persons who, not being amenable to any jurisdiction in lunacy, are, notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, at times dangerous to themselves or others, or are incapable of managing themselves and their affairs.’

D *Habitual-Offender Inebriates.*—As to the first category, the proposals which we have already made under the head of Habitual Offenders fully meet their case. When dealing with that head, we called attention to the fact that habitual offenders seldom confined their appearances before the magistrate to one specific offence, but ran more or less through the whole list of those with which we have had to deal, branching off in the case of male offenders into more serious crimes, indictable or punishable by penal servitude. We illustrated this by analysing a return² as to female Habituals in Dundee, and we may further do so by briefly referring to

some other evidence on the subject which we have collected. Thus a return¹ A showing persons brought before the Dundee Police Court during the month of November 1894 for assault, breach of the peace, and disorderly conduct,—but excluding persons charged with being drunk and incapable, driving without lights, football-playing in the streets, brothel-keeping, shebeening, and contraventions of local bye-laws,—shows that of 130 males charged with these offences, only 17 were sober when the offences charged against them were committed; that of 41 females so charged, only 6 were sober; and that of the whole 171, over 86½ per cent. were under the influence of drink when the offence was committed. Had drunk and incapables been included, this percentage would, of course, have been largely increased, and we are well within the mark if we take it that 90 to 95 per cent. of the adult offenders charged before police magistrates in Scotland with offences other than contraventions of local police regulations are under the influence of drink at the time when the offences are committed.

From an 'analysis of the offences of males apprehended in Edinburgh upwards of B 4 times in 1893' which will be found in our Appendix² it appears that 46 men were responsible for 282 apprehensions. Seventeen of them had run up their record (two to the extent of 7 apprehensions within the year) exclusively on charges of 'breach of the peace or assault.' Four had achieved their record (one to the extent of 7 apprehensions within the year) exclusively on the charge of 'drunk and incapable.' One had been apprehended 5 times for begging only, and another 5 times for theft only, and the remaining 23 had mixed records. But, with the two exceptions of the beggar and the thief, in every case when the record does not include 'drunk and incapable,' it includes 'breach of the peace or assault,' charges rarely dissociated from drunkenness.

As to women, an analysis of the offences for which female offenders in Glasgow C Prison were convicted 6 times and upwards in 1893³ reveals some curious facts. The return records the cases of 238 prisoners, of whom 45, with convictions ranging from 6 to 17 each, had had no other charge against them than 'drunk'; only 3 of the 238 had no charge of drunkenness against them; 2 more had been imprisoned, one 7 and the other 8 times, exclusively for breach of the peace, and the remaining 188 had mixed records, generally including importuning, and less frequently breach of the peace and petty theft. Of the 238, 200 had been imprisoned 3 times or upwards for drunkenness during the year, and of these, 2 had each been sent to prison 18 times and four 17 times during the year for that offence.

Rapid Intoxication and 'Finish' Drinking.—The rapidity and frequency with which D some of these wretched women contrive to get drunk is astounding. When visiting one of the Glasgow Police Offices we saw a woman lying in a cell dead drunk. The Inspector informed us that she had been arrested in the course of the day and locked up; that her son and daughter had come to look for her, and wanted to take her home, but she was still too drunk to be let out; that after a few hours, when she had sobered, she was liberated on leaving a pledge, and that within a couple of hours she had been again apprehended and locked up in the condition in which we found her. In giving evidence before us, Mr Motion, Inspector of Poor to the Barony Parish, Glasgow, detailed the history of a woman named Jane M'Polland.⁴ He told us that this woman, whose mother, grandmother, and great-grandmother had all been chargeable to the parish, and whose illegitimate child was then boarded out by the parish, was 34 years of age; that since 1878 she had been almost continuously chargeable in Barnhill and other poorhouses; that she was in the habit of quitting the poorhouse 'when sufficiently recovered for 'another booze,' and when at liberty subsisted by begging and prostitution; that she had been convicted 63 different times since September 1887, and had been in prison 737 days, the charges against her being drunkenness, disorderly conduct, breach of the peace, malicious mischief, importuning, and theft. 'Since this statement was made up,' Mr Motion went on to say, 'she appeared last Wednesday at the office about 4.15 in the afternoon. She had been dismissed from Duke Street Prison that morning, and when she appeared in the afternoon she was almost unable to stand. She did fall in a heap at the applicant clerk's window, and then Mr Ferguson, my chief assistant, went to her side, and she was so weak or incapable that he had to put his ear to her lips, but even then could get no answer to his questions, and could make nothing of her. He sent for two constables, and she was taken to the Central Police Office, and again sent to prison.' On the following day, about 11 o'clock, while your Committee were taking other evidence, a note from Mr Motion was handed to the Chairman, in which it was stated

A that M'Polland had again appeared at his office drunk, and that he had sent her to the Municipal Buildings, where we were sitting, as a sort of object-lesson in support of his evidence. On calling in the Removing Officer he informed us¹ that M'Polland was at that moment lying in a state of stupor in a room below ('but,' he added, 'in endeavouring to get her to rise, she may get up and drive at me'); that she had got out of prison that morning, and at once got drunk, but that he had no idea where she got the drink. 'On many occasions,' he told us, 'he had taken a cab and gone with her to the poorhouse, so as to keep her till the doctor gave the necessary certificate,' and he intended doing so then unless she made herself so noisy that the police would take her up. Female prisoners with whom we spoke on the subject informed us that when dismissed from prison they were plied with offers of drink, and could generally get as much of it as they wanted, although they could not get food. Many of these drunkards, too, drink 'finish' (a solution of shellac in methylated spirits, used in furniture polishing), of which a couple of penceworth suffices to produce insensibility.

B The case of inebriates of this criminal class would be fully met by provisions for adult Reformatories, which we have recommended and explained in dealing with the general subject of habitual offenders. Into the 'Labour Settlements' which we have described they would gravitate automatically, and there they would be restrained for prolonged periods from drink, and subjected to the influences best calculated, according to the evidence of all who have made a study of the question, to cure them of their infirmity. That in many of these inveterate cases no permanent cure would be effected we should expect, but the inebriate would at least be kept sober and out of mischief for periods which would give him every chance; wherever he was able to do so, he would be compelled to contribute by his labour towards his maintenance, and society generally would benefit by getting rid of an expensive nuisance, and a source of danger and demoralisation to the community.

C *Habitual Inebriates within the meaning of the Inebriates Acts.*—We come now to the second class of inebriates, those, namely, who do not fall within the ken of the police, but are within the definition given in the Habitual Drunkards Act 1879, namely, that by reason of habitual intemperance they are at times dangerous to themselves or others, or are incapable of managing themselves and their affairs. Regarding this unfortunate class a large amount of evidence was placed before your Committee. The misery caused by them in many domestic circles in all ranks of the community is very great. Some of the clergymen who were witnesses had given much attention to the matter, and taken considerable trouble to arrive at some idea of the extent of the evil. The Rev. D. M. Ross of Dundee,² who has made the subject a special study, stated that 87 non-criminal habitual inebriates were known by 28 ministers in Dundee in connection with their pastoral work.³ The representative of the Glasgow⁴ Presbytery said there were hundreds of such cases; and the Rev. Dr Blaikie,⁴ that in all⁵ classes of society, the upper as well as the lower, this evil prevails. The unanimous opinion presented was, that if anything could be done to relieve the many households throughout the country which suffered silently from the affliction of having among their members an habitual inebriate, and, if possible, to effect the reformation of the individual himself, a very great step would be secured towards the social well-being of the country.

D One illustration of the extent to which this unanimity prevails, mentioned to us by Mr Martin, an Edinburgh missionary, was so unique that we give it in his own words:⁶ 'A week last Monday night, I was in our Reading and Recreation Rooms in the Canongate. I went out about half-past seven o'clock to where there might be close upon 100 men drawn from model lodging-houses, &c., and I asked them if they would give me half-an-hour to discuss with them the best method of treating habitual drunkards. At first there was a little resentment, which arose out of their thinking that they were to be treated as criminals. But when I explained to them that they would be treated from a medical stand-point, they at once started to discuss the question, and after a good deal of discussion I put it to the meeting that habitual drunkards be treated irrespective of their own wills; and at once it was unanimously agreed that that would be a great boon and blessing for habitual drunkards.'

EXISTING RETREATS.

In dealing with the subject it seems best to set out at some length the various means at present existing in Scotland for coping with the evil. The provisions of the Inebriates Acts extend to Scotland, but no licensed retreat exists in that country. There, are, however, several unlicensed institutions where inebriates, whose friends can induce them to enter them, are cared for. The largest of these is Queensberry House and Lodge, Edinburgh. That institution consists of two separate buildings devoted to different purposes, but within the same enclosure, and under the same Committee of Management and the same Governor, Major M'Cartney.

Queensberry Lodge.—The lodge is described as 'a temperance home instituted for ladies,' and is also an invalid home.¹ The number of its inmates varies from 12 to 20, and in November 1894, when we visited it, there were about 16,² about half of whom were inebriate cases.³ The inmates pay from £50 to £100 a year—the majority of them £50 or £60.⁴ The money to build the lodge was originally raised by subscription,⁵ and it is self-supporting, and yields a profit⁶ of about £50 or £100, occasionally rising to £200 a year,⁷ which goes towards the maintenance of Queensberry House, which is not self-supporting. The number of admissions into the lodge from 1886 to 1893 was 759,⁸ of whom about half would be inebriates.⁹ This would give an average of about 54 inebriates per annum, and allowing for the shorter stay of invalid cases, and assuming even 15 of the 20 beds to have been monopolised by inebriates, the figures would show the average residence in the lodge to be between three and four months. Some of the inmates, however, reside there permanently,¹⁰ and would count as only one 'admission,' and as they encroach on the available accommodation the average stay of the remainder must have been correspondingly less. According to Major M'Cartney,¹¹ 'those who stayed there for a year or two rarely returned, that is to say, if the crave for drink had been starved out of their system, but if they had been in for a short time they frequently came back sometimes two or three times over.' The inmates of Queensberry Lodge are allowed out, but never unaccompanied by the Matron, Chaplain, or Governor, and on one occasion¹² when the last named had taken some ladies out to buy Christmas presents for their children, one of the ladies absconded. She was, however, subsequently brought back by her husband, who was a minister. If friends come to visit the inmates they must, before admission, give their word that they have no liquor about them. If there is any reason to suspect their truthfulness they are searched.¹³ Occasionally the inebriate inmates prove restive, and write to their law-agent or to the Sheriff, and the latter advises them to remain, or the Governor to release them, as he thinks proper.¹⁴

Queensberry House.—Queensberry House is a much larger establishment. It embraces separate departments for men and women, and people of all classes are received as boarders at from 4s. 6d. to 10s. per week.¹⁵ It contains about 300 inmates altogether,¹⁶ of whom 200 are females,¹⁷ and embraces a hospital for 54 patients, half of them incurable,¹⁸ night shelters for 20 men and 20 women, and a department which supplies 100 poor children with food gratis, and a number of others at a penny per meal.¹⁹ Among the inmates are a number of pensioners, male and female,²⁰ young persons under detention while arrangements are being made for their committal to reformatories and industrial schools, and for whose keep the Local Authorities pay an annual subscription of £50, boarded-out paupers, and inebriates, of whom among the females there are about 50,²¹ and among the males about 12.²² Besides boarders, who pay in the aggregate over £3000 a year,²³ destitute men and women are admitted, and are made to do the work of the establishment in return for their keep. The institution is not self-supporting, and the deficiency is met by subscriptions from the public. The inebriates either come in of their own accord (often as 'destitutes') or are sent in by fathers, husbands, brothers, or other relatives on whom they depend. Sometimes a husband and wife come in together (apparently each escorting the other), and are both taken in.²⁴ To quote Major M'Cartney,²⁵ 'an unfortunate man will tell you that he cannot work by day or sleep by night owing to a drunken wife, and he asks me if I will take her in. If she is not willing to come, I do not mind taking her in until we sober her and put her into a right state of mind, and try to teach her by her surroundings the folly of her procedure.' In reply to the next question,²⁶ Major M'Cartney said that to accomplish this would take probably a month, possibly two. 'We have,' the witness went on,²⁷ 'a place called the nursery where we take in the first cases, and we have a moderate

A 'strong woman who is able to look after them. We give them as much buttermilk and potass water mixed up together as they can drink, and they drink any quantity of it. We give it to both men and women, and sometimes we give the buttermilk alone.'

B After that stage, Major M'Cartney keeps the patients within bounds for two months, and then commences gradually to entrust them with liberty, beginning on Sundays when the public-houses are shut, and stopping short at Saturday, when the temptations are too great.¹ After a certain time, however, there is no restraint placed upon their liberty,² but 'if they return under the influence,' added the governor, 'I shut them up for two months according to the rules.' If they refuse to submit they are turned out of the institution. Everybody is searched on coming into the house, and a prize of a shilling given for every bottle detected either on a boarder or a servant.³ The results of this treatment are described as satisfactory. To quote the official report, 'information cannot in all cases be obtained as to the benefit derived, but good accounts have been received in regard to a large number of boarders, particularly those who have resided in the Home for a period of four months or longer.'

C *Brownslaw Home.*—A small retreat concerning which we received a most satisfactory account, was the Brownslaw Home for Female Inebriates, Peeblesshire. Mrs Lockhart, the honorary secretary of the Institution, who gave her evidence with exceptional clearness and intelligence, informed us that this Home had been in existence since March 1876, that it can accommodate 12 women, and that since it started, 190 have passed through it.⁴ So far as her information went, 78 of these had been quite reformed.⁵ Women are not received unless they come willingly and sign a paper undertaking to comply with the rules—a copy of which is sent them, and which include an undertaking to stay there a year. Formerly, the residence stipulated for was six months, but the results were unsatisfactory, and it is now raised to twelve months.⁶ The result is that a great many applications come to nothing, only 34 admissions having resulted from 122 applications received since 1891.⁷ The written undertaking as to residence, though not legally binding, has an excellent moral effect. The want of legal powers was 'continually felt,'⁸ and Mrs Lockhart believed that a large amount of refractory conduct among inmates occurred because they knew that the powers of those in control were limited. The charge made to inmates is 7s. per week, the first three months to be paid in advance, and the balance in advance monthly or quarterly, as may be arranged. The object of requiring this prepayment is to obtain a hold on the inmates. The cost per head is nearly double what they pay, being £35 a year, and the balance is made up by subscriptions. The Home is specially designed for women of the poorer classes, and they don't care for lady patients, who are apt to cause trouble, but they have passed through their hands a colonel's wife, a minister's wife, a sheriff's daughter, and a number of governesses.⁹ The board of inmates is paid for by relatives or friends, and Mrs Lockhart could not recall a case in which it had been paid out of the inmate's own earnings. Although the women sign only for a year, when it is thought advisable an endeavour is made to persuade them to remain for a longer period. Of the 190 inmates passed through the Home, 56 had remained between twelve and eighteen months, 23 for over eighteen months, and 7 for two years.¹⁰ Two of the 7 two-years' cases broke down on dismissal, but the remaining five did well.¹¹ When the women really desire to escape from the thralldom of drink, it is a great help, but when they submit to moral compulsion at the hands of friends, and only remain in the Home because they cannot help it, the prospect is less hopeful.¹² According to the rules of the establishment only women of respectable character are received, but women have been admitted who would have been refused had the managers known what they subsequently learned, and these women had turned out satisfactorily.¹³ There is only one paid servant in the house, and the inmates are kept busy with the domestic, gardening, dairy, and other work, and are encouraged to take exercise on the hills around. Examined as to specific cases, Mrs Lockhart evidenced a personal acquaintance with the history of ex-inmates which convinced us that her statement as to the high proportion of reclamations may be relied on. This, for example, is what she said when cross-examined about the colonel's wife above referred to:—

D 'Hers was an exceptional case, because her husband was given to drinking too. They had been in India for many years, and there she had formed the habit. She came into the Home by the wish of her friends. I was very averse to take her, simply because she was a lady, and the Home was not intended for such. Her husband, however, had commuted a portion of his income, and she came for a period of twenty-two

months into the Home. She left the institution six years ago, and she is now living in A
 ———, and has done splendidly. She is with her husband, who still takes drink, but
 Q. 5761-C4. 'she has held out notwithstanding.'

Another very encouraging case which Mrs Lockhart described was that of an inmate B
 who, after doing well in the Retreat, returned to her home in Glasgow.

'Her husband was waiting to meet her at the station there, and the first thing he C
 did on her arrival was to propose that they should go to the refreshment room and
 drink to her return. She declined, and was very indignant, and there was rather a
 row at the station. She would not take the drink, however, and, as a matter of fact,
 she remained an abstainer until her death.'

Isolated Inebriates.—There appear to be one or two other unlicensed retreats for D
 inebriates in Scotland, and we came across inebriates, within the meaning of the Habitual
 Drunkards Act, 1879, inmates of other institutions. Thus in the Glasgow Hill Street
 Shelter for Fallen Women, among the inmates whom we interviewed was a widow (of good
 character), who, after her husband's death, had taken to drink—habitual drunkenness in
 women very frequently appears to date from widowhood,²—had sold her furniture and
 gone out as a cook, been dismissed from one situation after another for drunkenness, and
 finally been told by her father-in-law, to whom she applied for help, that if she would go
 into the Hill Street Home for a year and try to reclaim herself he would help her, if not
 she might go to the poorhouse. She elected to go to the Home, and professed to have quite
 got rid of all desire for drink. Another similar case we found in Lochburn (Magdalene)
 Establishment, near Glasgow—a wife (of good character) whose husband had induced
 her to try a two years' residence there as a cure for drunkenness. When we visited the
 institution she had rather overstayed her time and had been promoted to some petty
 charge in connection with the laundry.

INEBRIATE PATIENTS IN LUNATIC ASYLUMS.

A number of habitual inebriates throughout Scotland enter lunatic asylums as E
 voluntary patients. In order to do so they must first obtain permission from the
 Lunacy Commissioners.³ This in practice is never refused.⁴ Once in they can
 only leave on giving three days' notice, and during their residence the medical
 superintendent has the same authority over them that he has over lunatic patients.⁵
 Medical officers of asylums almost unanimously discourage the reception of
 habitual drunkards who are not insane, on the ground that they cause trouble
 and demoralise the lunatic inmates with whom they associate. In Mavisbank Asylum,
 Polton, however, a contrary policy is pursued, and Dr Wilson, who had been six months
 medical superintendent there, and who had had four and a-half years' experience at Morning-
 side (where the opposite view is strongly held by Dr Clouston), told us that in his opinion
 good rather than harm resulted from the admixture of sane inebriates with the ordinary
 inmates of an asylum,⁶ and that he thought that even for the inebriates, association with
 convalescent lunatics who are not drunkards had its advantages.⁷ In Mavisbank there is
 an average of 12 alcoholic and 42 lunatic patients.⁸ The inebriates in a few cases come
 in of their own free will and at their own expense, from a feeling that they are getting
 beyond their own control, but they generally consent to enter under compulsion of their
 friends.⁹ They pay at the rate of £100 to £150 a year, and payment for six months is
 exacted for the purpose of giving the managers 'a financial pull' over the patients—the
 rule being that if these are discharged before the expiration of the term paid for the balance
 of their board is refunded, but if they discharge themselves against the advice of the
 medical superintendent or of the family physician the board is forfeited.¹⁰ The period
 for which they remain varies from six weeks to six months, but as a rule they don't stay
 out the six months.¹¹ Dr Wilson considered that 'suggestion' would be even more
 effective in the treatment of uneducated than that of educated patients, frankly avowing
 that 'the method of treatment by suggestion is largely based on the gullibility of
 the patient.'¹² He considered that the notion of the drink crave was very much
 exaggerated, and stated that he had found very little of it among his patients.¹³ He
 believed that with compulsory powers of detention a great many inebriates might be
 cured, but he did not advocate prolonged detention in every case, stating that he had
 met with one or two cases in which he had evidence that prolonged detention, even for

A the length of a year, would do more harm than good—cases in which a man would do
 much better outside, occupied with his work and helped by his friends than exposed to
 the monotony of an asylum or retreat.

B We have dwelt at some length on Dr Wilson's views, because he was the only medical
 witness who came before us who approved of the treatment of inebriates in asylums, and
 because he had arrived at a number of definite conclusions, as the result of a practical
 experience. The weak point in his evidence was that the cases from his asylum had
 not been followed up, and, unlike Mrs Lockhart, he was unable to tell us of ultimate
 results. It should further be borne in mind that the Mavisbank is a private asylum,
 that therefore in its case the managers may not be in a position to regard the question
 of the treatment of inebriates in lunatic asylums from so disinterested a point of view as
 the directors of public lunatic asylums, and that medical officers connected with the
 latter institutions of such eminence and experience as Dr Yellowlees, Dr Clouston,
 Dr Rorie and others, condemn the admission of inebriates into lunatic asylums and
 recommend their treatment in separate institutions. As, however, their objections are
 based primarily on consideration for the lunatics who are the proper objects of their
 care, while commending them to the attention of the Scottish Commissioners in Lunacy,
 dealing, as we have to do, simply with the interests of the inebriates, we do not feel our-
 selves called on to recommend any change of the present law on the subject.

SECRET 'CURES.'

C We also received evidence from representatives of Committees which had been
 formed in Dundee to test the efficacy of the so-called 'Tyson Cure,' and in Glasgow that
 of the 'Metabolic Treatment.'

D 'The Tyson Cure.'—The Rev. David Macrae and Mr Thomson, solicitor, gave
 evidence on behalf of the Dundee Committee. From their statements it appeared that
 in consequence of statements published concerning the Tyson Cure the Good Templars of
 Dundee determined that a trial should be made with it. A Committee was formed,
 persons of very intemperate habits were selected for treatment, and Dr Tyson's London
 agent went to Dundee to superintend the experiment, which commenced on the 5th
 January 1894. The patient was given a bottle of a liquid the composition of which was
 secret, but of which strychnia was said to form an ingredient, and of this he was to take
 a small dose hourly for twelve hours each day for twenty-one days. Twice a day those
 under treatment took these doses under the inspection of members of the Committee.
 The other doses they were instructed to take as they pursued their avocations. Nineteen
 patients went through the twenty-one days' course.¹ The result at first seemed very
 satisfactory, and the Committee reported on the 2nd February 'that the statements
 made by Dr Tyson up to the close of the treatment were fully justified.'² The Com-² Q. 8479.
 mittee followed up the cases. By the 11th of October, or 8½ months after the
 conclusion of the treatment, all but 4 had relapsed into their old habits. Of the
 15 who had done so, however, it was asserted 'that in no case had the lapses been due
 to a return of the craving.'³ They had all resumed drinking because they wanted to
 join their old friends.⁴ The regular charge for the treatment was £10 per case,⁵ but if a
 temperance society recommended a *bona fide* case, and the party was not able to pay
 £5 or £6, they would supply it for £2 or £3,⁶ and Tyson's Belfast agent has sent round
 a circular offering supplies for £2.⁷ The medicine was described as in some cases not
 merely curing the drink craving, but occasioning a positive aversion to drink.
 Q. 8489.
 Q. 8482.
 Q. 8519.
 Q. 8540.
 Q. 8520.

E 'The Metabolic Cure.'—Regarding the Glasgow experience, Mr King, solicitor, Dr
 Currie, and Dr Nairne gave evidence. From this it appeared that the Metabolic
 Treatment, invented by a Mr Coykendall, an American, owed its name to the theory that
 it effected a change in the tissues of the patient. The regular cost of the treatment is
 20 guineas,⁸ but its discoverer made an arrangement with some philanthropic gentlemen
 in and about Glasgow under which, for a sum of £300 (£100 paid in advance), he
 accorded them the privilege of putting this treatment within the range of the poor⁹ at
 a cost, however, of about a guinea for medicine in each case,¹⁰ and Mr King acted as
 the legal agent in the matter. These gentlemen set up an institution which they named the
 Glasgow Institute for the Treatment of Inebriety, and appointed Dr Currie, an M.D. of
 Cincinnati, its superintendent. For a time Dr Nairne, a registered medical practitioner,
 was associated with him, but the connection was severed in consequence of the General
 Q. 10,930.
 Q. 10,939.
 Q. 9207.

Medical Council bringing Dr Nairne before them on a charge of infamous conduct in a professional respect in associating with Dr Currie. At that Institution 50 paying and 57 non-paying patients had been treated,¹ of whom Mr King stated the number of cures at one-half, and Dr Currie 'roughly two-thirds.'² The treatment consisted of the injection four times a day of a secret preparation which Dr Nairne from its effects supposed to be a compound of strychnine, morphia, and cocaine,³ combined with the administration by the mouth of a medicine which in certain instances Dr Nairne suspected contained an emetic among its ingredients. The result was after the first week to create an aversion to drink which lasted for a month or two,⁴ and patients were allowed to use liquor if they liked while they were undergoing the cure, which extends over three weeks. Mr King stated that they did not call a case successful unless abstinence had been maintained for over a year, and he knew two cases which had remained sober for 2½ years.⁵

Although Messrs Macrae, Thomson, and King had no other interest in these cures than a philanthropic one, and their evidence was doubtless given in all good faith, that of Mr King as to the high percentage of cures in Glasgow was not sufficiently detailed to carry conviction in a matter where the vendors of the medicines kept their nature secret and extracted large sums for their sale, and in connection with one of which the Medical Council had considered it necessary to take such strong measures as had been adopted in the case of Dr Nairne. Moreover, there was no proof in the course of the evidence that any results that were obtained were physical, and not due to 'suggestion' and the use of officinal tonics and well-known drugs, in the manner described by different medical witnesses as constituting an admittedly valuable part of regular therapeutical treatment of alcoholism.

Everything we have heard leads us to believe that no reliance whatever is to be placed upon these secret cures, which in our opinion are absolutely worthless.

The Theory of the Cure of Inebriety.—The opinion of the most eminent medical authorities, many of whom, such as Professor Gairdner, Sir Douglas Maclagan, Dr Yellowlees, Dr Clouston, Dr Urquhart, Dr Nicolson, Dr Norman Kerr, Sir James Crichton-Browne, and others gave evidence before us, is unanimous in bearing out the popular opinion that the effect of inebriety is to destroy the will power of the victim in a manner which can only be remedied by prolonged abstinence from drink—an abstinence which can in the great majority of cases only be ensured by effective physical control, supplemented for restorative purposes by appropriate medical treatment. This view of the subject is advanced not only by the medical gentlemen whom we examined, but practically by the whole medical profession; and the reasons given in support of it have sufficed not only to carry conviction to our minds, but to convince the Select Committee on Habitual Drunkards of 1872, and the Departmental Committee of 1892. We content ourselves by referring to the evidence of the gentlemen whose names we have quoted for particulars of the technical details of what from a psychological and physiological point of view is an extremely interesting problem, and at once proceed to the question of how best practically to deal with the matter.

Inebriates Acts provide only for Voluntary Admissions.—The Inebriates Acts provide only for the compulsory detention in retreats of patients who sign an application for admission and an undertaking to remain there for a given time. This application must be attested by two justices of the peace, who have to explain its effects to the applicants, and who exhibit their signatures only on the production of a statutory declaration signed by two persons that the applicant is an habitual drunkard within the meaning of the Inebriates Act, 1879. Such patients are known as voluntary patients; but though they may sign the application voluntarily, the majority enter the retreat under strong persuasion or even moral compulsion at the hands of relatives and friends, in precisely the same way as, in the case of the unlicensed retreats and lunatic asylums in Scotland, we have seen that inebriates are constrained into placing themselves under control. In many cases no doubt the persons applying for admission are themselves anxious for help to reform, and good advice, or a generous offer to defray their board, may be sufficient to turn the scale and induce them to enter a retreat or asylum; but in a large number of instances the step is taken, often very reluctantly, in obedience to a husband, father, or other purse-bearer, who gives the inebriate the alternative of treatment in an institution, or expulsion from home and the stoppage of further supplies.

A Want of Power of Compulsory Commitment.—Besides persons amenable to such influences, there are many habitual inebriates, and those of a class probably the most noxious to the community, who themselves are the purse-bearers and heads of families, and the want of some means of dealing with this class of cases has long been acutely felt. Provision for this purpose was contained in the Habitual Drunkards Bill of 1878, but at that time the whole idea was novel in this country, and it was found necessary by the promoters of the Bill, in order to carry the principle of the compulsory detention of habitual drunkards, to throw overboard every detail to which serious opposition was raised. Now, however, the experiment on a small scale has been in operation for many years, and there is a popular demand for its extension.

B Inebriates of the Wealthier Classes.—In dealing with such there is no great difficulty in suggesting the necessary legislative machinery. They or their friends can pay for their support in a retreat, and there is no departure from precedent in vesting property, if they have any, in a curator¹ for the support of their families while they are under treatment, and, with a proper judicial tribunal to decide whether the person whose committal is asked for is or is not an habitual drunkard within the meaning of the Act, and to take care that his property is honestly administered, everything that is necessary is provided for. But a much more serious difficulty exists in connection with this class of cases which no amount of legislation can affect, and that is the indisposition of wives and children to apply legal compulsion to husbands and parents on whom they depend, and the reluctance of husbands and fathers to face that publicity which, if asked for by the recalcitrant inebriate, it would be impossible in the interest of the liberty of the subject to refuse. How far such considerations would operate to prevent the class of inebriates to which we refer from being dealt with, experience alone can show.

C The Inebriate Poor.—When we come to them the question is more difficult, and yet it is one of such pressing urgency that no proposal for dealing with the subject which did not endeavour to meet the difficulty could be regarded as at all complete. For our purposes, inebriates coming under this category may be divided into two classes. The first consists of persons who get drunk constantly, ill-treat their wives and families, and reduce them to beggary, but manage to keep clear of the police, and by their actions give no serious cause of offence to their neighbours. The wife or mother who is kicked or beaten during these drinking bouts is probably the person of all others most anxious to conceal the inebriate's misdeeds. If she chooses to do so, no legislation can compel her to make them public.

D Wife-beating Cases.—If the wife cares to call in the police, the recommendations which we have made as to habitual offenders would with a slight addition meet her case. Thus in Greenock prison we came across a prisoner whose habit it was when at liberty to get drunk whenever he could, and whenever he got drunk to beat his wife. She retaliated by calling in the police, and his record of imprisonments was such as would long ago have relegated him to a Labour Settlement had the plan we have recommended been in operation. As it was, he candidly admitted, as a matter of course, that when he got out he would get drunk again, and equally as a matter of course that in his drunkenness he would avenge upon his wife the hardships of his imprisonment.

E To meet such cases (and though we have quoted an extreme one, such cases are not rare)

We recommend the extension to Scotland of a provision of the Matrimonial Causes Act, 1878, Section 4 of which provides that if a husband is convicted of an aggravated assault on his wife, the magistrate before whom he is tried, if satisfied that the future safety of the wife is in peril, may order that the wife shall no longer be bound to cohabit with the husband, which order shall have the effect in all respects of a decree of judicial separation on the ground of cruelty, and the magistrate may further order a weekly sum to be paid to the wife for her support, and may give her the custody of children under the age of ten.

F Committal at Instance of Friends.—So far as the poor inebriate under the Act of 1879 is concerned, with powers of compulsory commitment, the working man would stand in the eye of the law in the same position as the merchant or professional man, so long as he could, on cause shown, obtain that commitment on providing for the support

of his wife. By the intervention of philanthropic institutions he can already do so at very much less than cost price; and the utmost recommendation which we consider ourselves justified in making to meet his case is that local authorities should be empowered to subscribe towards licensed retreats in consideration of their receiving at reduced rates inebriate cases recommended by them, and that in districts in which no such arrangement had been made, or where the rates stipulated for were higher than the friends of the inebriate could afford, the Sheriff might commit him to a Labour Settlement or Poorhouse, so long as his friends continued to pay a sum to be fixed by Rule, from time to time, by the Secretary for Scotland, and calculated not to exceed the nett cost of his maintenance in one or other of these institutions.

Committal at instance of Procurator-Fiscal.—There is, however, a second class of inebriates within the meaning of the Act of 1879 who manage to keep clear of the police but who yet give rise to so much annoyance to their neighbours that we think that the Procurator-Fiscal in the public interest should be empowered to take steps for their compulsory committal. A man, for example, living in a tenement house, constantly comes home drunk, terrifying the female and infant population of the building, but doing nothing which can render him liable to imprisonment. After he enters his rooms blows and wrangling are heard, keeping the neighbours awake night after night, but as the wife will not complain, or, if she does, perjures herself when the case comes up to obtain her husband's acquittal, he escapes, and the annoyance continues. In such a case we think the aggrieved neighbours should be entitled to lodge a complaint with the Procurator-Fiscal, and that if, on investigation, he considers it a proper case for the committal of the man as an habitual inebriate within the meaning of the Act of 1879, he should be empowered to bring him before the Sheriff and apply for his committal to a retreat, in the same manner as he at present does in the case of a dangerous or offensive lunatic.¹ If the inebriate, or any one responsible for his support, pay, he should be ordered to do so and allowed to select the retreat; if not, we consider that, the step being taken in the public interest and at the instance of a public prosecutor, the inebriate should be committed at the public cost to a Labour Settlement or poorhouse, as the Sheriff may think fit.

Sutherland
Appendix
XXXI.

Q. 14,032.

Every Retreat should be licensed.—With regard to habitual inebriates who simply come within the definition of the Act of 1879, we have arrived at the conviction that every institution or home receiving more than a small maximum number of inmates, or in which any inebriate is detained for longer than six months, should be licensed and inspected. At the present moment, in every house licensed under the Inebriates Act, as the condition of the powers of detention which those Acts confer upon licencees, the retreats are subject to inspection and controlled by the Home Office. The object of this inspection and that control is to secure the liberty of the subject. But it is open to any one who chooses to disregard the law, and detain patients as best he can, to set up an unlicensed retreat and conduct it as he likes, subject only to the risk of having actions raised against him for false imprisonment. In Scotland, although there are, as we have seen, several inebriate retreats none of them are licensed, and in England of all the retreats for on resort to illegal compulsion in a manner prejudicial to the well-being of the patients, but no one can have read the *résumé* which we have given of Major M'Cartney's evidence—of his reception of inmates when drunk, and his retention of them indoors for two months—without feeling that although that gentleman's mode of procedure was doubtless dictated by the very best intentions, in the hands of a man who had a direct interest in the board of those in his establishment it might lead to very dangerous results. On our visit to Queensberry Lodge, for example, we found a lady who told us that she had been persuaded by her husband to go in for a month, and who complained bitterly that she had been kept there four and a half years. She admitted that she was not forcibly detained, and that she remained there because her husband refused to take her back or to support her if she left.* But the same possibilities of abuse which dictated inspection and control in the case of Rickmansworth Licensed Retreat (an institution in which no one has any pecuniary interest) appear to us to indicate them in the case of Queensberry Lodge. In Queensberry House, again, we accidentally witnessed the following incident. Emboldened probably by our presence,

* Since the above was written we have been shown a letter from another lady, who also consented, at the instigation of friends, to go to Queensberry Lodge for a short time, complaining that, in a period now extending to close on six months, she has not once been allowed to leave its grounds, even under the customary escort, and that her letters home having all remained unanswered she is plunged into very grave anxiety.

A an inebriate inmate abused the governor for detaining him, and asked to be allowed to leave. The governor replied that his friends had sent him there for two months, and when these had elapsed, if they consented, he should be discharged. From the man's appearance it looked as if his detention was for his good; but the incident pointed very clearly to the necessity of inspection and control—a moral which was enforced by the stories of months of confinement within the precincts of the building by the governor's orders, for lapses from the path of temperance, of which inmate after inmate, who confided to us his or her experience, spoke. Major M'Cartney told us that he wanted no more powers than he had, and that he was able to rule his heterogeneous flock by 'force of character'; but while crediting him with every good motive, and the achievement of much good work in connection with very unpromising material, we cannot help believing that every consideration which calls for inspection and control in the best of the English retreats, applies with not less force to the case of the fifty female and dozen male inebriates who inhabit Queensberry House.

B *Scottish Retreats should be administered from Scottish Office.*—As Scottish administration generally has, since the passing of the Habitual Drunkards Act, 1879, been transferred to the Secretary for Scotland, and as the Inebriates Acts, which up to the present have been a dead letter so far as that country is concerned, would come into operation for the first time were our recommendation as to the compulsory licensing of retreats adopted, we are of opinion that in any amendment of the Inebriates Acts the powers conferred on the Home Secretary should, in the case of retreats in Scotland, be conferred on the Secretary for Scotland. We are convinced that in this way an economical and efficient system of administration and control could be best secured.

C We make, then, the following recommendations (numbers 4 to 8 inclusive being identical with the recommendations of the English Departmental Committee of 1892, or differing from them only so far as is necessary to render them applicable to the case of Scotland) on the subject of Retreats for Habitual Inebriates, within the meaning of the Act of 1879:—

- (1) That it shall be unlawful for any person or institution, not being already subject to Government inspection and control (as is a Poorhouse, Prison, or Lunatic Asylum), to receive unless licensed more than one habitual inebriate at one time.
- (2) That for the purposes of the Inebriates Acts, Poorhouses and Labour Settlements should be deemed to be 'Retreats.'
- (3) That all powers conferred on the Home Secretary by the Inebriates Acts should in the case of retreats in Scotland, be vested in the Secretary for Scotland.
- (4) That the Secretary for Scotland should be empowered to make rules and settle the form of affidavits regulating the admission and re-admission of voluntary applicants to retreats in addition to, or in substitution for the affidavits prescribed in the Schedule to the Habitual Drunkards Act, 1879, by which further facilities would be afforded to such applicants.
- (5) That the establishment of retreats should be encouraged for those who cannot provide the whole of the funds necessary for their maintenance, the residue being supplied by voluntary contributions, and that with regard to such retreats, the Secretary for Scotland should be empowered to make regulations by which a certain amount of work suited to each particular case should be enforced.
- (6) That the maximum period for which a patient may be confined in a retreat should be extended to two years.
- (7) That power should be given for the compulsory committal to a retreat at the instance of their friends of persons coming within the definition of an habitual drunkard, as laid down in the Act of 1879, and that the application for such committal should be made to the Sheriff in Chambers or in open Court, as the person sought to be committed may elect.
- (8) That the property of the person committed should be liable for his maintenance, and that the order for committal should provide, when necessary, for the appointment of a curator of the patient's estate during the period of committal, with power to apply the same towards the support of his wife and family.
- (9) That Town Councils and other Local Authorities should be empowered to contribute towards the support of licensed retreats, in consideration of such retreats agreeing to receive on their recommendation poor inebriates at a reduced rate.

- (10) That in cases where compulsory committal of an inebriate is asked for by his friends, and it is proved to the satisfaction of the Sheriff that his friends are unable to pay the charges of an ordinary retreat, the Sheriff shall have power to order his commitment as an habitual inebriate to a Labour Settlement or a Poorhouse, as he may think fit, for such time, not exceeding two years, as he may deem necessary, on the condition that his friends pay the nett cost of his maintenance, such cost to be determined from time to time by the Secretary for Scotland; and that failing such payment in the manner prescribed by the Sheriff, the manager of the Labour Settlement or Inspector of the Poor shall have power to dismiss the inebriate so committed; and further, that in the case of inebriates so committed, the Sheriff shall have power to make such order regarding their property, if any, as he may consider equitable.
- (11) That power should also be given for the compulsory committal to a retreat at the instance of a procurator-fiscal in the public interest and at his discretion, of persons coming within the definition of an habitual drunkard, as laid down in the Act of 1879, who are a source of danger and annoyance to the public, and that in such cases the application for committal should be made to the Sheriff in open Court; that the Sheriff should have power to make such order as to the property of the inebriate as he might consider equitable; and that in the absence of funds available for his support, he should have power to order his detention as an habitual inebriate in a Labour Settlement or Poorhouse, as he may deem fit, for any period, not exceeding two years, which he may consider advisable.
- (12) That the definition of an habitual drunkard in the Act of 1879 should be extended to include persons reduced to the condition it describes through the abuse of opium and other drugs as well as alcohol.
- (13) That the fees for licences for retreats should be abolished or reduced to a nominal sum.

These recommendations are framed so as to meet the case of every class of habitual inebriate. That of the inebriate of the Police Court would be provided for by the Labour Settlement, to which he would find his way as an ordinary habitual offender. The machinery of the Inebriates Act (1879) already provides for the voluntary admissions and detention in retreats of patients whose friends are in a position to support them. The additional powers which we suggest would provide for the compulsory committal of habitual inebriates within the meaning of the Act of 1879, at the instance of their friends, if they could support them, and at that of the Procurator-Fiscal, at the public cost, in cases where their conduct, though not such as to bring them within the category of habitual offenders, was sufficiently objectionable to render them a public nuisance.

TEMPERANCE LEGISLATION.

If we have refrained from making any recommendations in the direction of what is known as temperance legislation, it is certainly not because we have not been fully alive to its importance. But the licensing laws and the liquor traffic have been the subject of so many inquiries and reports, and the various proposals which have emerged from these have become the subject of so much heated controversy, that, dealing as we have had to do with comparatively fresh subjects, and making recommendations for which we bespeak unprejudiced and dispassionate consideration, we feel that we might render that impossible were we to venture into contentious questions not directly falling within our remit. There are two reforms, however, which have been urged upon us, regarding the desirability of which there appears to be a practically unanimous consensus of opinion in Scotland. The first is that the provision of the 'Public Houses Hours of Closing (Scotland) Act, 1887,' which exempts from its operation the five principal towns in Scotland, should be repealed, and the authorities in those towns should be entrusted with the powers enjoyed by the Local Authorities everywhere else in Scotland. The Act is permissive, but that the powers which it confers are prized is shown by the fact that every local licensing authority throughout Scotland empowered to adopt it has done so¹; that it conduces greatly to sobriety and order is shown by the universal testimony of the police²; and that the exempted towns desire the powers which it confers is proved by the fact that their municipal corporations have without exception petitioned for the repeal of the clause which exceptionally deprives them of them.

¹ See Parliamentary Returns 388 of Session 1890, and 456 of Session 1891.
² See Report of the Inspector of Constabulary.

A The second point, with respect to which there seems to be no difference of opinion, is the desirability of assimilating the Scotch law as to the supply of liquors to intoxicated persons to that which holds good in England. The Scotch law forbids the holder of a licence 'knowingly to permit any breach of the peace or riotous or disorderly conduct within his premises, or to supply liquors to persons in a state of intoxication,' under a penalty for the first offence of £5. The English law, on the other hand, forbids him 'to permit drunkenness, or any violent, quarrelsome, or riotous conduct to take place on his premises, or to sell any intoxicating liquor to any drunken person,' under a penalty for the first offence of £10.¹ Chief Constables like Mr Henderson² of Edinburgh, who have had experience of both laws, give evidence as to the superiority of the English in enabling the offence to be brought home to guilty licence-holders, and the great practical difficulty of doing so under the wording of the Scottish Act. We are aware that complaints have been made of the inadequacy of the English Law on the subject, but for an answer to them we would refer to a letter addressed by the present Home Secretary to the Chairman of the Middlesex Quarter Sessions, which will be found in our Appendix.³

¹ Appendix XLIII.—Mr Walton's Memorandum.
² Q. 2072 et seq.

³ Appendix LXXVIII.

B A further non-contentious suggestion is contained in a provision to be found in the laws of several of the States of the American Union and of our Colonies, prohibiting licence-holders from supplying drink to notorious drunkards, and we would therefore recommend

- (1) That the exemption of the large towns of Scotland from the provisions of the Public Houses Hours of Closing (Scotland) Act, 1887, be repealed.
- (2) That the Scottish law as to the permission of drunkenness on licenced premises, and the supplying of drink to drunken persons, be assimilated to the English; and
- (3) That it should be made an offence for a licence-holder knowingly to supply drink to any inmates of a retreat under the Inebriates Act, or to any person under sentence of commitment to a Labour Settlement or poorhouse.

C In order that the last of these proposals may not be evaded, it would be necessary further to provide

- (4) That it should be an offence for any person knowingly to assist in any way in the giving or obtaining of drink for the use of any inmate of a retreat, or of any person sentenced as above mentioned.

RÉSUMÉ.

D Having now dealt in detail with all the subjects remitted to us for consideration, it may be well to wind up with a *résumé* of the general nature and scope of our proposals. We were directed to inquire whether the number of Habitual Offenders in Scotland is increasing, and we have shown that it is, though not uniformly, and scarcely in proportion to the increase in the general population, but that the number of persons with ten convictions and upwards has largely increased. As to the causes of that increase, we have shown, by an analysis of the figures, that it is due, not to any increase of depravity in the Scottish character, but to the extension of new legislation to a number of 'populous places' in the counties, and the increased energy of police administration generally; and that, concurrently with it, there has been a material decrease in serious crime. We have shown that owing to diversity of laws and police administration, it is impossible to deduce any valid conclusion from the comparison, not alone of English and Scottish statistics as to petty offences, but of police statistics of different towns and districts in Scotland. We have shown that habitual offenders do not confine themselves to one offence, but that the drunkard of our police courts, in nine cases out of ten, figures also as the wife-beater, the beggar, the prostitute, or the thief; and we have shown that, in nine cases out of ten, petty offenders, when their offences are committed, are under the influence of drink. We have shown the utter inadequacy of the present system in all the variety of detail which throughout Scotland it offers to deter the habitual offender from a course of life which devolves the cost of his maintenance on the prison and the poorhouse when he is not preying directly on the public, and we have proposed to substitute for that system, which has admittedly failed so far as habitual

offenders are concerned, a plan of prolonged reformatory treatment, which has proved eminently satisfactory in the case of juvenile offenders in our own country, which in the case of adults in America, and in voluntary institutions working among the same classes in our own country, has achieved excellent results, and which, even if it failed, would at least rid society of a dangerous, a demoralising, and a costly element, under conditions intended to benefit the habitual offender himself, devoid of any element of vindictiveness, but compelling him to contribute by his labour to his maintenance, and applicable only after reiterated offendings and one solemn warning.

Directed to pay strict regard to the practicability and economy of our proposals, we have framed them so as to involve the minimum of change in the law, to take advantage to the utmost of existing structures and institutions,—in such a manner that the cost of carrying them out need not impose any appreciable extra burden upon the Imperial Exchequer or on local rates, but would be defrayed by the labour of the Habitual Offenders themselves, and by the allocation of savings effected in present expenditure, supplemented by moneys contributed by the general class of offenders for whose benefit our proposals are devised.

The proposal which we have made is that prisoners, who having been thrice imprisoned within twelve months are charged with a fourth offence, should be tried by a Sheriff, who should be empowered, in addition to sentencing them for the offence with which they are charged, to pronounce them to be habitual offenders, to order them to be registered as such, and warn them that the effect of this addition to their sentence would be that, if they were again within 30 months charged with an offence, they would be again tried by a Sheriff and be liable, in addition to punishment for that offence, to be committed for a period of not less than 12 nor more than 30 months to an adult reformatory (which we propose to call a Labour Settlement), where they would be kept under strict reformatory discipline and compelled to work for their living; or, if incapable of doing so, that they would be compulsorily detained for a period under strict discipline in a poorhouse.

For practical reasons, which we have fully explained, we have made imprisonments and not convictions the basis of our definition of an habitual offender; and partly for that reason, and partly because we consider it unfair that a prisoner repeatedly convicted of an offence should be allowed to escape prison simply because he can afford to pay a fine, we propose to confer upon magistrates in our police courts the power of imposing a short imprisonment (say up to 14 days), without the option of a fine, on repeated conviction for offences which, in the vast majority of cases, constitute the charges against frequent offenders; while in all cases, in order that he might really be 'a terror to evil-doers,' we would empower the Sheriff to inflict, without the option of a fine, the full statutory equivalent in the shape of imprisonment of the money penalty prescribed in respect of an offence tried before him. On the other hand we would give him the widest discretion, when the circumstances seemed to indicate that course, of suspending penalties. We would materially limit the powers of imprisonment at present exercised by citizen magistrates as no longer necessary if habitual offenders were specially dealt with; and in cases where prisoners were committed to prison in default of payment of a fine, instead of detaining them there until they had paid the uttermost farthing as at present, we propose to liberate them at any period of their imprisonment on the payment of a proportion of the fine imposed, corresponding to that of the balance of the term of imprisonment still to be undergone. We have shown that the last-mentioned proposal would not only effect a substantial saving to the State, but would provide a new fund which, if appropriated for the labour settlements, would go far towards establishing them, and, after their establishment, would materially contribute towards their support. The cost of looking after and maintaining these habitual offenders is at present shared between the Prisons Vote, the Poor Rate, and the Police Rate, and we have shown how the expenses requisite under our proposal might be met by contributions from the parties concerned—the Prisons by endowing the new scheme with their savings, and the Parochial Authorities by assuming the charge of weak-minded and infirm paupers of the 'in-and-out' habitual-offender class who at present occasion them so much trouble and expense, and the Police Authorities by guaranteeing the finance of the scheme to the extent of the fines and pledges which they at present receive.

We have, as directed, inquired into the difficult subject of Vagrancy, and made E recommendations which would at once help to assist its suppression and to mitigate, in

A deserving cases, the harshness of the Scottish Poor Law. We have shown how indiscriminate relief, even when administered by the police, and even when of the meagrest character, infallibly attracts troops of vagrants and beggars, and how its withdrawal disperses them. We have shown that, so far as the suppression of vagrancy is concerned, the severest enactments of the general law are futile, and the best results have been achieved by the milder provisions of more recent statutes at present operative in burghs; and we have given reasons for our belief that if the same provisions, still further mitigated in the case of casual offenders, were extended to the country generally, the effect, in conjunction with our proposals for the treatment of Habitual Offenders, would be to keep the evil well under control. We have made recommendations, which if carried out would, we believe, go a long way to remove existing difficulties in securing the education of gipsy and tinker children. We have endeavoured to meet the case of the working-man tramping in search of employment, by proposals aimed at deterring impostors and assisting the deserving. And finally, in connection with those waves of acute destitution which periodically arise in our large towns, we have made a recommendation which would form the basis of a system to be permanently maintained, so as to be available promptly and methodically, to meet advancing danger before it had swollen to unmanageable size.

B We have carefully gone into the subject of Juvenile Delinquency, comparing the results of reformatory and industrial school training with those of the training undergone by the mass of our population, pointing out the great good that has been achieved, and making proposals to meet the defects which still remain to be remedied. We have endeavoured to show what might most readily be done to meet the hard case of the boy or girl debarred by reason of ill-health from reception into a reformatory, at present doomed to develop into a jail-bird—to prevent the undoing of reformatory work at its conclusion by the resumption by ex-pupils of old and evil associations, and to improve the educational and administrative efficiency of a class of institutions on which much public money is most usefully spent. And, above all, we have recorded our conviction, and the reasons for it, as to the cruel unwisdom of sending youthful offenders to prison, as tending more than any other single cause to divert their path of life into the ways of crime and pauperism.

C And, finally, in respect of Habitual Inebriates of the non-criminal class, we have arrived at conclusions practically identical with those at which a Select Committee of the House of Commons and an English Departmental Committee had arrived,* and have made recommendations to give effect to them under Scottish administration and Scottish law. We have shown that in Scotland existing legislation as to habitual inebriety has remained a dead letter, for the reason that that law can be more ignored than complied with. We have pointed out the amendments necessary to enforce and to facilitate compliance with its provisions. We have recommended extensions of those provisions which, in conjunction with our other recommendations, would suffice to meet every case. We have proposed that the duty of ministerial administration should, in the case of Scotland, be transferred to that department of our Government by which it could be most economically and most efficiently carried on; and, if we have ventured to make our recommendations on the subject bold and far-reaching, it is because we find ourselves fortified in our conclusions by the outcome of two previous investigations, and because we have received abundant evidence that public opinion, in Scotland at least, is prepared to welcome a thorough legislative treatment of the subject.

D Before concluding, we feel bound to express our thanks to the authorities of the various localities in which we held sittings for the zealous assistance they afforded us; to the officials of the Prison Commission, the Police, and other public departments for the readiness with which they supplied us with returns involving much labour; to those in charge of the numerous public and private institutions which we visited, who without exception placed every facility for obtaining information at our disposal; and to many witnesses, some of whom must have sacrificed very valuable time in order to place before us evidence which they were pre-eminently qualified to give.

E The members of the Committee would like to direct special attention to the eminent services of their Chairman, who attended every meeting and drafted the Report.

* Since the above was written the Report of the Departmental Committee on English Prisons has been issued, and it the conclusions arrived at by the two Committees quoted have again been endorsed.

We have also to record our special obligations to Dr Sutherland, as secretary to the Committee, for the difficult and laborious work which he so willingly undertook in collecting and collating information and statistics and in making arrangements for the evidence to be submitted to us.

With this Report we send you a copy of the Evidence and Documents on which it is founded; and

We have the honour to be,

Sir,

Your most obedient Servants,

CHARLES CAMERON.
A. B. M'HARDY.
ROBERT FARQUHARSON.
COLIN SCOTT MONCRIEFF.
J. DOVE WILSON.
J. F. SUTHERLAND.
FLORA C. STEVENSON.

J. F. SUTHERLAND, *Secretary.*
25th April 1895.



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