

TABLE OF CONTENTS

	PAGE
AUTHOR'S PREFACE	v
INTRODUCTION , by Professor Franklin H. Giddings.....	ix

CHAPTER I

THE EVOLUTIONARY FUNCTION AND USEFULNESS OF CRIME AND PUNISHMENT.

Modes of evolution	1
Crude natural selection and intelligent social selection	3
The production of the criminal one of the saving processes of nature	5
Primitive democracy and the barbarian codes	6
The meaning and definition of crime	10
Crime includes misdemeanors	15
The distinction between tort, crime and sin	16
The social standard of right action determines what conduct shall be criminal	20

CHAPTER II

SOCIAL PUNISHMENT AMONG ANIMALS.

Are animals ever rightly termed criminals?	24
Punishments among monkeys, apes, elephants and wild cattle, ants and the more intelligent bird communities	24
For conduct most destructive of the social life	30
Theory of social reflex-action	32
Animals do not know why they punish	32
Criminal law deep rooted in the imperative necessity for social self-preser- vation	35

CHAPTER III

CRIME AMONG SAVAGES.

The fundamental problem of every human society	38
Head-strong individualism and three powerful socializing instincts	39
The three great primitive crimes: treason, incest, evil-witchcraft	41
No idea of moral guilt originally connected with them	42

	PAGE
A social standard of right action everywhere exists	46
Measurements of the antiquity of a crime.....	49
Primitive democracy and the strength of ancient custom	51
Horror of crime among savages and the passionate vengeance inflicted.....	57
The coming of the king and danger of too great tameness	61
The progressive social equilibrium and crime as the price of growth.....	62

CHAPTER IV

SAVAGE RACES IN AUSTRALIA, AMERICA, ASIA AND AFRICA.

Evidences of crime and social punishment all around the earth.....	65
Lowest savage hordes have fewest crimes, but both criminals and forms of crime increase with higher social development	68
North and South Americans	78
Asiatic Races	89
African Peoples.....	100
Ancient Peruvians, Mexicans and Central Americans	107
Three great torts	112

CHAPTER V

THE EUROPEAN ARYANS.

Customs of the primitive Aryans.....	115
Crime among the early Romans, Greeks, Slavs, Celts and Teutons	118

CHAPTER VI

THE ANGLO-SAXONS IN ENGLAND.

Legal customs and courts of justice	126
Evolution of the tort	129
Nation building through the might of king and Church.....	130
The extension of the king's peace and change of torts into crimes	132
The power of the Church and the punishment of sins as crimes.....	134
Wise King Alfred and education through social punishment	137
The "good old laws" and their development.....	139

CHAPTER VII

ENGLAND UNDER NORMANS AND PLANTAGENETS.

National unity and the usefulness of despotism.....	146
William the Conqueror and the "Lion of Justice".....	148
Social anarchy and the decrease of crime.....	151
Beginning of the "Reign of Law".....	153
Reserved pleas of the crown and new forms of crime	158
The bold, new scheme of justice.....	161

Contents

XV

	PAGE
Royal power enlarged and law unified through the multiplication of opposing crimes and criminals.....	165
The forest laws.....	170
Greater peace but more crime in Norman than in Anglo-Saxon England....	172

CHAPTER VIII

PARLIAMENTARY GOVERNMENT AND THE NEW FEUDALISM.

The trial and failure of a great constitutional experiment	177
General rottenness of the age	181
An immature House of Commons versus a reactionary nobility.....	184
The triumph of armed anarchy and fewness of the nation's criminals.....	186
London in the Middle Ages.....	189

CHAPTER IX

TUDOR ENGLAND.

A despotic monarchy supported by the people.....	195
The crushing of the anarchic nobility by the Court of Star Chamber.....	200
The English Reformation, and treason laws protecting the religious and political development	204
New forms of crime: Forgery, perjury, political libel and attempts to commit crimes.....	209
The first statute punishing fraudulent bankruptcy.....	211
Curbing of the Ecclesiastical Courts	213
The severity of the new laws and the prevalence of serious crime	217
How murder became a crime for all men	220
Was there more crime, or less, in Tudor than in modern England?	222

CHAPTER X

ENGLAND UNDER THE STUARTS.

Constitutional liberty <i>vs.</i> the divine right of kings	227
Seventeenth century criminals mainly political and religious.....	230
Royal courts of extraordinary jurisdiction	231
Religious intolerance of both parties	235
Military despotism of Cromwell.....	239
The beginnings of freedom of conscience	240
The common law courts	241
Utter indifference of the age to acts of violence against the person.....	246

CHAPTER XI

MODERN ENGLAND.

An era of domestic peace and material prosperity, but abundant crime.....	249
The death penalty for even petty offences inimical to the new social life....	254

	PAGE
The humanitarian reaction against excessive punishments, and the decriminalizing of crimes	258
Great development of trade and manufactures, and the birth of opposing crimes	262
The abuses of the factory system and their remedy by statute law.....	268
The Compulsory Education Act and the modern multiplication of criminals .	270
The injury to one regarded more and more as a wrong to all.....	272
Increasing crime may be a sign of social betterment.....	276

CHAPTER XII

HAS CRIME INCREASED DURING THE NINETEENTH CENTURY?

The age of rapid progress, science and democracy.....	279
Records of the criminal classes in the great European civilizations	280
Growth of crime greater than the growth of population	281
England	281
France.....	283
Austria	293
Italy	296
Germany	299
In Spain alone criminality shows practically no increase.....	299
The relation between crime, industrial efficiency and education.....	300

CHAPTER XIII

IS PUNISHMENT POWERLESS AGAINST CRIME ?

Are we degenerating ?	302
Decreasing totals of serious crime, in England, Ireland, France, Austria, Italy and Scotland.....	304
But have not some of the most dangerous crimes increased?	311
The wave of industrialism in Germany and the resulting wave of crime.....	315
Murder and homicide: the crimes of backward races	320
The evolution of a crime and its educational advantages.....	324
Serious crimes against property.....	326

CHAPTER XIV

THE TREND OF CRIME IN MODERN TIMES. A BRIGHTENING OUTLOOK.

Sensitiveness of modern life and the rapid multiplying of prohibitions	331
Is the individual losing his liberty?.....	338
True freedom by the might of law.....	338
The success of education through social punishment.....	340
Legislation of social guardianship	345

Contents

xvii

	PAGE
Lessons to be learned from Spain	347
Industrial Democracy and the preponderance of English crime.....	357
Courts of summary jurisdiction.....	360
Misdemeanors in 1836 and 1896.....	366
The relation of the growth of crime to the progressiveness of England's counties	370
The age of maximum criminality.....	374

CHAPTER XV

AN ETHICAL THEORY OF CRIME.

The sifting processes of natural selection	376
Fundamental laws of growth, their antagonisms, and the resulting criminal class.....	377
Progress always means greater strength.....	379
The most successful forms of life are gregarious.....	380
Intelligent social selection displacing crude physical selection.....	381
Probable beginnings of morality	383
The criminal is the rebellious social laggard.....	385
Civilization through enforcement of new social prohibitions	387
Nature's limitations to the rule of selfishness	390
The survival of the fittest among nations.....	392
Crime is the reaction against pressure toward a higher altruism.....	393
Increasing crime and the goal of social welfare	394

APPENDIX I

Special forms of English crime.....	396
-------------------------------------	-----

APPENDIX II

Statistics of England and Wales.....	402
--------------------------------------	-----

