THE JAIL SYSTEM OF MINNESOTA
(1885)

BY

Hastings H. Hart
Secretary
State Board of Corrections and Charities

FOREWORD

BY

Douglas A. Hedin
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In 1885 the State Board of Corrections and Charities issued its first report to the legislature.[1] It included a 225 page Report to the Board by Hastings Hornell Hart, its secretary. Hart's report contained tables of data as well as "The Jail System of Minnesota," an overview which he wrote after touring the state's 55 jails.[2] In addition, he wrote a separate account of each county jail and many public institutions in other states that he had visited and inspected first-hand.

Hart wrote in a clear and direct style, one not usually associated with

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[1] The Commission was established by the 23rd legislature. 1883 Laws, ch. 127, at pp. 171-2. It was effective March 2, 1883. It is posted in Appendix B, at 25-26. The members, officers, staff and committees of the Board in 1883-1885 are posted in Appendix D, at 31.

[2] Section 5 of the act creating the commission provided:

> SEC. 5. Whenever the Governor shall deem it advisable and expedient to obtain information in respect to the condition and practicable workings of charitable, penal, pauper and reformatory institutions in other states, he may authorize and designate any member of said board, or the secretary thereof, to visit such institutions in operation in other states; and by personal inspection to carefully observe and report to said board on all such matters relating to the conduct and management thereof as may be deemed to be interesting, useful, and of value to be understood in the government and discipline of similar institutions in this state.

Later the secretary "was expected to visit annually every jail and poor-house in the state…" See 1889 *Blue Book*, at 270.

drafters of government reports. His descriptions of county jails as crowded, foul smelling fire-traps, bring to mind Jacob Riis' portrayal of life in New York's tenement houses in *How The Other Half Lives*.[3] To great effect, he intersperses exact descriptions of the construction and dimensions of jail cells with vivid anecdotes to illustrate deficiencies in their design and management ("A prisoner was burned to death in the Detroit (Becker county) lockup in 1882; two in Pine City in May, 1884"). But his indignation, unlike Riis's, lies below the surface of his matter-of-fact, sometimes ironical, official report.

Though decades have passed since it was written, Hart's report has not lost its capacity to inform, enlighten and even astonish. It is better understood when placed within two movements of that period: penal reform and the Social Gospel.[4]

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Rapid industrialization, immigration and urbanization in the last quarter of the Nineteenth Century spawned numerous reform movements that

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[3] Jacob Riis, *How The Other Half Lives: Studies Among the Tenements of New York* ch. 2 (1890):

> The Sanitarians [with the Board of Health] were following up an evil that grew faster than they went; like a fire, it could only be headed off, not chased, with success. Official reports, read in the churches in 1879, characterized the younger criminals as Victims of low social conditions of life and unhealthy, overcrowded lodgings, brought up in "an atmosphere of actual darkness, moral and physical." This after the saw had been busy in the dark corners ten years! "If we could see the air breathed by these poor creatures in their tenements," said a well-known physician, "it would show itself to be fouler than the mud of the gutters." Little improvement was apparent despite all that had been done. "The new tenements, that have been recently built, have been usually as badly planned as the old, with dark and unhealthy rooms, often over wet cellars, where extreme overcrowding is permitted," was the verdict of one authority. These are the houses that to-day perpetuate the worst traditions of the past, and they are counted by thousands. The Five Points had been cleansed, as far as the immediate neighborhood was concerned, but the Mulberry Street Bend was fast outdoing it in foulness not a stone's threw away, and new centres of corruption were continually springing up and getting the upper hand whenever vigilance was relaxed for ever so short a time.

[4] For a study of the intellectual currents that inspired Hart's generation of penal reforms, see James J. Beha II, "The Redemption of Reform: The Intellectual Origins of the Prison reform Movement," 63 NYU Annual Survey of Am. Law 773 (2008)(SSRN Paper No. 1204707). It is highly recommended.

aimed to change every corner of the economy, society and politics. Some were successful—civil service reformers overturned the spoils system with the passage of the Pendleton Act in 1883—others less so—reformers achieved few improvements in the working conditions at mines, factories and mills. Many calls for reform at this time would not bear fruit until the Progressive Era, a quarter century later, or the New Deal, a distant half century away.

The broad social and economic changes led social policymakers to pressure the polity, in the words of Morton Keller, "to regulate numerous areas of social status and behavior: citizenship, race, the family, education, crime, poverty, public mores, private rights."[5] Legal education, for example, was ripe for reform because of obvious deficiencies in the laissez faire apprenticeship system.[6] In 1888 the University of Minnesota Law Department was opened, and its first class of three graduated the following year.

But altering other forms of social behavior through regulations and laws was not as easy. The rise in violence and criminal behavior forced reformers to think about and address the causes, cures and punishment of crime.[7] Their attempts were described by Professor Keller:

> For all their severity, American criminology and penology could not free themselves from the tension between belief that the polity must check social disorder and the belief in individual rights and the rehabilitation of criminals. A

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[5] Morton Keller, *Affairs of State: Public Life in Late Nineteenth Century America* 473 (Harvard Univ. Press, 1977) (citing sources).

[6] It is plain that lawyering in this state in the postbellum era may have met minimal needs in some areas but fell short in others. For example, Hart cites statewide statistics on criminal prosecutions that were either dropped or resulted in acquittal:

> In our own State, in 1878, out of 430 criminal cases presented by county attorneys, 113, or 26 per cent, resulted in acquittals or *nolle prosequi*. In 1880, out of 744 cases prosecuted, 271, or 36 per cent, resulted in acquittal or *nolle prosequi*. Doubtless many of these persons were innocent, being victims of circumstantial evidence or malice.

This data suggests that some county attorneys frequently misjudged the strengths of their cases. We do not know whether this was due to their failure to investigate the facts, deficiencies in their education or other factors.

[7] Keller notes that parallel to the penal reform movement were "extralegal" actions by vigilante organizations, including anti-horse thief associations, to directly subdue lawless behavior. Keller, supra note 5, at 487. For a case study, see Dr. Patrick B. Nolan's "The Waseca County Horse Thief Detective Society" (MLHP, 2011) (first published, 1971).

> **growing body of professionals—wardens, doctors, criminologists—had a stake in the belief that criminals could be reformed. The National Prison Association, revived in the early 1880s after a period of stagnation, represented their views. . . .**
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> **There were intermittent attempts in the late nineteenth century to make criminal prosecution and punishment more humane. Over a dozen state legislatures in 1896 considered acts to set up public defenders who would be officers of the court. Iowa's governor urged in 1881 that new convicts be segregated from their more experienced fellows: "a much larger proportion of the younger class of criminals. . . would become good citizens. . . if it were not for the contaminating influence of older, vicious, and hardened convicts with whom they are compelled to work. . . during their term of service." Minor reforms occasionally cropped up. Indiana (1892) allowed prisoners a free hour in their cells and provided a private box for their complaints. Connecticut (1898) divided prisoners into three grades according to their "antecedents, disposition, and prison conduct." [8]**

Hart, writing in 1884, was familiar with this thinking, especially the belief that women and men charged with committing a crime and detained in jail should be housed apart from those already convicted, that when placed together in jails, hardened criminals will educate and entice youthful offenders into the ways of crime. With the following remedy, he falls squarely within the penal reform movement of the period:

> **The only remedy consists in the complete abolition of the present county jail system, making our county jails simply houses of detention, in which imprisonment of convicts is forbidden, and establishing district houses of correction in different parts of the State, to which all sentenced prisoners not sent to the reform school or state prison are sent, and made to earn their way.[9]**

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[8] Keller, supra note 5, at 496-7 (citing sources).

[9] Page 20, below. In a later section of his Report to the Board, Hart compared Minnesota's institutions to those in other states, lamely concluding that its jails, albeit glaringly deficient, were about par:

> **COMPARISON TO MINNESOTA INSTITUTIONS.**
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> **In the light of these numerous visits to institutions, east and west, I believe that we have reason to be proud of the State institutions of our State. Some of them are exceptionally good, and**

Hart understood that the Twenty-fourth legislature, meeting in 1885, would not adopt his recommendation to scrap the "present county jail system." And it may have occurred to him that his own credibility was critical to achieve the sweeping reforms he envisioned. For the next decade he planned, plotted and strategized how to establish strict statewide jail standards that would displace or preempt the frequently-abused discretion of county commissioners. During the same period, as reflected in his biennial reports, he was a conscientious, meticulous, blunt and exemplary public servant; as a result he earned the respect of legislators and the governors who reappointed him. His reputation as a thoughtful reformer in the field of penology grew. In 1893, he became president of the National Council of Charities and Corrections and, perhaps not coincidentally, that was the year the state legislature adopted a sweeping jail reform law. Control or power over the county jail passed from the county to the state.[10] While we do not have Hart's words before us, it is not likely that he viewed this law as usurping local power, instead, that it transferred responsibility.

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In 1880, after graduating from Andover Theological Seminary in Newton, Massachusetts, Hastings Hart spent several years working in business and for the U. S. Indian Service. He then became the pastor of a Congregational church in Worthington, Minnesota. He held that post until 1883 when he was appointed secretary of the Board of Corrections and Charities by Governor Lucius Hubbard. [11]

> none of them, in my opinion, is below the average of Eastern institutions.
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> Through the wisdom of their founders they have all escaped the vice of extravagant building, which has crippled many of the older States in their endeavors to provide for the unfortunate and delinquent classes.
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> As to our county jails, lock-ups and poor houses, the most that can be said of most of them is that they are not worse than those of the older States.

"Secretary's Biennial Report to the Board" in "First Biennial Report of the Minnesota State Board of Corrections to the Minnesota Legislature," 4 *Minnesota Executive Documents* 553 (1885).

[10] Laws 1893, ch. 157, §32, at pages 293-301, which can be found in Appendix A to Hastings H. Hart, "The County Jails, 1892-1894" (MLHP, 2012) (first published, 1895).

[11] Here is the sketch of Hart in Warren Upham & Rose Barteau Dunlap's *Minnesota Biographies*, *1655-1912* 305, 14 Collections of the Minnesota Historical Society (1912):

> HART, HASTINGS HORNELL, Congregational clergyman, b. in Brookfield, Ohio, Dec. 14, 1851; was graduated at Oberlin College, 1875, and Andover Theological Seminary, 1880; was pastor at

That he was an ordained minister who became a reformist of the penal system in the 1880s strongly suggests that he was influenced by the Social Gospel movement, which David Danbom calls "the most important and vibrant development in American Protestantism between the Civil War and World War I."[12] Professor Danbom summarizes the intellectual background of the movement:

> **The "Social Gospel" movement . . . was a response to both social and institutional challenges to Protestant churches. On the one hand, social and economic developments in the late nineteenth century directly challenged Protestant values and leadership. At the same time, social and natural science, increasing religious pluralism narrow denominationalism, and spreading unbelief threatened the credibility and the relevance of the churches as institutions.**
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> **The Social Gospel was an attempt to respond to social challenges in a positive, active manner that upheld Christian values and reasserted the leadership function of the church in America. But those attracted to the movement also hoped to transcend the growing problems faced by churches as institutions. They tended to see the institutional problems of the church as secondary, important mainly because these hampered the church's ability to address the moral problems of American industrial capitalism. Thus, they sought to remove these concerns from center stage in churches. They dealt with natural and social science by accepting most of their specific elements and integrating them into the Protestant belief system in Protestant terms and by stressing the importance of faith in God as opposed to a reliance on scientific "proofs" of God's handiwork. . . .**
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> **The key element in the attempt of the Social Gospel movement to deal both with institutional and with social problems was the stress it placed on the broad and humane ethical principles embraced, in theory at least, by all**

> **Worthington, Minn., three years; secretary of the State Board of Corrections and Charities, 1883-98, residing in St. Paul; removed to Chicago, and later to New York City.**

[12] David B. Danbom, *"The World of Hope": Progressives and the Struggle for an Ethical Public Life* 52 (Temple Univ. Press, 1987). Rebecca Edwards writes that "Congregationalists were, on the whole, far ahead of Presbyterians, Methodists, and Baptists in the Social Gospel cause." *New Spirits: Americans in the Gilded Age, 1865-1905* 183 (Oxford Univ. Press, 2006).

> **Christians and, indeed, by most people in Western civilization. The Christian law of love—of people for God and for one another—and the Golden Rule—that people should govern their behavior toward others on the basis of how they wished to be treated—were the ethical principles that the Social Gospel movement stressed.**
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> **Those attracted to the Social Gospel believed the Golden Rule and the law of love provided Christianity with its best and most consistent way of addressing the nation's problems and expressing social unity. Here were principles to which all Protestants, as well as Catholics, Jews, and unbelievers, could be loyal. Here was the ethical distillation of Christianity, apparently invulnerable to assaults from natural and social science and to denominational and theological wrangling. And, most important to the Social Gospelers, here was a Christian message of relevance to secular society, a means of dissolving "the artificial barriers between the sacred and the secular," a key to solving the social and economic problems of Victorian America.**
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> **. . . .**
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> **The churches were strongly affected by this new Social Gospel, which called upon them to fulfill public duties and which promised to revitalize Protestantism and return it to a position of national leadership. Most popular initially among Episcopalians, Congregationalists, and Unitarians, Social Gospel ideas quickly spread to Presbyterians, Methodists, Baptists, and beyond. As they developed a broader conception of appropriate behavior, churches engaged in new activities, reaching out through special organizations and "institutional" facilities to the poor, to labor, and to others they had not traditionally dealt with intimately. Clergymen engaged in reform activities on a broader scale.** [13]

While Hart does not quote scripture in his description of the jail system, he plainly believed that all county jails needed to be improved and that the jailed deserved better treatment by the jailors who in turn deserved more support from their county boards. He concludes a description of the lingering death of an eighty-two year old inmate of the Ramsey County jail in May 1884 on an ironical note that barely conceals his indignation. The official death certificate likely listed "old age" or "natural causes" for this man's demise but to Hart it probably should

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[13] **Id. at 52-59 (citing sources).**

have been "official neglect"—in other words, those in charge did not act responsibly.[14]

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More information about Hart's personal beliefs is needed before it can be said with confidence that the Social Gospel movement influenced his decision in 1883 to leave the pulpit for penology.[15] Nevertheless it is evident from his subsequent career that he never forgot his on-site inspections of county jails in Minnesota in 1883 and 1884. He was secretary of the Board for fifteen years, building a national reputation as an authority on jails and prisons. As noted earlier, he was president of the National Council of Charities and Corrections in 1893 and its secretary from 1894 to 1901. He never returned to the ministry

Hart was secretary of the Board during the administrations of four Republican governors — Lucius Hubbard, William Merriam, Knute Nelson and David Clough — resigning in 1898 before Democrat John Lind took office. This was a period when governors did not hesitate to replace incumbents with their supporters; for Hart to hold the same office for so many years suggests that he avoided intra-party politics while developing a reputation for professionalism and integrity. We do not know whether county officials whose jails he criticized ever lodged complaints with the governor.

He left Minnesota to become superintendent of the Illinois Children's Home and Aid Society. In 1909 he became director of the child welfare department of the Russell Sage Foundation in New York City, and thereafter published numerous articles on juvenile delinquency and prison reform, including *Plans and Illustrations of Prisons and Reformatories* in 1922. From 1921 to 1927, he was president of the American Prison Association. He died at his home in White Plains, New York, on May 9, 1932, at age eighty-one. His obituary in *the Psychiatric Quarterly* concluded:

> **Dr. Hart rendered long and noble service in the public welfare field. He contributed materially to the great improvement that has been made during the last 50 years in methods of dealing with criminals and in the building and administration of penal institutions.[16]**

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[14] See below at 16.

[15] In this regard it may be noted that on June 17, 1915, he delivered a commencement address at Wilberforce University on "The Spiritual Dynamics of Social Work," published by the Russell Sage Foundation in 1920.

[16] 6 *Psychiatric Quarterly* 568 (1932).

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At the end of his Report to the Board, Hart reprinted an Opinion from Attorney General William J. Hahn responding to his questions about the obligations of county commissioners on the one hand and sheriffs and jailers on the other for the costs of maintaining the jails and furnishing necessities to prisoners.[17] While the matter is open to speculation, Hart may have decided to seek this Opinion when, during his on-site jail inspections, sheriffs complained that their county boards would not appropriate enough money to enable them to run the jails properly. Shrewdly solicited by Hart, General Hahn's Opinion ostensibly provided information to the Board of Corrections while giving potent ammunition to sheriffs to use in their annual battles with county commissioners over the budgets of sheriffs' departments. Hahn's complete Opinion can be found in Appendix A, at pages 23-4.

The 1883 law establishing the State Board of Corrections and Charities is posted in Appendix B, at pages 25-6.

The 1878 law on county jails which was in effect when Hart wrote the following report is posted in Appendix C, at pages 26-31. It was repealed in April 1893.

The members, officers, staff and committees of the Board in 1883-1884, listed in its First Biennial Report to the Legislature, are posted in Appendix D, at page 31.

Hart's description of the conditions of Minnesota's jails is posted below. It is complete. Spelling, punctuation and emphasis have not been changed. It was published first in the "First Biennial Report of the Minnesota State Board of Corrections to the Minnesota Legislature," 4 *Minnesota Executive Documents* 354-369 (1895).

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The following report is the first of three by Hastings Hart that are posted on the MLHP. The next is "The County Jails, 1888-1890" (MLHP, 2012) (first published, 1891), and the last is "The County Jails, 1892-1894 (MLHP, 2012) (first published, 1895). They should be read in order to appreciate Hart's accomplishments and the transformation of the county jail system between 1883 and 1894. Δ

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[17] **Hart, "Report to the Board," supra note 9, at 553-55.**

THE JAIL SYSTEM OF MINNESOTA

BY

Hastings H. Hart

The Jail system of Minnesota does not differ essentially from that of the older states, after which it is modeled.

At the foundation of the system is the municipal prison, — the city or village lock-up, used almost exclusively for the temporary detention of prisoners over night or over Sunday, until they can be brought before a magistrate. In a few cases, as in the city of Stillwater, these prisons are used for the further detention of prisoners sentenced by the municipal courts. The buildings used for this purpose are almost all of a single type, varying in size and number of cells. The building is set upon blocks without foundation. Floor and ceiling are constructed of two by four inch or two by six inch scantling, usually pine, sometimes oak, set contiguously on edge and spiked solidly together. The walls and cells are constructed in the same manner, like the bins of a grain elevator. The outer door is usually of pine or oak plank, the cell doors being of the same, with a grated opening to admit light, heat and air, or the door is a rude grating made by the village blacksmith. There are usually two cells, each about five or six by seven feet and a corridor about eight by twelve feet. There are usually no windows in the cells; sometimes a single pane, sometimes a transom sash with three panes. The corridor often has a transom sash, six or seven feet from the floor; sometimes it has one or two ordinary windows. The exterior is usually clap boarded, and sometimes painted. The interior is usually unfinished, the surface being rough scantling, sometimes whitewashed. The majority have fixed wooden bunks. Many have no sleeping place but the floor. The bedding is generally dirty, often scanty and sometimes filthy. Some have chimneys, others have none, but every such building is a fire trap. A prisoner was burned to death in the Detroit (Becker county) lockup in 1882; two in Pine City in May, 1884; and one in Willmar would have been burned to death in 1883, had not a man chopped him out with an ax. The unseasoned lumber composing the building shrinks, and the interstices afford an impregnable fortress to hosts of vermin. Such a place cannot be kept clean; but, as a rule, they are neglected and filthy. In many cases a privy vault underneath sends its odors directly into the building. Every public institution should lave at least three essentials: cleanliness, fresh air and bodily safety for its inmates, however debased. Judged by this very moderate standard, not more than seven out of the twenty-six lockups inspected are fit places for the detention of prisoners, namely, the. lockups of Minneapolis, Stillwater,

Mankato, Northfield, Fergus Falls, Redwood Falls and the lockup proper of Winona. The lockup of Detroit is well kept, under an excellent village ordinance (for which see description of village lockup, under Becker county), but the structure is such that it cannot be kept clean or free from vermin. The St. Paul lockup is kept lean, but its atmosphere is most foul, and the arrangement of e female department is a standing violation of decency. Of the seven above mentioned only those of Northfield, Stillwater, Mankato and Redwood Falls are really suitable and convenient structures, and only the Stillwater lockup provides suitably for the separation of prisoners. If the cities and towns of Minnesota could know what sinks of nastiness these municipal prisons are they would not tolerate them. The cost of suitable structures need not exceed $200 to $250 per prisoner; and cleanliness can be secured by a suitable ordinance, as in Detroit, Becker county. A detailed description of the lockups inspected will be found in connection with the descriptions of the jails in the same counties. (See particularly Blue Earth, Redwood, Rice and Washington counties).

THE COUNTY JAILS.

Minnesota has 55 county jails, designed to accommodate 654 prisoners. Twenty-five counties have no jails. Of these jails 12 are wooden structures, similar to the municipal prisons, and designed for about 56 prisoners. They are all unfit for use, and may be dismissed, therefore, from consideration, — leaving 43 jails to be considered, designed to accommodate about 600 prisoners.

The most primitive jails are built of stone or brick, with a spacious room for day use and cells of stone or brick built against the outer wall. Such are the jails of Sibley and Brown Counties. The basement jails of Anoka and Pope Counties, and the old portion of the Otter Tail County jail, are of similar construction. All such jails are very insecure, and expose the officers in charge to danger of assault in discharging their duties. A variation of the same plan consists in having cells of boiler iron built close against the wall, as in Mower and Freeborn Counties. Such jails are a little more secure; but the cells are dark and ventilation imperfect. A second plan consists in having an enclosed corridor of iron in front of the cells, for the prisoners, separated from the opposite windows by a narrow corridor for the jailor, the intention being to exclude the prisoners entirely from the jailors' corridor. Such are the jails of Washington, Nicollet and Rice Counties. This differs from the fourth plan only in having the iron cells close against the wall. A third plan is essentially the state prison plan, consisting of a central block of stone or brick cells in two rows, back to back, and in one or more tiers, with a corridor surrounding the whole block of cells. Such are the jails of Ramsey and Blue Earth Counties. In Goodhue and Stearns Counties, the

corridor surrounds only three sides. A fourth plan is what is sometimes known as the "cage plan." It consists of a cell, or block of cells, of iron or steel and iron, set in the center of a cell room, and surrounded by a jailors' corridor. Such are the jails of Hennepin, Winona and, in fact, some twenty-three of the forty above mentioned. Usually the call room is built of brick, with little attempt at security; dependence being placed upon the cage. The brick wall is easily dug through, the window bars are easily cut, or the roof is penetrable. The Hennepin County jail has massive walls and impenetrable window gratings, but five prisoners are reported to have escaped at different times through a ventilator in the ceiling which remains unprotected.

The jails of the second pattern, and the earlier ones of the fourth, were built of iron bars; but it was found that prisoners, unless closely watched, readily penetrated them. From a common case-knife, or the steel shank of a boot, a saw can be manufactured which will cut iron bars with little more difficulty than a hardwood bar. In Stearns County a prisoner cut his fetter-link with a saw made from a steel pen. In another jail an effective saw was made from a steel suspender buckle. In many such jails in the State, iron bars have been cut, *e. g.*, in Dakota, Meeker, Mower and Washington Counties. Experiments have been made with steel bars, but it was found that such bars are readily broken by a sledge or a battering-ram; but by using bars composed of alternate layers of iron and steel, or bars of case-hardened iron, a combination is secured which resists both hammer and saw. There are some fourteen such jails in the State, all on the cage plan, in Clay, Crow Wing, Hennepin, Kandiyohi, Le Sueur, Martin, Meeker, Nobles, Otter Tail, St. Louis, Scott, Steele, Stevens and Todd Counties,— built by the Herzog Manufacturing Company, of Minneapolis, P. J. Pauly & Brother, of St. Louis, and the Ætna Iron Works, of Quincy, Ill.

DEFECTS OF THE CAGE PLAN.

In each of these fourteen jails, the interior of the cage is very dark. The only exception is the Scott County jail, in which the front of cells and corridor are of round bars, with openings three by fourteen inches, affording good light; but the cage is set so close to the outer windows as to render conversation and passage of tools, etc., easy. In the other thirteen jails, the gratings of corridors and cell doors are so made as to shut off filly two-thirds of the light that would pass; and in most cases the cages are so placed with reference to the outside windows, as to prevent the reception of direct light in the prisoners' corridor. This defect not only causes injury to prisoners' health, but makes the interior of the cage so dark that the officers cannot observe the movements of the prisoners. Hence, two recent and nearly fatal attacks upon the jailers of Clay and Hennepin Counties The sheriffs, being

humane men, dislike to confine prisoners in these dark places, and in many cases give all prisoners, except the most dangerous, the liberty of the cell room. Its walls and windows being constructed with little reference to security, escapes are not infrequent as from Le Sueur, Meeker, Nobles and Steele Counties.

A second defect is that, in all such jails, the whole cell room must be heated for even a single prisoner. The cost of heating the jails of the state is enormous. In Scott County, in a cell room twenty-eight by thirty-one feet by fourteen high, with eight double cells and three outside walls, there was but one prisoner when visited. In Houston County, in a cell room about thirty-eight by forty-eight feet high, with twenty cells there were six prisoners. Such buildings, in this climate, are folly. In jails like the last named, having two tiers of cells, this difficulty can be measurably removed by a floor dividing the jail into two distinct stories.

A third objection to this class of jails, especially the larger ones, is their security. Officers are led to rely upon a steel cage rather than upon ceaseless vigilance. A good jailer with his eyes open, is worth more than the strongest cell ever built. Officers in charge of such jails are apt to grow negligent, and then comes an escape, like that in May, 1884, from Wabasha County jail. A skillful jail breaker would escape from Ramsey County jail in two hours time, if unwatched, but a careful officer watches day and night. Stearns County, with one of the flimsiest jails in the State, never loses a prisoner. On the other hand, in Hennepin County, with one hundred prisoners, there is no night watchman, reliance being placed on the steel cells; and attempted escapes are frequent. The interest on the cost of that dark, crime-breeding cage would pay three good officers.

The fourth and worst defect of these steel cages is that, their great cost compels provision for ninny men in small space. In several of these jails, in a space six and a half by eight feet and seven high, are hammocks for six prisoners, to be locked in from dark to daylight; on each side, perhaps, is a similar cell, and conversation from cell to cell is easy. So that these six men have the society of twelve others, day and night. By day, they all have the liberty of each other's cells and a corridor four feet wide. This arrangement not only violates the laws of hygiene and decency, but is an outrage upon the rights of untried men, innocent in the eyes of the law, and affords perfect facility for those corrupting agencies which are to be mentioned further on.

For these reasons the steel cage plan, at its present stage of development, does not seem to fully meet the needs of Minnesota.

LOCATION OF JAILS.

The location of jails varies. A few are in the basements of court houses, as in Anoka, Goodhue, Otter Tail and Pope Counties. Every such jail is voted a nuisance by the officers and the grand juries. The jails of Goodhue and Douglas Counties dispute the honor of being the worst in the State, the latter being in the basement of the residence. Some are on the first floor of court houses, as in Nobles, Swift and Renville Counties. In the latter county the vermin from the jail penetrate the floor to the county offices above and infest the desks. These jails are, most of them, temporary make-shifts. Several jails are attached to the rear of the court house, as in Martin, Stevens and Todd Counties. Such jails are usually built with the remnants of the funds raised to build a court house, and are correspondingly scrimped and imperfect. They shut off light from the rear offices of the court house, and in most cases the counties will wish that they had been built separate. All of the best and most satisfactory jails are built apart from the court house, in connection with the sheriff's residence. Such are the jails of Winona, Waseca, St. Louis, Scott and Houston Counties. This plan gives the sheriff direct supervision of the prisoners, simplifies their care, minimizes danger of escapes and danger from fire, and removes the jail from that proximity to the public which is objectionable.

Not only the jails constructed of wood, but many constructed of iron, are fire traps. The iron or steel cells of Big Stone, Nobles and Wilkin Counties are placed in wooden buildings. A prisoner was burned to death in the Wilkin County jail last winter. Many of the others are equally dangerous. Should the Otter Tail County court house take fire it would he almost impossible to save the prisoners in the basement; and when last visited the night watchman did not have the key to the jail.

SHERIFF' S RESIDENCES

Are of all grades, from the inconvenient little boxes of Martin, Todd, Sibley and Ramsey Counties, to the handsome mansions of Winona and Hennepin. Most of them compare favorably with the average houses of the towns in which they are situated.

The great cost of heating jails has been mentioned. In many of the jails of this State the attempt has been made to heat by a hot air furnace, usually not placed directly under the jail, but under the court house or the residence. Except in Ramsey County the hot air furnace has invariably failed to heat the jail comfortably; and in all but two or three, stoves have taken the place of the furnace. These failures have taken place in Houston, Hennepin, LeSueur, Olmsted, St. Louis, Steele, Waseca and Winona Counties.

The best jail buildings in the State are those of Blue Earth, Clay, Hennepin, Houston, Kandiyohi, LeSueur, Martin, Meeker, St. Louis, Scott, Stevens, Todd and Winona Counties. (Crow Wing and McLeod counties were not visited). Ramsey County jail has the excellence of a cell room in two stories, permitting good heating and good ventilation. Stearns county has probably the best administered jail in the State, under sheriff Mathias Mickley.

Such are the jails of Minnesota. We are now ready for the question:

FOR WHAT ARE THE COUNTY JAILS USED?

The jails are used for two radically distinct purposes: first, for the *detention* of several classes of persons; second, for the *punishment* of certain classes of convicts. As places of detention they receive: first, persons accused of crime,—men, women, boys and girls, of every possible grade of innocence and guilt; second (to quote the statute), "witnesses in cases of murder in the first degree, arson, where human life has been destroyed, and cruel abuse of children, required to recognize, either with or without sureties, shall, if they refuse, be committed to prison by the magistrate, there to remain until they comply with such order or are otherwise discharged according to law." (The refusal may be, and usually is, from inability.) Third, persons against whom information of insanity has been filed, until the question of their sanity or insanity is determined, often several days.

THE INSANE IN JAIL.

The detention of insane persons in jails appears to be entirely a matter of convenience, without any specific warrant of law, but it is a common practice, and, indeed, in some eases, seems almost unavoidable. No one will deny that insane persons should be treated with the greatest humanity and not as criminals, nor should they be associated with criminals; yet they are frequently locked up with the other occupants of the jail. In the Nobles county jail is a cell with a ring in the floor. The sheriff explained that when a violent insane man was disposed to break windows or do other damage he was handcuffed to that ring so that he could do no harm. John C. Greening, sixty years old, showing signs of insanity Aug. 4, 1884, was arrested and kept in the Minneapolis city lockup until August 5th, when he was released. August 6th, becoming violent, he was re-arrested and placed in a cell. ''Early in the afternoon the prisoner was seen by Jailor Bross. The exact time of his death is not known, as it was not discovered until Jailor Needham visited the cell to serve supper." May 24 or 25, 1884, a respectable young woman was arrested for attempting to fire a house, and placed in the St. Paul lock-

up. Observing signs of insanity, the officer locked up a prostitute in the same cell to prevent her injuring herself. May 26th, she was brought out with some fifteen other prisoners, and taken through the public streets to the Municipal Court, where she was bound over, and sent to the Ramsey County jail and put in with other prisoners. There she was examined, found insane and sent to St. Peter. Tuesday, May 6, 1884, the Ramsey County jail was visited by Messrs. Berry, Campbell, and Wells, members of the Board of Corrections and Charities, with the secretary of the board. In a cell in the women's part of the jail, on a heap of straw, lay an old man eighty-two years of age, bound hand and foot, in an attack of acute mania. Though thirty men were idle in the building he could have no nurse, being on the women's side. The food provided was the prison fare of dry bread, soup, meat and potatoes. He lay in his own fæces, his clothing being unchanged. His cell door was open, and in the corridor, perhaps twenty feet away, two women were compelled to stay — one an insane woman, on her way to St. Peter; the other, accused of a crime, but the grand jury refused to indict her, believing her also to be insane. The jailor said that the sheriff had only two dollars a week for boarding prisoners, and could not provide nurses and hospital fare. Thursday, May 8th, the jail was revisited. The old man lay in a stupor on a straw bed, with neither sheets nor pillow-cases, still wearing his own clothing. The jailor reported that suitable food had been provided, but he would not eat. In response to inquires, the sheriff said that he had begged to have the man removed, but the doctors said he could not be moved. The county physician being visited, said that the patient was no longer a county charge, having been ordered to the State Insane hospital; still, as a matter of humanity, he would take him to the county hospital if he could bear removal. He had no authority to transfer hospital material to the jail, but would refer the matter to the board of control, which would meet four days hence. Meantime, he thought he might venture to take him a pillow. Happily, the embarrassment of the officials was relieved the death of the patient on Saturday.

INNOCENT PRISONERS.

Four cases of witnesses detained have occurred in Ramsey county alone in a little over a year two of them young women. The sheriff was compelled to either lock up a respectable young woman, accused of no crime, with criminals, or to put her in the prison kitchen at his own risk. There is a case on record, in another State, where a stranger, passing through a county, was set upon by footpads, robbed and beaten. He identified his assailants and caused their arrest. The robbers gave bail and went free. The victim, being a stranger, could not give bail and was locked up in jail as a witness.

Nor are insane persons and witnesses the only innocent inmates of our jails. In Montana, a few mouths ago, a grand jury dismissed seventeen persons accused of crimes without evidence, and rebuked severely the magistrates who had held them. In our own State, in 1878, out of 430 criminal cases presented by county attorneys, 113, or 26 per cent, resulted in acquittals or *nolle prosequi*. In 1880, out of 744 cases prosecuted, 271, or 36 per cent, resulted in acquittal or *nolle prosequi*. Doubtless many of these persons were innocent, being victims of circumstantial evidence or malice. A quiet, peaceable young German, who had killed a man entirely in self defense, lay for four months in jail in Nobles County, in the same cell with a horse thief, a hardened, professional criminal. The German was promptly acquitted on his trial. A boy ten years old was held in Ramsey County jail for the grand jury on charge of arson, in May, 1884. His cell-mate was a thief, and, by day, he had the liberty of the corridor with eleven men of all sorts. The grand jury found no evidence that the boy was guilty or vicious. Certainly innocent prisoners have a right to be kept from association with the vicious, and to suffer as little hardship as possible; but in the majority of the jails in Minnesota there is no provision for and no attempt to separate these classes.

Our law goes a step further, and implies that the same consideration shall be extended to all unconvicted prisoners. The statutes of Minnesota expressly declare (chapter 92 section 3): "A defendant in a criminal action is presumed to be innocent until the contrary is proven." Some months ago, when inspecting the jail of Rice County, the secretary commented upon the bill of fare detailed by the prisoners, as being "rather gilt edged for a prison." Sheriff Barton replied: "These men are not here for punishment; they are simply held for trial. If convicted, they will be sentenced for punishment; but in the meantime, it is my duty, under the law, to give them three good meals a day and cause them as little hardship as the case will permit." This view seemed novel, but on reflection, its justice was apparent. The statutes of Minnesota provide (chapter 120 section 8) that "each prisoner shall be served three times each day with wholesome food, which shall be well cooked and in sufficient quantity. It is further provided that, except in a few of the highest crimes, prisoners may give bail. Two men are arrested for the same identical offense. One gives bail at no cost except the credit of a friend, and goes free. He can attend to business, earn money, enjoy the society of his family; is subject neither to hardship nor disgrace. The other, being unable to furnish bail, is committed to jail for one, three or six months, or even a year. He is unavoidably deprived of liberty, earnings and society. At the trial both are found guilty and sentenced to an equal term in the State prison. If detention be made punishment, gross injustice is done to the man who must lie in jail. It appears, therefore, that detained prisoners, whatever their real

character, should be given comfortable and wholesome quarters, treated with all leniency consistent with safety, kept from debasing associations, and have the constitutional privilege of a speedy trial.

CONVICTS IN JAILS.

On the other hand, our jails are used for the punishment of sentenced criminals — convicts. These sentences vary in duration from one day to two years. Maiming or killing animals maliciously is punishable by imprisonment not more than two years in the county jail. A sheriff or jailer allowing the escape of a prisoner is subject to the same penalty. The law provides (statutes. chapter 94. section 18), that "any woman with child, who shall solicit from any person anything, or shall submit to or perform upon herself any operation with intent to cause an abortion, unless necessary to preserve life shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not more than two years nor less than three months, or by fine not exceeding one thousand dollars nor less than three hundred dollars, or both." It appears therefore, that, unless such a woman can pay a fine of at least three hundred dollars, the court has no option, but must send her to jail for at least three months. The jail is used then for punishing convicts guilty of many minor and some major offenses. The convict, of course, needs entirely different treatment from the detained prisoner. He should have plain fare, a hard bed, hard work, few privileges, and be made to feel that the way of the transgressor is hard. There should be a sharp and visible contrast between his treatment before conviction, while innocent in the eyes of the law, and after he is adjudged guilty. Our law attempts to secure this contrast by providing that when convicts are sentenced to hard labor in the county jail the sheriff shall furnish them with suitable tools and material, if in his judgment they can be profitably employed. (Statutes, chapter 120, section 12). For a time, convicts in Hennepin County were worked on a stone pile, but it was abandoned in 1883, proving unprofitable, Convicts in the St. Louis County jail are worked upon the streets, under guard. With these exceptions it does not appear that any county has attempted to carry out this provision of the law. It is impracticable, with so few prisoners. Almost invariably the treatment of convicts and detained prisoners is identical, and, with possibly two or three exceptions, in the State, the two classes of prisoners occupy common apartments. Except in Ramsey and Washington counties, persons sentenced from the municipal courts are sent to the county jail, and usually occupy common apartments with the county prisoners.

Inmates of Minnesota jails of all classes are well fed, usually having the same food with the sheriff's or jailer's family. Complaints of lack of quantity come from some prisoners in Ramsey and Hennepin Counties, probably without just cause.

AN INSOLVABLE PROBLEM.

THE QUESTION ARISES: Is it possible to keep prisoners in the same apartments, on the same fare and under identical conditions, and make the imprisonment a punishment, terror, and disgrace to one class, and at the same time, make it to another class a comfortable, humane detention, largely relieved from hardship? Surprising as it may seem, this is readily accomplished in our County jails; but unfortunately the wrong class is affected in each case. The aim is to punish the convict and make comfortable the detained prisoner. The result is exactly the opposite. The sentenced prisoner is usually a tramp, a drunkard, a bully or a petty thief. Vermin have no terrors for him, dirt is his native element; fresh air is distasteful. Given no work, a warm fire, good food, a pack of cards, a pipe of tobacco and companions of his own sort, and he is perfectly happy. He lacks only a bottle of whisky, and in some jails he can get that. He will steal to get back, if discharged in cold weather. He is not punished. But take a man of decent habits, unconvicted of any crime; thrust him into a narrow, foul-smelling prison, constructed exactly like the cage of a wild beast in a menagerie; too dark for reading with comfort; without a chair, or a table, or bed linen; without provision for a bath; locked up from dark to daylight with from three to five other prisoners of all sorts, in a cell six and a half by eight feet, and seven feet high; compelled to listen, day and night, to an unceasing stream of the vilest language in the thieves' dialect. Is a worse punishment conceivable for an innocent man this side of perdition? Yet this is the actual condition of in a large proportion of the County jails of our State. In some it is worse. In Hennepin County jail, in the fall of 1883, prisoners declared that they could not keep their persons free from lice, and the officers admitted it. Strong prisoners were accustomed to take the best blankets, leaving the ragged ones to weaker men; and the sheriff had to go in occasionally and redistribute. Ramsey County jail has swarmed with vermin; bedbugs infesting the cells, while cockroaches overran the prisoners' food in the dumb-waiter. Goodhue County jail is in a stinking cellar, so damp that a fire is needed the year round, seriously injuring the health of prisoners and officers alike. Douglas County has two dungeons literally underground, like the coal cellars under city pavements. The cells in Mower and Big Stone County jails are untenable in summer for lack of ventilation. Illustrations might be multiplied, but are unnecessary.

It is absolutely impossible to make a single institution a good house of detention and a good house of correction. The sheriff feels on the one hand, that detained prisoners should be treated with humanity, and to do it he is compelled to relax unduly the discipline of the convict class. On the other hand, his common sense condemns soft beds and luxuries for the tramp and the petty thief, and in the effort to avoid this evil, the detained prisoner suffers. With so small number of convicts, he

finds it impossible to establish suitable discipline and diet, and abandons the attempt in despair. The industrious citizen is taxed unduly to build jails large enough to keep them, and to maintain them in idleness. The only remedy consists in the complete abolition of the present county jail system, making our county jails simply houses of detention, in which imprisonment of convicts is forbidden, and establishing district houses of correction in different parts of the State, to which all sentenced prisoners not sent to the reform school or state prison are sent, and made to earn their way. The city of St. Paul already has a city work-house which can accommodate a large district. Minneapolis is taking steps to build one. A law passed years ago, authorizing Winona to build a workhouse. Similar workhouses should be built at once at Duluth, Fergus Falls and Mankato, either by the city or by the State, to provide for adjacent districts. They can be built at much less cost per inmate than jails, and the saving to the counties in reduced cost of boarding prisoners, will far more than pay cost of transportation. They will rid the State of tramps. They will postpone the necessity for building a second State prison; for short term prisoners can be sent to the district workhouses.

This plan is not a matter of theory. Such workhouses are in successful operation in Detroit, Milwaukee, Chicago, Pittsburg, Cleveland and other cities, becoming in some cases, a source of revenue, and in all cases producing great improvement in dealing with petty offenders. The Detroit house of correction ranks as one of the best prisons in the country, and receives even United States and territorial prisoners.

With the erection of district workhouses, the chief obstacles to the renovation exists not only in the rights of accused persons and the just deserts of convicted criminals, but in the economic interests of the State.

COMPULSORY EDUCATION IN CRIME.

We desire to diminish crime to save expense to the State and secure the safety of the citizens; but it is universally agreed by all who have investigated the matter that our jails are now a source of crime and not a preventive. The intimate association which exists in all our jails gives opportunity to experienced criminals to indoctrinate those younger and less hardened; and no missionary ever worked with more zeal and more success. This evil has recently been vividly portrayed in a series of articles by Gen R. Brinkerhoff, of the Board of State Charities of Ohio, entitled *Crime Schools at Public Expense*. The notorious bank robber Cole Younger, now in the State prison at Stillwater, said recently to the writer: “People have little idea of the mischief that is done young men in jail. Old hardened criminals have nothing to do but to teach young

men all the badness they know; they fill their ears with stories of how somebody 'held men up' and got rich and lives in a brown stone front; and we know such things are not true." Testimony to the same effect comes from jail officers and inspectors everywhere, with no dissenting voice. The State of Minnesota is maintaining a system of compulsory education in every jail in the State where there is more than one prisoner. Young men arrested for a first offence and filled with compunctions and good resolutions, are laughed out of their scruples and inoculated with hatred for society, resistance of authority, and a desire for revenge for fancied wrongs. They go into jail novices; they come out fully initiated into the mysteries and the methods of crime.

The remedy for this public scandal is a proper system of grading. Let the different classes of prisoners be kept entirely apart. Our law provides that "the sheriff shall keep separate rooms for the sexes, except where they are lawfully married;" and that "if any sheriff, jailer or keeper places or keeps together prisoners of different sexes, he shall, in each case, forfeit and pay, for the first offense the sum of twenty-five dollars; and such officer shall, on a second conviction, be further sentenced to be incapable of holding the office for a term of five years." Yet not more than twenty out of over fifty-two jails here have a separate room for women.

This law has been violated in at least five counties during the past fifteen months. In Winona County, a woman was kept in the upper corridor, and men in the lower corridor of the iron cage, where they could touch each other, and converse freely in ordinary tones. In Douglas County, a woman was locked up for ten days in a cell, while male prisoners were loose in the corridor outside the grated door. In Washington County, a woman occupied a cell separated from the corridor of the male prisoners only by an iron grating, with openings two by twelve inches. In Dakota County, two women were kept for forty days and nights in the jailor's corridor, having their beds on top of the cage separated from the male only by an iron grating, with openings similar to those in Washington County; free to see, touch and converse with the male prisoners. The Ramsey County jail is kept in constant violation of the law. Male and female prisoners can readily converse and incorrigible males are locked up for punishment on the women's side. The women's water closet is an open sink, unscreened from the jailor's corridor. Sheriff O'Brien admitted the violation of law, but said that the commissioners refused to make the necessary changes in the building.

The law provides that "juvenile prisoners shall be kept, if the jail will admit of it, in apartments separate from those containing more experienced and hardened prisoners;" but very seldom is such separation maintained, even in jails having more than one room.

This separation of the sexes and children, which is all that our law contemplates, is evidently not enough to prevent criminal instruction in jails. In Hennepin County, municipal prisoners are separated; but that is not enough. Shall we grade prisoners according to the magnitude of the crime charged? But an innocent man may be accused of murder and a hardened villain may be arrested for petit larceny. Shall we grade on general appearance of the prisoners? Warden J. A. Reed, probably one of the best judges in the State, said some time ago: "The more I have to do with convicts the less confidence I have in outward signs of character. The most innocent looking man is sometimes the greatest rascal, and *vice versa*." The truth is that in our jails, — especially the smaller ones, — there are usually as many grades of character as there are prisoners, and

THE ONLY SAFE PLAN OF GRADING

is that which has now been practiced for several years with complete satisfaction in the Boston jail and the Richland County jail of Mansfield, Ohio, namely, the complete separation of every prisoner from every other during his detention. Popular prejudice is opposed to solitary confinement; but with reasonably comfortable cells, good reading matter, and frequent visits from the officers and other suitable persons, such temporary confinement is not harsh. Innocent prisoners will be thankful to be freed from base associations, and guilty ones will be benefited by an opportunity for quiet reflection. This plan prevents plotting and cooperation for escapes as well as the formation of criminal acquaintances and the maturing of plans for future depredations. It has the approval of the most thorough students of the subject, and whatever objections arise to it at first thought will, it is believed, yield to a careful and candid study of the subject, especially if undertaken in connection with the actual inspection of county jails.

APPENDIX

Item **Pages**

A.

OPINION OF W. J. HAHN, ATTORNEY GENERAL, RESPECTING THE ADMINISTRATION OF JAILS.

STATE OF MINNESOTA,
ATTORNEY GENERAL'S OFFICE,
ST. PAUL, Dec. 21, 1883.

H. H. Hart, Secretary Board of Corrections and Charities:

DEAR Sir: I will answer the questions propounded in the order of their asking. First—In cases where it is understood that the county, by its commissioners, furnish necessary "bedding, change of underclothing, or other necessary clothing, or towels for the use of prisoners in a county jail, is it the duty of the sheriff or jailer to purchase the same without the order of the county commissioners, in case of their neglect to do so, after due notice is given? If so in what manner is he to collect payment for the same, in case of the refusal of the commissioners to pay?"

By section 19, page 970, general statutes of 187S, it is made the duty of the keeper of each jail, under the circumstances stated in your query, to furnish the articles indicated. In case he does so provide such supplies, he is to be paid therefor out of the county treasury. The section is silent as to the manner by which such payment is to be made. It follows, therefore, that it must be made on the order of the county commissioners, as this is the usual way by which claims against the county are paid. In case the commissioners should refuse to allow and order paid his bill for the same, he has his remedy by an appeal to the district court, under section 89, page 134, or he may commence an original action against the county for the amount of his claim. (14 Minn. 67.)

Second — "In case of the neglect of the county commissioners to remedy defective sewerage in a county jail for several months, although duly requested so to do by the sheriff, and although the health of the sheriff's family and the prisoners is endangered thereby, is the sheriff empowered by section 8, chapter 120, General Statutes, to make the necessary repairs at the expense of the county? If not, has the board of health of the city or town in which the jail is located, or any other, authority to compel the making of such repairs?"

No authority to make any such repairs is given to the sheriff by section eight. This section makes it his duty to see that the prison is kept in a "cleanly and healthful condition;" but there being no provision such as

is found in section nineteen for repayment for expenditures made in and about the performance of such duty, it seems to me that the word "healthful" found in this section must be construed as equivalent, or nearly equivalent, to the preceding word "cleanly." He is to see that it is kept in a "healthful condition," so far as it is possible for him to do so.

The jail is kept "by authority of the hoard of county commissioners, and at the expense of the county," and unless there is a power clearly vested in some other person or body to incur expenditures on account thereof it rests with the board alone to say when and what repairs shall be made; and in my opinion no board of health or any other board can *compel* the making of such repairs. (See Laws 1883, page 178; see Commissioners of Neosho County vs. Stoddard, 13 Kas. 207.)

It seems to me that the only way such repairs could be enforced would be through the action of the grand jury. A willful neglect of duty on the part of the board of county commissioners would render them liable to indictment. (See section 8, chapter 91, page 879, General Statutes, 1878; Russell on Crimes, page 200, *et seq*.)

Third — "What is meant by 'separate rooms' in section 2, chapter 120, General Statutes?

"(*a*) In a case where male prisoners are confined in an iron 'cage' of which the grating has openings three inches square, and female prisoners are confined in the room in which the 'cage' is situated, having their beds on the top of said 'cage,' with full privilege to see, touch and converse with said male prisoners, are they in 'separate rooms' within the meaning of the statute"

"(*b*) Where women occupy an upper tier of such an iron 'cage' and men the lower tier, they being able to converse freely but not to see or touch each other, are they in 'separate rooms' within the meaning of the statute?"

To the first subdivision of above question (*a*), I answer: They are not in separate rooms within the meaning of the statue. The second subdivision of above question must also be answered in the negative, in my opinion. As I understand the expression "separate rooms," as used in section 2, *supra*, it means that the sexes should be kept entirely separate, so that they can hold no converse or intercourse with each other; and, so long as they are able to do either, they are not kept in separate rooms within the intent and meaning of this section.

Yours truly,
WILLIAM J. HAHN,
Attorney General.

B.

AN ACT TO ESTABLISH A STATE BOARD OF CORRECTIONS AND CHARITIES FOR THE STATE OF MINNESOTA.

1883 Laws, Chapter 127, pages 171-72.

***Be it enacted by the Legislature of the State of Minnesota*:**

SECTION 1. The Governor, with the advice and consent of the senate, shall appoint six (6) persons, not more than three (3) of whom shall be from the same political party, who shall constitute a State Board of Corrections and Charities, to serve without compensation, their traveling expenses only being defrayed by the state; two (2) of whom, as indicated by the Governor upon their appointment, shall serve for one (1) year, two (2) for two (2) years, and two (2) for three (3) years; and upon the expiration of the term of each, his place, and that of his successor, shall, in like manner, be filled for the term of three (3) years. The Governor shall be ex-officio a member of said board and the president thereof. Appointments to fill vacancies caused by death, resignation or removal before the expiration of such terms, may be made "for the residue of terms in the same manner as original appointments.

SEC. 2. The State Board of Corrections and Charities shall be provided with a suitable room in the state house. Regular meetings of the board shall be held quarterly, or oftener if required. They may make such rules and orders for the regulation of their own proceedings as they may deem necessary. They shall investigate the whole system of public charities and correctional institutions of the state, examine into the condition and management thereof, especially of prisons, jails, infirmaries, public hospitals, and asylums; and the officers in charge of all such institutions shall furnish to the board, on their request, such information and statistics as they may require; and to secure accuracy, uniformity and completeness in such statistics, the board may prescribe such forms of report and registration as they may deem essential; and all plans for new jails and infirmaries shall, before the adoption of the same by the county authorities, be submitted to said board for suggestion and criticism. The Governor, in his discretion, may, at any time, order an investigation by the board, or by a committee of its members, of the management of any penal reformatory or charitable institution of the state; and said board, or committee, in making any such investigation, shall have power to send for persons and papers, and to administer oaths and affirmations; and the report of such investigation, with the testimony, shall be made to the Governor, and shall be submitted by him, with his suggestions, to the legislature.

SEC. 3. The said board may appoint a secretary, who shall be paid for his services, in addition to his traveling expenses, an annual salary of not to exceed twelve hundred dollars ($12,000), as may be agreed upon by the board. All accounts and expenditures shall be certified, as may be provided by the board, and shall be paid by the State Treasurer upon an order from the Auditor of State.

SEC. 4. The State Board of Corrections and Charities shall, every two (2) years, make a full report of all their doings during that period, stating in detail all expenses incurred, and showing the actual condition of all the state and county institutions, and making such suggestions as they may deem advisable; of which report one thousand (1,000) copies shall be printed for the use of the legislature, and five hundred (500) copies for the use of the board.

SEC. 5. Whenever the Governor shall deem it advisable and expedient to obtain information in respect to the condition and practicable workings of charitable, penal, pauper and reformatory institutions in other states, he may authorize and designate any member of said board, or the secretary thereof, to visit such institutions in operation in other states; and by personal inspection to carefully observe and report to said board on all such matters relating to the conduct and management thereof as may be deemed to be interesting, useful, and of value to be understood in the government and discipline of similar institutions in this state.

SEC. 6. No member of said board, or their secretary, shall be either directly or indirectly interested in any contract for building, repairing, or furnishing any institution, poor house or jail which by this act they are authorized to visit and inspect; nor shall any officer of such institution, jail, or poor house be eligible to appointment on the board hereby created.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 2, 1883.

C.

The following statute on county jails, first enacted in 1878, was in effect when Hart wrote the foregoing report. Title I of Chapter 120 covered jails, and Title 2 covered the state prison. In 1893, a decade

after Hart first began touring jails, the legislature enacted a sweeping law that set requirements on all aspects of the construction and maintenance of county jails and granted powers to the Board of Corrections and Charities. It also repealed Chapter 120, although several provisions (i.e., §§ 4, 5 & 6) were incorporated into the 1893 law. The reform law is posted in Appendix A to Hastings H. Hart, "The County Jails, 1892-1894" 35-45 (MLHP, 2012) (first published, 1895).

JAILS AND PRISONS

Stat., ch. 120, §§1-24, at 968-970 (1878).

TITLE 1.

COUNTY JAILS.

§ 1. Every county to have a jail. There shall be established and kept in every county, by authority of the board of county commissioners, and at the expense of the county, a jail for the safe-keeping of prisoners.

§ 2. Jail, how to be kept. The sheriff of the county, by him or deputy, shall keep the jail, and be responsible for the manner in which the same is kept; he shall keep separate rooms for the sexes, except where they are lawfully married; he shall provide proper meat, drink and fuel for prisoners.

§ 3. Where prisoners shall be kept when there is no sufficient jail. When there is no sufficient jail in any county wherein any criminal offence has been committed, the examining magistrate upon his own motion, or the district judge upon application of the sheriff, may order any person charged with a criminal offence, and directed to be committed to prison, to be sent to the jail of the county nearest having a sufficient jail; and the sheriff of such nearest county shall, on exhibit of such magistrate or judge's order, receive and keep in custody, in the jail of his county, the prisoner ordered to be committed as aforesaid; and the said sheriff shall, upon the order of the district court or a judge thereof; re-deliver such prisoner when demanded.

§ 4. Fugitives from justice to be kept in any jail—compensation. Any county jail may be used for the safe keeping of any fugitive from justice in this state, in accordance with the provisions of any act of congress; and the jailor shall be entitled to reasonable compensation for the support and custody of such fugitive from the officer having him in custody.

§ 5. United States prisoners, how kept—liability of sheriffs, etc., for misconduct, etc. All sheriffs and jailors to whom any person is sent or committed by virtue of legal process issued by or under the authority of the United States, shall be and they are required to receive such person into custody, and to keep him safely until discharged by due course of

law; and all such sheriffs and jailors offending in the premises shall be liable to the same pains and penalties, and the parties aggrieved shall be entitled to the same remedies against them or any of them, as if such prisoners had been committed to their custody by virtue of legal process issued under the authority of this state.

§ 6. United States liable for support of such prisoners. The United States shall be liable to pay, for the support and keeping of said prisoners, the same charges and allowances as are allowed for the support and keeping of prisoners committed under the authority of this state.

§ 7. Treatment of juvenile prisoners. Juvenile prisoners shall be treated with humanity, and in a manner calculated to promote their reformation; they shall be kept, if the jail will admit of it, in apartments separate from those containing more experienced and hardened criminals; the visits of parents, guardians and friends who desire to exert a moral influence over them shall, at all reasonable times, be permitted.

§ 8. Jail shall be kept, how—food of prisoners, etc. The keeper of such jail shall see that the same is constantly kept in a cleanly and healthful condition, and that strict attention is constantly paid to the personal cleanliness of all the prisoners in his custody, as far as may be, and shall cause the shirt of each prisoner to be washed at least once in each week; each prisoner shall be furnished daily with as much clean water as he shall have occasion for, either for drink or for the purpose of personal cleanliness, and with a clean towel, once a week, and shall be served three times each day with wholesome food, which shall be well cooked and in sufficient quantity.

§ 9. Prisoners to have bibles—religions instruction. The keeper of each jail shall provide, at the expense of the county, for each prisoner under his charge who may be able and desirous to read, a copy of the bible or new testament; and any minister of the gospel disposed to aid in reforming the prisoners, and instructing them in their moral and religious duties, shall have access to them at seasonable and proper times.

§ 10. Calendar of prisoners—contents. The sheriffs of the respective counties shall keep a true and exact calendar or register of all prisoners committed to any jail under their care, and the same shall be kept in a book, to be provided by the county for that purpose; said calendar shall contain the names of all persons committed to prison, the place of abode, the time of their commitment, the cause of their commitment, and the authority that committed them, and, if they are committed for criminal offences, shall contain a description of their persons; and when any prisoner is liberated, said calendar shall state the time when, and the authority by which such liberation took place, and, if any prisoner escapes, shall also state particularly the time and manner of said escape.

§ 11. Same—copy to be returned at each term of court. At the opening of each session of the district court within his county, the sheriff shall return a copy of said calendar, under his hand, to the judge holding said court; and if any sheriff neglects or refuses to do so, he shall be punished by fine, not exceeding three hundred dollars.

§ 12. Convict to be furnished with tools—expense, how paid—earnings. Whenever any person is confined in any jail pursuant to the sentence of any court, if such sentence, or any part thereof, is that he be confined at hard labor, the sheriff of the county in which such person is confined shall furnish such convict with suitable tools and materials to work with, if, in the opinion of such sheriff, the said convict can be profitably employed either in the jail or yard thereof; and the expense of said tools and materials shall be defrayed by the county in which said convict is confined, and said county shall be entitled to his earnings.

§ 13. Furnishing liquors to convicts forbidden—exception. No sheriff, jailor or keeper of any jail shall, under any pretence, give, sell or deliver to any person committed to any prison for any cause whatever, any spirituous liquor, or any mixed liquor, part of which is spirituous, or any wine, cider or strong beer, unless a physician certifies in writing that the health of such prisoner requires it; in which case he may be allowed the quantity prescribed, and no more.

§ 14. Penalties for violation of duties by sheriffs, etc. If any sheriff, jailor or keeper of any jail sells or delivers to any prisoner in his custody, or willingly or negligently any such prisoner to have, any liquor prohibited in the preceding or places or keeps together prisoners of different sexes, contrary to the provisions of the second section, he shall in each case forfeit and pay, for the first offense, the sum of twenty-five dollars; and such officer shall, on a second conviction, be further sentenced to be incapable of holding the office of sheriff, or keeper of any jail, for the term of five years.

§ 15. Penalty for other person furnishing prisoner with liquor. If any person other than mentioned in the preceding section, sells or delivers to any person committed for any cause whatever, any liquor prohibited in this chapter, or has in his possession, in the precincts of any jail, any such liquor, with intent to carry or deliver the same to any prisoner confined therein, he shall be punished by fine not exceeding fifteen dollars.

§ 16. Copy of process to be kept by sheriff—effect as evidence. When a prisoner is confined by virtue of any process directed to the sheriff, and which requires to be returned to the court whence it issued, such sheriff shall keep a copy of the same, together with his return made thereon; which copy, duly certified by such sheriff shall be prima facie evidence of his right to retain such prisoner custody.

§ 17. Expense of keeping prisoners from other counties, how regulated. Whenever any prisoner by the proper authority is directed to

be confined in any county other than that in which the offence was committed, the sheriff of the county in which such prisoner is to be confined shall keep said prisoner at the expense of-the county in which the offence was committed, and shall be allowed therefor, four dollars per week. The board of county commissioners of the county from which said prisoner was sent, at their first session after the commitment of such prisoner, shall authorize the auditor of their county to issue to the sheriff of the county to which such prisoner was sent for confinement, orders upon their county treasurer for the expense of maintaining such prisoner from the time of his confinement until the meeting of the court at which he is to be tried; and if such prisoner is not tried at the first term of said court, the said board, at their first meeting thereafter, shall provide in like manner for the maintenance of such prisoner until the next session of said court, and so on, in like manner, until said prisoner is finally tried.

§ 18. Sheriff shall preserve orders of commitment, etc. All instruments of every kind, or attested copies thereof, by which a prisoner is committed or liberated, shall be regularly indorsed and filed, and safely kept in a suitable box by such sheriff, or by his deputy acting as a jailor. Such box, with its contents, shall be delivered to the successor of the officer having charge of the jail.

§ 19. Shall furnish bedding, clothing, etc., at expense of county. The keeper of each jail shall furnish necessary bedding, clothing and fuel, and medical aid for all prisoners who are in his custody, unless the same are furnished by the county, and shall be paid therefore out of the county treasury; and such payment shall not be deducted from the sum he is entitled to receive for the weekly support of the prisoner, as provided by law.

§ 20. Solitary confinement. Whenever any person committed to jail for any cause whatever, is unruly, or disobeys any of the regulations established for the management of jails, the sheriff or keeper may order such prisoner to be kept in solitary confinement, and fed on bread and water only, for a period not exceeding twenty days for each offence.

§ 21. Escaping from jail, how punished. If any person who may be in any jail, under sentence of imprisonment in the state prison, shall break jail and escape, he shall be punished by imprisonment in the state prison for the term of one year, in addition to the unexpired term for which he was originally sentenced.

§ 22. Same. If any person under sentence of imprisonment in the county jail, or any person committed for the purpose of detaining him for trial, for any offence not capital, shall break jail and escape, he shall be imprisoned in the county jail for the term of six months.

§ 23. Same. If any person committed to jail for the purpose of detaining him for trial for a capital offence, shall break jail and escape, he shall be imprisoned in the state prison for the term of two years.

§ 24. In case of fire, prisoners may be removed. If any jail, or any building thereto attached, takes fire, and the prisoners are exposed to danger by such fire, the keeper may remove them to a place of safety, and there confine them so long as may be necessary to avoid such danger; and such removal and confinement shall not be deemed an escape of such prisoners.

D.

The following are the members, officers, staff and committees of the Board listed in its First Biennial Report to the Legislature.

STATE BOARD OF CORRECTIONS AND CHARITIES.

OFFICE AT THE STATE CAPITOL.

Governor L. F. Hubbard, President, *Ex Officio*.

W. M. Campbell, Litchfield……Term Expires January, 1885.
Reuben Reynolds, Crookston……..Term Expires January, 1885.
D. C. Bell, Minneapolis……..Term Expires January, 1886.
H. R. Wells, Preston……Term Expires January, 1886.
C. H. Berry, Winona……...Term Expires January, 1887.
M. McG. Dana, St. Paul……..Term Expires January, 1887.

OFFICERS.

President—Governor L. F. Hubbard.
Vice President—M. McG. Dana, D. D.
Secretary—Hastings H. Hart, St. Paul.

COMMITTEES.

On Plans of Building—Messrs. Berry, Campbell and Reynolds.
On Poor Houses—Messrs. Reynolds, Bell and Berry.
Oh County Jails —Messrs. Wells, Berry and Bell.
On State Prison and Reform School—Messrs. Campbell, Reynolds and Dana.
On Insane Hospitals—Messrs. Dana, Wells and Campbell.
On children's Institutions at Faribault— Messrs. Bell, Dana and Wells.

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