

PROBLEMS OF PENAL ADMINISTRATION

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THE HUMAN MATERIAL

Any discussion of the problems of penal administration will run into error unless we hold quite definitely to the idea that inmates of penal institutions are a cross-section of society. They are this more nearly than they conform to any other description. There is no criminal class as such.

Inmates of penal institutions represent fairly well the class and level in life from which they come. They have the same likes and dislikes, the same passions and pleasures, sympathy and kindness, and the same human traits as the persons who do not get into penal institutions. Generally speaking, inmates of penal institutions can and should be governed and handled, inspired and disciplined on the same lines that apply to other people. I would say this statement applies quite fully to nine-tenths of all the inmates I have met in a penal institution.

If the management of a penal institution continually handles its inmates with lack of consideration and unfairness, and if it bulldozes, brutalizes and mistreats them, they become resentful, rebellious and mutinous. If, on the other hand, their faults are condoned, overlooked and allowed too much play, the inmates become conceited, overbearing and out of proper control. The essence of discipline outside or inside of a penal institution is fairness. In every prison there is a small percent of men who will not respond to fairness nor to any other reasonable treatment. Outside of prison we have the same percentage of arrogant, selfish, unresponsive humanity.

Take the showing in my state as to the education of prison inmates. Ten percent of the inmates of the Kansas State Prison have had one year or more of high school training. Two percent have had one year or more of college. Six percent are illiterate. This is a smaller percent of illiteracy than that shown by the draft army in the World War. Twenty per cent of our inmates have had only from one to four years of school and sixty percent have had five to eight years. I have no definite statistics as to the outside population, but the above figures will correspond

rather closely to those that depict the education status of the people at large.

Occupational statistics present a similar picture. In answer to a routine question as to what trade or profession they knew most about, the greatest number, in a population of 1,800 prisoners in our institution, said they knew most about farming. The next greatest number said they were common laborers. In the population of Kansas farmers predominate, and common laborers probably stand second as a class. The same statistics of the Pennsylvania State Prison probably would show a predominance of miners and mechanics, because in that state these classes of labor are most numerous. Bakers, barbers, ministers, musicians, doctors, salesmen, teachers, engineers, and so on down the list are found in the State Prison in proportion to their percentage in the general population of the state. Perhaps the greatest variation of the population inside of prison from that on the outside is in financial standing, although this is not as great as is often stated. Our prison postoffice shows that about \$3,000 per month comes to the inmates of the institution as gifts, rentals, pensions, and other income. A prisoners' commissary inside the walls, supplying candies, cigars, pies, cakes, and quite a line of similar articles, does a gross business of \$50,000 a year.

But the best and most continuous proof that people in a penal institution are "just folks," that they are like people generally in many ways and traits, comes from daily contact with them. Fathers in the penitentiary have the same ambition for their children to be good citizens as men on the outside. Mothers, to the last, plead for the young man in prison that he is a good son and that they have done all in their power to secure this result. Brothers in prison want their sisters to be of the highest type, and they know what that type is. They are susceptible to the same inspirations and the same discouragements to which all of us are susceptible. They feel insult and injury, they appreciate honesty and square dealing, and they know the true from the false in these things in a way that many people outside of prison do not know them. Why they have failed after knowing all these things and experiencing all these ambitions and emotions is a question not within the province of this discussion. But this one thing is very definite with me, that any considera-

tion of the crime problem must, in a broad way, recognize that so-called criminals are, after all, just human beings, who for definite reasons have made serious mistakes and can best be dealt with on this fundamental understanding.

Excepting, perhaps, one-tenth of the men who are sent to penal institutions, the men under sentence differ from men at large mostly in degree. Very few men reach fifty years of age who have not at some time done something for which they could be put in the penitentiary. The average good citizen is not so much the man who never violates the legal code, or even the social code, as he is the man who, seeing his mistakes and tendencies, checks up, gets hold of himself, and takes a different course.

PROGRESS ALONG MATERIAL LINES

The prisoner we have had always with us. There is no record of a time when individuals did not misbehave. Through history the criminal classes have been slaves, chattels, and outcasts. Less than 200 years ago they were kept in underground caves under the most revolting conditions. The earlier methods of prison reform were directed toward the alleviation of physical suffering. But, at that, all of this relief was on the basis that the so-called criminals were in a class by themselves mentally, socially and, to some extent, physically. Volumes were written to prove this. Lombroso's work was outstanding in this regard. To himself at least, Lombroso proved that criminals can be definitely classified by physical characteristics. This theory was soon exploded by another scientist who proved that the best men of the community often displayed the same physical characteristics as the so-called criminal class. Twenty to thirty years ago it was admitted in penal administration that criminals are, at least, like the rest of us physically. Better food and more of it appeared in the prison bill of fare. The distinctive prison uniform began to disappear. Better beds and living quarters were planned. Sanitary conditions were diligently looked after. Phases of outdoor recreation inside the wall were instituted in many prisons. Prisoners were allowed to walk on the same sidewalk as that used by the officers. Flogging, the water-cure pun-

ishment, and similar tortures disappeared in the management of many prisons.

However, all this had to do almost entirely with the physical and material side of the prisoner's welfare. Just now we have the beginnings of another step forward in prison management. Gradually but definitely we are approaching crime scientifically as a psychological problem, measured somewhat in terms of good and bad judgment and mental disease. This is, in effect, saying that people inside of prison and those outside of prison are similar, except in judgment, and this is startlingly close to the truth. When we analyze the elements and motives that constitute good judgment, resulting in good character, we can also begin to analyze the motives and bad judgment that end in misbehavior. The problems of prison administration today and for the next fifty or one hundred years will grow out of and around this conception of the situation. We must learn that we have been handling emotionally a problem which must be handled more intellectually and scientifically. I do not mean that character building can be reduced to scientific terms, but I do mean that some phases of physical environment and mental contacts conduce to misbehavior, and that some of these things can be reduced to scientific terms.

So, in our penal administration we have the beginning of an approach to the criminal problem by studying the mind of the individual and the mental and physical environment of his life. The psychologist, the psychiatrist, the sociologist, the physician, and the penologist must supplement the work of the judge and the jury. No less an authority than former Attorney-General Wickersham said recently: "No other branch of the law is so far behind present-day needs as the criminal law." I believe that the late Chief Justice Taft is on record with a similar declaration. But the criminal law is not more out of date with present day needs than are the penal institutions of the country in the organization and equipment needed for their problem.

THE PERCENTAGE OF FAILURE

The records of any prison in this country will show that somewhere near fifty percent of its inmates have served a previous

term somewhere. In other words, what we are attempting to do in state prisons is fifty percent failure. Warden Lawes states an examination of the records of nearly one hundred years ago at Sing Sing shows the same percentage of repeaters. No other business or profession could or would stand for such a proportion of failure. The registration in any state prison will show lawyers, bankers, ministers, editors, doctors, plumbers, common laborers, farmers and all the classifications of industry. It will, on the other hand, show a surprising number of men who make zero in an intelligence test. The average score in the Kansas State Prison is slightly higher than the average score of the draft army in the World War. Yet these men have all been sentenced alike for similar offenses, and in prison we handle them alike in work, in discipline, in housing, and in what might be called recognition of their social and individual rights. A man is sentenced for one year or five years or twenty years with the bland assumption that in so many months, days, and hours he will be reformed and go out to be a law-abiding citizen. Yet almost nothing is done inside the prison that really conduces to this end. If the man in fact changes after going to prison he does it on his own account, generally because of some inspiration which did not originate in the prison.

With quite a number of men reformation is accomplished as soon as they have gone through court and been sentenced, without serving a day. They never again would violate the law. With other men reformation is never accomplished though they serve a lifetime. Many men in prison could be handled, fed, worked, and housed without an enclosing wall, which every day is a challenge and discouragement to the man who is formulating good purposes. Prisons should be constructed to give the better type of man encouragement rather than discouragement. Men of the most degraded and degenerate type cannot now be quartered in our prisons apart from men of much higher motives and moral standing. To this extent society, by its own organization and methods, is hindering the very problem it hopes to help and solve.

THE DEPENDENT RELATIVE

One of the continual and distressing problems in a penal institution is the dependent relative. The head of a family gets

in some sort of trouble and is sentenced to the penitentiary, the wife being left at home with five or six children or the mother or the father left practically destitute. I know of one family of six children under fourteen with the seventh child born three months after the father came to the prison. He was sentenced for robbing a gambling game in which he had participated and lost. The game itself was an outlaw conducted in a vacant house three miles from the city limits. No other participants in this matter were arrested. The family had enough standing in the community so that neighbors undertook to care for the wife and children. Gradually this became too great a burden. After six months the man was released on a governor's parole. He went back to his former job in a tire shop where he had worked several years at \$22.00 a week with a good record. His employer was one of the chief pleaders for his release. The wife and children had broken no law. They were entirely innocent, but from several angles they got the worst of the situation and suffered more than the man who received the sentence, in consequence of the system which imposes so much time for so much crime and does it regardless of all other conditions.

Any state prison with a population equal to ours will have on its list three or four hundred innocent families which the law punishes with the guilty. It is a keen and definite social problem. I cannot conceive of a state prison put on a business basis, with an open market, that could not make more than its expenses with the labor at its command. The state is not in the crime business for profit. This would be repugnant to every good citizen. When a penal institution has marketed enough of its products to pay its expenses and free the taxpayer of any burden, additional profits should be paid as wages to the families, the wage earners of which are serving sentences. Some state prisons have done this with considerable success.

A Federal law, which goes into effect in 1934, empowers state legislatures to forbid interstate traffic in prison-made goods. This limitation of prison markets may not be for the best interests of society as a whole. Union labor, which opposes the sale of prison-made goods, has some very reasonable grounds for its position, the chief argument being that convict labor should not be in competition with free labor. In a general way, apparently,

its argument is sound. But it seems questionable in the case of the dependent family. The members of the dependent family of the prisoner are on the same basis of citizenship enjoyed by every other family. They are good citizens, free, and entitled to their rights. If they become public charges union labor and all other labor must be taxed directly or indirectly for their support. But the bigger problem is the social welfare of the family, the outlook the children have upon life, the preservation of the family as a unit, and the safeguarding as far as possible of its self-respect. It seems to me the monetary loss to free labor in the manufacture of prison-made goods is a negligible detriment when compared with the critical needs of a prisoner's dependent family.

PAROLES

The problem of paroled men is the acid test of our present method of handling lawbreakers. The indeterminate sentence law is of definite value, but it is not as generally effective as is commonly supposed. The indeterminate sentence law is a law for particular cases, but it is seldom so regarded. Under the present system rules for eligibility to parole are established by boards and governors. These rules tend to be mechanically applied. Men with indeterminate sentences simply earn their right to a hearing with reference to their possible release. The system is better than the flat sentence, which assumes that at the end of so many days, hours, and minutes reformation of the lawbreaker is accomplished.

Supplementing all sentences there should be provisions for more fully and more scientifically determining several things:

First. The hereditary, mental, physical, and spiritual background of each man before he was known as a violator of law.

Second. The mental attitude of the parole applicant, touching his moral judgments and viewpoints toward himself and toward society in general.

Third. The ability of the man, mentally and physically, morally and spiritually to live up to his viewpoints if they are good and worthy.

Fourth. The physical equipment of the man to contend and win in the environment to which he is to be paroled.

Fifth. Release from prison under much better organized and more strict supervision than is now given.

The usual defense of the parole system and the indeterminate sentence law is that from 70 to 80 percent of the paroled men remain good average citizens. The defender of the parole system usually means that the paroled man was not returned for violation of his parole contract during the usual twelve-month parole period. What the institution does not know, and what it cannot tell the inquirer, is what course of conduct the paroled man followed after his parole contract was completed and he received his final discharge. But we do have a most amazing and definite record in another way. The records of most any state or federal prison will show that fifty percent of the population is serving its second conviction for felony, and some of them are serving their third, fourth, fifth or sixth terms. This is pretty definite proof that fifty percent of paroled men, or men released at the expiration of their sentences, do not remain average good citizens.

We are much indebted to Sheldon Glueck who, after a long period of careful and painstaking research, recently published the case histories of 500 men paroled from the Massachusetts Reformatory. He publishes names, dates, places, and complete records to show that 80 percent of the men paroled from the Massachusetts Reformatory again committed felonies and were sent to penal institutions, some quite soon and others within a period of several years following their release. These facts are indisputable and offset much theory based simply on hope and good will. The trouble with the present parole system, or with any other system of release from prison, is that we do not have at hand complete, reliable, scientific information upon which to base a judgment of the man under consideration. More of the data regarding the man should be compiled from his record prior to his offense rather than from his record after the offense. The remedy is not in abolishing the parole law, but in perfecting its administration.

When proper research and inquiry are convincing that a man can and will be a good citizen, he should be considered ready for a parole. The only consideration contrary to this is the deterrent effect of a prison sentence upon others than the offender.

No parole system should put the law in disrepute, make it a joke, or in any way be an invitation to violate the law. We must never lose sight of the fact that there is a percentage of citizens whose only reason for not violating the law is that they might have to go to prison. Deterrence of crime by prison sentence is a negative solution of the crime problem, but it must always be reckoned with.

There is another phase of parole field work which should be mentioned. Many of our paroled men need the help of a high-minded, conscientious, inspirational type of friend. More than anything else they need a wise, firm, intelligent counsellor strong enough in mentality and good purpose to master the mind of the paroled man and inspire him in good citizenship. This cannot be supplied by law. Sometimes I think it is too idealistic to receive consideration in the conservative processes that surround the handling of the criminal. This phase of the parole work must be supplied by men who offer their services because of a deep personal interest in their fellow men.

MUTINIES

The problem of mutiny and riot in prison has become very definite in the last twenty years and rather frequent in the last five years. I may be wrong in my viewpoint, but it seems to me that mutinies and riots occur in prison for the same fundamental reasons they might occur outside of prison. Free citizens sometimes riot, storm the city hall, make parades and carry banners in the national capital. Such events are sinister and always pregnant with serious results. Why do they occur? Because an overzealous agitator is able to point out that the city, state, or national administration is indifferent to justice. Food may be high-priced and employment impossible. Taxes may be high and officials squandering the money. Whatever form it takes, the underlying cause is that people are not properly housed, or fed, or governed. When a mutiny occurs inside a prison the cause can usually be traced to similar conditions.

In ten years of penal administration I have never had a mutiny or a riot or anything approaching one. This does not mean I could not or would not have one, as there may be one in my institution in the next five minutes. If there were, by the time

the causes were analyzed I am sure I would be able to trace the mutiny to something of the sort mentioned that had been overlooked or not properly handled by the institution management. In every penal institution there is a negligible percent of rebellious inmates who would do anything at any time which they thought they could accomplish without too much hazard. They are agitators. The right kind of management appeals to the better class, to the majority of the prison body, in a fair and reasonable way, so that the agitator does not get a majority following. Whenever the irresponsible agitator can point to facts and convince the majority, you can expect a mutiny or riot. Where management is unfair only the strictest, most rigid sort of discipline, bordering on brutality, will prevent a riot. All the time the institution sits over dynamite to which some one may attach a sputtering fuse. You cannot excel fairness in spirit anywhere in life, and you cannot excel it in a prison.

POLITICS

Although a few horrible examples stand out as warnings, I believe we are making progress in the elimination of politics from prison management. A lot of progress has been made in the twenty years I have been in touch with the work. Thirty years ago in many states heads of educational institutions changed when the governorship changed from one political party to the other. Thirty years ago in my state, in one day 43 out of 54 prison officers took the places of that many trained men when a new governor took the oath of office. Two years later when his administration went out the situation was reversed.

In another state the legislature before adjournment parceled out the offices in its state prison to nearly 100 counties. Each representative named his quota without consideration of experience or other qualifications. There was no counsel whatever with the head of the institution which had to use the raw recruits. These methods have the merit of frankness, even boldness. But that is about all that can be said for them. Methods in some states have not even that recommendation. Political changes in the personnel of some penal institutions are much more subtle and much more dangerous because hidden. A neighboring state has recently gone through a period of complete upset of its

prison officers. Men of from sixteen to twenty years' training have been discharged for no other reason than that they did not guess right prior to the party primary. That institution and others, suffering as it does, go barging along trying to handle a great and important phase of social effort with little or no hope that it can be done properly. No account is taken of the helpless humanity in these institutions who also are upset, discouraged, and guessing as to future management and discipline. Money and effort are wasted, the public is deceived, the problem involved is lost sight of, accomplishment is retarded, and better public policy is betrayed by those whose duty it is to protect and advance it.

I am not talking about the people you think I am. I am talking about you and me, not about the governor, or the board of administration. My experience is that the pressure for political appointments comes not so much from the governor or the board as from the local county and city politicians. The local politician has an inordinate desire for the appointing power, but his responsibility in the matter is negligible. He magnifies the need and you and I let him get away with it. The local politician is a necessary unit of party organization. We need him, but we do not need the kind who does not approach the service of the state with high purpose or who is controlled in the pinches by a narrow conceit or an abnormal selfishness.

The good governors of this country are those who give their institutional heads freedom in making appointments and in discharging unsatisfactory employees, demanding simply good results in institutional work. If under such conditions the institution head cannot produce good results, he and not the subordinate should be discharged.

The only remedy I know of is the election of men broad enough in vision, rugged enough in determination, and forcible enough in personality to defy and curb the spoilsman in politics. When we have such men and do not support them we stand in the way of good government and bring down our house upon our heads.