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THE DEVELOPMENT OF PROBATION

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By

CHARLES L. CHUTE

SECRETARY, NATIONAL PROBATION ASSOCIATION, NEW YORK

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By Charles L. Chute
Secretary, National Probation Association

The modern conception of crime as the result of mental, physical or moral disease or retardation, to be diagnosed and treated as each individual case requires, differs profoundly from the old and simple concept that crime is wilful wrongdoing which must be repressed and punished. This latter conception is primitive, unscientific, and out of tune with the findings of medical and social science. It proposes to treat criminals all alike in accordance with the particular crime of which they are convicted; it meets force with force; it puts the offender out of the way temporarily or permanently; it attempts to suppress crime by getting rid of the criminal, and by ruthless severity to terrorize the rest of the community to keep within bounds of law.

To cure and prevent crime, both in individual cases and in the abstract, we must find and remove the causes. To do this we must understand the criminal, we must study him and investigate his environment. Having diagnosed the problem of the individual offender we shall then proceed to apply individual remedies which shall prevent his further delinquency, at the same time seeking to remove those social causes which produce crime. Thus and thus only can we protect society and prevent crime.

This statement may seem a truism, but a great many people in these days fail to accept its truth. We have been hearing about the need for more severe penalties, we have heard "coddling of the criminal" decried, and in some quarters there have been attacks upon the approved methods of probation, the indeterminate sentence, and parole which only seek to carry out the principle of individual treatment.

The Chicago Crime Commission, which has done valuable service fighting corrupt and inefficient administration of police and courts, has, however, in some of its pronouncements, shown a

total lack of appreciation of the real problem of preventing crime through reclaiming the offender. This group of business men, like a great majority of people, is interested primarily in protecting life and property and in preserving peace and order. But the methods they recommend for accomplishing these essential and primary duties of government are the very ones which have failed to suppress crime through all the ages. Indeed, there is abundant evidence to prove that undue and indiscriminating severity has at all times bred more crime than it has cured.

In a recent bulletin the Chicago Crime Commission makes this very significant statement: "If American cities expect to successfully cope with the problem of reducing crime, they must understand the criminal. There has been too much meddling with the enforcement of the criminal laws by well-meaning people who do not understand crime or criminals."

This is all too true and might well serve as a text for this paper on probation. Unfortunately the writer of the above goes on to show that he at least does not understand the criminal when he states that, "The principles of honesty, humanity and justice which govern the citizen's conduct have no place in the mind of the criminal . . . he understands only one influence, and that influence is the use of force." This attitude is not only itself contrary to humanity and all the teachings of Christianity but is not in accordance with the facts. There are all kinds of criminals, just as there are all kinds of sinners who have not been apprehended, and there is no inherent difference in the mental and moral endowment of criminals as a class that makes it hopeless to undertake their reclamation.

From the desire to understand the criminal and the humane and practical attempt to reclaim him grew up the probation system in our courts. It has two main functions: first, preliminary investigation, to obtain the facts, individual and social, leading to an understanding of the causes of delinquency in each case before the court; second, supervision or follow-up work. Probation is nothing more or less than social case work in the courts, organized and legalized. Probation work in the courts grew out of the work of volunteers and representatives of private organizations detailed to the courts. This work has been gradually taken over and developed under public auspices and

has become an essential part of the work of very many courts. Probation is an American invention. It began legally in the city of Boston in 1878 and was first developed in the state of Massachusetts. Probation laws have gradually extended throughout this country until today they are in force in every state in the Union. Most civilized countries have some form of legalized probation work; in several, for example, Great Britain and Canada, copied from the American system. The laws of most states are, however, limited as to the class of offenders given the benefit of probation, and their application with paid probation officers is confined to a few cities in many states.

In some states the juvenile court, and with it of course probation, has been established, but adult probation is unknown or but little developed. Today there are thirteen states, and Flor da is among them, whose laws do not provide for adult probation. In the remaining thirty-five states there is adult probation but in a number of these it is limited to misdemeanants and first offenders; in several it applies only to non-support and family desertion.

No survey has yet been made to show to what extent adult probation laws have been applied in the states which have such laws. A recent survey of the Children's Bureau showed that in 55 per cent of the courts in the country dealing with children, all of them authorized to appoint probation officers, no probation officers had been appointed. Doubtless a much larger percentage of the courts dealing with adult cases are without salaried probation officers. There is today only one state in the Union, and that the pioneer state in this work, Massachusetts, where salaried probation officers are employed, and in fact required by law, in every court. In the states of Vermont and Rhode Island there are systems of state-appointed probation officers whose services are available to all courts. In the states of New York, New Jersey, Connecticut, Illinois, Minnesota, and California we may say that state-wide adult probation is in force, with probation officers employed at least in all of the larger courts. Throughout the South there is but little probation work for adults. In Georgia it is provided for and good probation officers are at work in the adult courts of Atlanta. North Carolina, Tennessee, and Virginia have some adult probation work in their larger cities.

Probation work is needed in every court dealing with delinquency. I believe it is only a question of time when there will be state-wide systems of probation for both adult and children in every state. It is impossible for any court, adult as well as juvenile, to do justice and to work efficiently without probation officers. A judge speaking from long experience says: "Probation is the eyes and ears of the court, . . . the probation officer is as important for the administration of justice as the judge himself."

The success and value of probation may be judged from its great development in the states which have had it longest and from the results obtained. In the state of Massachusetts over 24,000 persons were placed on probation in 1919, almost three times as many as were sentenced to penal institutions. Over 15,000 persons were on probation at the end of that year, which was more than five times as many as were in all the penal institutions.

Prison population in Massachusetts has declined from nearly 9,000 to less than 3,000 in the past twenty years. Unquestionably the increasing use of probation is the principal cause of this decrease. The fact that every court is equipped with a paid probation officer makes it possible for the judges to place approximately 25 per cent of all cases under probation treatment each year. It is reported that not a new cell has been built in Massachusetts in over twenty years and many jails have been abandoned. The Massachusetts Commission on Probation reports that 81 per cent of all cases on probation in 1919 concluded satisfactorily.

In the state of New York 19,600 persons were placed on probation in 1920; two-thirds of these were adults. The number on probation at the end of last year was 5,300 greater than the population of all public correctional institutions. The prison population has been decreasing steadily since 1915. The percentage of successful probation cases reported agrees surprisingly from year to year and tallies closely with the results in Massachusetts and other states. In 1920, 79.6 per cent of all probationers in New York State who finished their terms during the year were discharged as successful.

Not alone in Massachusetts and New York but increasingly in other states is probation extensively and successfully used.

There are approximately 2,000 salaried probation officers now at work throughout the country and the number is growing continually.

Statistics as to the increasing use of probation are not, however, sufficient to justify it. The question must be answered: Is crime prevented or decreased by this method? Decreasing prison population in many states would indicate this, but what about the "crime wave"? To this I reply that no statistics have been produced anywhere showing a general crime increase. The Chicago Crime Commission is authority for the statement that there has been no crime wave in Chicago but a marked decrease in major crimes during the past year. Statistics from courts of forty-two of the largest cities in New York State show a decrease of about 10,000 in the total arraignments during 1920 as compared with 1919. There has undoubtedly been an increase in certain cities in spectacular crimes of violence and sensational holdups and burglaries. These have received unusual publicity. The phenomenon seems to be due largely to unsettled conditions and other after-effects of the war.

The best answer to the question as to whether probation is preventing crime is to point to the results obtained. The large percentage of successful results reported by the two states which have state commissions supervising this work indicates what the results of well-organized probation work may be. The probation system has been endorsed by all penologists and enlightened administrators of the criminal law. Criticism has been directed against its faulty and lax administration, and not against the method itself.

Time prevents citing cases of successful application of the probation method. Every probation office can furnish many of them. Studies of results in a series of cases several years after their discharge from supervision have shown from 60 to 75 per cent of the probationers permanently reformed and going straight.

I am not attempting to describe successful probation methods before this audience of workers in the field of delinquency. Probation work is fast acquiring a technique of its own. It is the technique, with certain adaptations, of good social investigation and social case work. Its case work methods, however, while seeking to help the probationer and his family materially in every possible way, are more concerned with the moral welfare and

development of the probationer himself than with anything else. The essential thing is the friendly personal influence and guidance of the probation officer. This requires frequent personal contact—at least every week, and better oftener. It demands not only regular reports by the probationer, but frequent visits by the probation officer to the home. Not mere reporting and visits of surveillance but personal service, advice and special help of all kinds is the real force of the probation system.

The principal thing to bear in mind in the needed extension of probation in many states is the fact that the specific offense committed can never be a true criterion of whether the probation method should be used. Whether the offender happens to be convicted of a felony or misdemeanor is relatively unimportant. Neither is the age of the offender the determining factor, nor whether he is a so-called "first offender." The question to be decided by the judge in each case, with the help of the probation officer, is whether the delinquent is likely to make good under probation and not become a menace to society. Environment, mental attitude, previous history, and real character—these are the important factors. Therefore, the best probation law is the one which does not hamper the courts by artificial restrictions. In this respect no better probation law has been enacted than the earliest law in Massachusetts which gave the courts full discretion to place offenders on probation regardless of age or character of the offense. In forty years there has been no serious criticism of the law in that state. In New York State a practically unlimited power is granted to the judges and there has been no serious abuse of it.

A handicap greater even than defective legislation is the inadequate underpaid probation staff, which is rather the rule than the exception. The success of probation depends upon the employment of a sufficient number of trained, competent probation officers in each court. Overcrowded probation staffs cannot get the best results, though it is surprising what some of them have done. It has been found in New York State that probation supervision can be administered at from $\frac{1}{17}$ to $\frac{1}{18}$ of the cost of commitment to the average correctional institution. Hence the employment of probation officers where needed is the best kind of public economy.

To recur to the statements at the beginning of this paper:

the modern conception of crime calls for a diagnosis of the individual and environmental factors in each case. This diagnosis should be made when the offender is first brought before the court. This will lead to individual treatment to counteract the causes of crime and if possible to reclaim the offender. Thus the interests of society are best protected. The probation system supplies the social investigation necessary for diagnosis and gives individual treatment through the personal work of the probation officer in each case. This treatment is found effective in a large majority of the cases where it has been used. The results in states where it has been used most extensively point to the advantages of its wider application throughout the country.

The ideals back of the probation system must never be lost sight of. They are essentially religious, based on the principles of the value and sacredness of every human soul and the innate goodness, the divine spark, in even the most depraved, which will respond to kindness and trust as to no other force.

The familiar verse expresses it well:

"Speak gently of the erring;
O do not thou forget,
However darkly stained by sin,
He is thy brother yet;
Heir of the self-same heritage,
Child of the self-same God;
He hath but stumbled in the path
Thou hast in weakness trod."