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MONTPELIER, VERMONT

EMPLOYMENT FOR JAIL PRISONERS IN WISCONSIN

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Montpelier, Vermont

I have been invited to speak to you from the subject that my good friend Dr. Hart has termed "The Vermont Prison Labor Law." I shall not attempt to enlarge upon facts, or to paint a picture in bright colors; but shall merely tell a plain, simple story of twenty years of experience in dealing with a class of men and women who are today regarded as "unfortunates" and who, twenty years ago, were classed as "criminals."

I have had, during the last twenty years, an opportunity that seldom comes to any one. An opportunity to become acquainted with, and learn something of, the personal history, the life and the ideals of a class of people who, through force of circumstances, have fallen by the wayside and have been caught in the net of the law.

To tell the story of successes and failures understandingly and leave out the personal element and almost daily events seems exceedingly difficult, and when one attempts to do this while dealing with human chattels it is absolutely impossible.

A business man who buys goods, puts them on his shelves, and trusts their sale to employes only will seldom succeed, and if he succeeds, it will be through those in his employ who have the personal touch. If this is true in business, then how much greater is the need of this personal contact in dealing with human beings and treating persons who are mentally or morally sick—or both.

Twenty years ago I was appointed sheriff and was placed in charge of the county jail in Montpelier, Vermont. The building was supposed to accommodate from 30 to 80 persons charged with misdemeanors or crimes. I found a jail filled with idle men, housed in filthy surroundings. They were poorly fed. About all my predecessor did was to guard them safely and furnish poor

food—barely enough to keep them alive. The men were serving sentences ranging from twenty days to one year, and going out into the world, from their terms of imprisonment, weaker mentally, morally, and physically.

The condition of the jail, as I found it, and the method of treating the inmates apply to all jails I have had opportunity to visit, and I have seen many. The main reason for this is that the sheriff is not given an adequate allowance for the proper care of the prisoners. He is granted the smallest possible sum—hardly enough to buy even the coarsest food. Some years ago I visited a jail in New Jersey and the sheriff—apparently a good fellow—told me he was allowed only twelve cents a day for board. Contrast these jail conditions with those in a reformatory. There the food and bedding are furnished by the state and the superintendent is a salaried man who has no personal sacrifices to make in order that inmates may have ample and wholesome food and sanitary surroundings.

While studying these conditions I frequently talked with the men in jail. Many had families that were dependent upon them. I asked myself what I would do under like circumstances. Of one thing I felt sure—I would not waste my time in idleness. As a final result of much effort, we got the Legislature to pass the following crude prison Labor Law, and it was the best we could get:

Section 6104:

A male prisoner imprisoned in a county jail for being intoxicated, for a breach of peace, or for being a tramp may be required to perform not more than ten hours of manual labor within or without the walls of such county jail each day of such imprisonment, except on Sundays or legal holidays.

Section 6105:

The labor to be performed in a county jail shall be classified and fixed from time to time by a prison board consisting of the assistant judges of the county, the sheriff, and the supervisor of highways; and shall be subject to such rules and regulations as are adapted to secure humane treatment of said prisoners and provide employment for them within or without the walls of such jail. And said board may require and compel said prisoners to work on the public highways within the county, subject to such rules and regulations. Said board is hereby authorized to expend such sums out of the public moneys in the treasury of said county as is required for the purchase of materials as are adapted for the work hereon, provided the proceeds of such labor, if any, shall be

applied in payment of materials and tools furnished as aforesaid; and any balance left thereafter shall be turned over to the state treasury.

The same law is on the books today, with this single exception—the sheriff is the sole officer to handle the problem. Under such a law it is clear that men would not willingly work a single day.

I believed then, as now, that there is in every man, however low he may have fallen, a spark of nobility that may be touched and a feeling of pride that may be awakened if the right method is used. The first opportunity I had, I set to work some local men whom I felt sure I could trust, without a guard and with no pay. The result was a flat failure. It happened in this way: The street commissioner was digging a ditch for a water main. He was short of help and came to me for men. I sent a group of men out to work. At the end of the first day the commissioner reported, “No use, Tracy, your men are no good.” Three had done a little work, three did less, and the rest of the gang did practically nothing.

I asked for another day’s trial and got it; but with worse results. I had a third chance and failed. This was Saturday. I felt sure I knew where the trouble was, but to get the prisoners’ view of the situation I called one of the men into the jail office that night and told him I wanted to have a talk with him. I asked him the reason of the behavior of the men when called out to work. His story was as follows: He was a plumber, going north in search of work, got drunk, lost his money, was committed for twenty days. He said: “I am of a good family. Were I to write home, I could get the fine and pay out; I would rather serve my time than let them know. Wouldn’t you?” I had to say “yes.” “Were you in yonder ditch getting nothing, would you not get by as easy as possible?”

Then I said, “Boy, if you were paid six dollars for work next Saturday night, what would you do?” He said, “Try me.” The next Tuesday morning the whole gang were on the pay basis, and since then there have been at least 3,500 different commitments under the same plan. It has worked successfully and to the general satisfaction of all concerned.

Thirty-five hundred men have been under test; only eight have tried to escape; six were retaken and sent to the House of Correction to serve eighteen months; one, a Canadian, died on the battlefields of France. The other, an old man whom we did not

try to get, wrote me recently as follows: "I am ashamed. I have lived in fear ever since leaving; I have to serve a six months' sentence for giving a wrong name under oath and when that is completed I want to come back and serve my time with you." This is a record of fidelity to the pledged word of honor of which I am proud, and it confirms my belief in the essential integrity of men when given a fair and reasonable chance.

Employment was found for the prisoners with neighboring farmers or other employers. They worked for regular wages according to their capacity. The prisoners went out in the morning with their dinner buckets, did their day's work, and returned at night weary and ready for a hearty supper and a good night's sleep. The prisoners' wages were collected by the sheriff and were paid to their dependent families or to the prisoners on discharge. The prisoners slept in the jail and were continually in the legal custody of the sheriff, so that they did not feel that they had escaped their just punishment. When the time came for their discharge they were in good physical condition, ready for work, and able to refer to their last employer.

I know that those holding to the old idea of life and the old belief in severe physical punishment for misdemeanor do not agree with me even with such a record to my credit. I have been told many times with a doubting shake of the head, "It may work with the class of men you have in Vermont, but with those we have to handle it cannot be done." Let me say, "No matter where a man comes from, no matter what his offense, no matter how long his sentence, if his home is here or in California, he goes to work." Regarding punishment, let me say further that we have no whipping post; and during a twenty-year service as court officer I have never heard a judge in court give a sentence which included physical punishment.

It is normal and useful for every one to work a certain part of each day with hand or brain or with both. We have been more concerned to meet this natural need and thereby release our prisoners in a better condition than we have been concerned as to the financial side; but in this regard also we have had a good experience. We have paid back into the state treasury about ten thousand dollars; for clothing we have paid around fifteen thousand dollars; and to the men and their families, at least twenty thousand dollars. We have felt that when helping a man to sup-

port his family we were doing a service to the state fully equal to what might be made by turning money back to the state treasury. We have seen men, supporting their families in a humble way while serving as much as a six months' sentence, going home to spend the week-end, and better fitted when their term expired to take up again their regular work.

I especially recall one man, a granite manufacturer, who lived in the nearby city of Barre, six miles distant, working a plant employing 40 men. To fine him did no good. By our system he went to work for himself, came back to the jail each night, and paid the state for his own services.

We permit our "boys" to go to the street for newspapers, to go to the moving picture shows, and to spend an hour on the streets when not employed. We have no uniforms. All are dressed in citizen's clothes. We seek to develop a sense of loyalty to the rules of our system of treating the prisoners as men having a spark of honor within them. In most cases we reach and stir this motive; and it greatly helps to keep some of the "boys" right, for they know that if one goes wrong it is a reflection on all and that all must suffer in a way for the misconduct of any one.

The men who spend a time in jail are weak rather than vicious, as a rule. They need care and guidance more than punishment. I would refer those who say this class of men cannot be trusted to the great work of Governor West of Oregon, Warden Gilmour of Ontario, Tom Tynan of Colorado, Frank Randall of Minnesota and Massachusetts, and last, but not least, Bill Homer, of Great Meadow Prison, New York, that wonderful man whose "boys," when he finished, lined with flowers the roadway to his last resting-place.

One cannot expect much more than he is willing to give. If the keeper of this type of men treats them as mere animals, without a sense of honor, his attitude will call out and emphasize the baser side of human nature. On the other hand, if he treats them with a humane spirit, he will find and strengthen their better qualities. The ends of justice are served by an honest and patient effort to mend the broken pieces of humanity while they work out their terms of punishment as fixed by the court.

To any person who has the care and handling of human chattels there comes a great responsibility—greater than falls to the average man. He is not only charged with their safe keeping, but on

him rests the responsibility as to whether they leave him better or worse than when they came under his control and influence. In a large and important sense their future and the welfare of their families are his responsibility. In no way can he render a more valuable service to the state than by returning the prisoners in his keeping to the usual activities of society with a recollection of just and humane treatment. Some time you and I will have to answer for our treatment of those who have been under our care before that High Court in which no mistakes are made.

EMPLOYMENT FOR JAIL PRISONERS IN WISCONSIN

By HORNELL HART, PH.D.

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The reputation of the county jail as a source of corruption and a school of crime has long been well established throughout the United States. The chief causes of the admitted evils of the county jail system are found, first, in the enforced association, day and night, of all classes of prisoners in crowded cells and corridors; and, second, in the idleness which prevails almost universally in county jails.

In practice it has been extremely difficult to provide employment for county jail prisoners, first, because the sheriff may have 30 prisoners one week and 15 the next; and second, because some prisoners stay one day, some five, some ten, and very few more than sixty days. These facts make it difficult to teach prisoners any productive work or to employ them to advantage.

The plan adopted by Sheriff Tracy, twenty years ago, of finding work for prisoners by the day with farmers and other employers in the immediate vicinity of the jail obviates all these difficulties. The prisoner goes out early in the morning and does an honest day's work for which he is paid full value at current rates. He returns at night tired and ready to go to bed soon after supper. He is under the control of the sheriff and under daily supervision to insure against overwork or misconduct; his wages are collected by the sheriff weekly and paid to his dependent family or to himself upon discharge, and the system adapts itself automatically to the labor supply of the jail.

The prisoner completes his sentence in good physical condition, with hardened hands and muscles, ready for a new job. In seeking employment he does not have to tell a lie or acknowledge that he has been in jail, but he is able to refer to his former employer, who is usually ready to say a good word for him.

The Vermont plan has been successfully followed in Delaware

and northeastern Connecticut. Under the city manager at Dayton, Ohio, employment was found in factories for prisoners in the city workhouse. The prisoner went to work daily like other workmen and returned to the workhouse to sleep at night. He received the same wages as other workmen; his weekly wages were paid to the city and turned over to his dependent family if he had one.

THE HUBER LAW IN WISCONSIN

In 1913, Hon. H. A. Huber, state senator from Dane County, Wisconsin, introduced a bill which became a law, making it the duty of the sheriff in every county having no workhouse to "make contracts in writing for the employment" of prisoners sentenced to the county jail, to make "regulations for their profitable employment and the collection of their earnings" and, "at the end of each week . . . to pay over to" a designated person for the use of his "dependents the earnings of such prisoner collected by him." If the prisoner worked for the county the sheriff was required to issue for the use of the dependents a county order for one dollar a day for such labor.

Earnings of prisoners not used for their dependents are paid into the county treasury. The prisoner himself receives no part of his earnings.

"For unreasonably neglecting or refusing to carry out the provisions" of the act "the sheriff shall be subject to a fine not to exceed \$100. For a repetition of such neglect or refusal he shall, in addition to such fine, be removed from office."

"The county jail of such county is extended to any place within the county where such work is provided and the sheriff shall at all times have the custody of such prisoners." This provision makes the prisoner liable to a state prison sentence for breaking jail in case he runs away from his employment.

Although the Montpelier plan has been operated by Sheriff Tracy for nearly twenty years, Senator Huber says, in a letter dated August 30, 1921: "I had no connection with Sheriff Tracy's plan in Vermont. As a matter of fact I did not know there was a law like this in operation in the state of Vermont."

Senator Huber says:

"I have practiced law for the past twenty-six years . . . I have come in contact with prisoners in our county jails; and the

thought came to me that the jail prisoners, ordinarily, are not criminals of the hardened type; that instead of being incarcerated in jail they ought to be put to work and their earnings paid to their dependents. In many instances persons sentenced to the county jail are sent there for minor offenses, and I could see no good reason why the prisoner should be fed and housed at the expense of the public, and his family also in many instances become a public charge. It was this that prompted me to introduce the commitment bill into the legislature in this case."

The Huber law has been operated with varying degrees of success in a number of counties. The usefulness of the law is indicated by the following reports of earnings from the counties named: Calumet, 1920, \$280; Columbia, 1917, \$460; Green Lake, 1920, \$369; Milwaukee, 1920, \$2,200; Richland, 1920, \$1,580; Rock, 1913-14 (eighteen months), \$16,000, 1917-18 (two years), \$48,000, 1919, \$16,700, 1920, \$5,650; Washington, 1920, \$255. It will be observed, however, that only three of these counties report more than \$400 in any one year. In reply to questionnaires sent out in 1917, 1918, and 1921, out of 70 counties in the state 21 reported more or less activity under the law.

In order to obtain first-hand information as to the operation of the law the writer, in July, 1921, visited the counties of Columbia, Milwaukee, Portage, Richland, Rock, Sauk, and Waupaca, interviewing sheriffs, deputy sheriffs, county officers, and other citizens. It was found that the Huber law had been put most fully into operation in Rock County, containing the cities of Janesville and Beloit, each having populations of about 20,000. Outside of Rock County the law has been applied only sporadically or only with very small numbers of prisoners. The sheriff of Rock County in 1913, when the law was passed, was Mr. Cash Whipple. Sheriffs are forbidden by the state constitution to succeed themselves in Wisconsin, but Mr. Whipple's brother held the office in 1917 and 1918, and Cash Whipple was again elected for the term 1921 and 1922. The present under-sheriff, Mr. Fred Beley, was sheriff in 1919 and 1920. All of these men were sympathetic with the Huber law. In the first eighteen months after the law went into effect Sheriff Whipple found employment for all eligible prisoners and collected over \$16,000 from their earnings, of which \$11,000 was paid to their dependents. In 1917 and 1918 the earnings rose to the total of \$48,000. In 1919 nearly \$17,000 was earned by the prisoners, while in 1920 (under prohibition) the

amount was less than \$6,000. Counting the earnings for the two years for which data are not available it seems probable that nearly \$100,000 has been earned in Rock County by prisoners, most if not all of whom presumably would otherwise have served their sentences in demoralizing idleness. The jail has been practically empty. The sheriff stated that every prisoner to whom the law is applicable has been put to work.

Notwithstanding the reduction in the number of prisoners because of prohibition, Sheriff Whipple expects continued good results. In fact one of the advantages of the Huber law is that it can be operated for any number of prisoners, however small. In the first six months of 1921, 14 prisoners were placed on wages under the Huber law.

The system employed is as follows: The sheriff keeps a list of employers who can use prisoners. When a man or woman is sentenced to the jail the sheriff has a frank talk with the prisoner, explaining the law and seeking to enlist his loyal co-operation. The sheriff then arranges with some employer—usually a farmer, but often a manufacturer or hotelkeeper—to give the prisoner work. Usually the employer comes to the jail for the prisoner, takes him to the farm, and keeps him there. A contract is signed in the following form:

WHEREAS James Brown was on the first day of September, 1920, duly convicted and sentenced to imprisonment in the Rock County Jail at hard labor pursuant to Chapter 625 of the Laws of 1913 for a period of 60 days by the Municipal Court of Janesville,

Now therefore Thomas Jones agrees to employ the said James Brown at the work of farming, and further agrees to pay to the sheriff of Rock County, Cash Whipple, the reasonable value for the services of the said James Brown the sum of \$12 per week for the services of the said prisoner, to be paid to the sheriff of Rock County.

In consideration of the above and foregoing the sheriff of Rock County hereby agrees to allow and permit the said James Brown to work for the said Thomas Jones.

(Sgd.) Cash Whipple, Sheriff
Thomas Jones, Employer

Dated this first
day of September, 1921.

The amount of wages is left to the employer. Usually the going rates are paid, but if a prisoner is saturated with whiskey or

is below par physically, full pay is not expected. In some cases prisoners have been put out to work merely for their board. In 1919 the amounts paid for prisoners employed in the city averaged about \$20 a week. Wage payments are made directly to the sheriff.

DEFECTS OF THE SYSTEM

This system has certain obvious defects. As operated in Rock County it has amounted practically to a lax probation or parole system in charge of the elected incumbent of a political office. The prisoners have ordinarily spent little or no time in jail after being sentenced. They are not even required to report at intervals to the sheriff. In one case a prisoner employed in a factory left town and was gone for a week or more before the sheriff heard of it. Escapes, indeed, have been very common. The sheriff says that during his first term he sent five men to the penitentiary for running away from jobs at which they had been placed, but apparently recent escapes have been allowed to occur without much attempt at recapture.

The tendency to escape is naturally strongest among the floating type of prisoners—the vagrants who move homelessly from place to place. Men with families in Rock County have almost necessarily worked out their sentences. Public sentiment in Janesville resents this condition, both because of its unfairness and because of the miscarriage of justice in the case of the floaters.

These same difficulties—that prisoners are not impressed with the seriousness of their offenses by the system, and that they are likely to escape—occur also in the experience of other counties. The relative leniency of the treatment is illustrated by the case of an employe in a mill who was sentenced for nine months. As soon as he entered the jail he was hired by his former employer and went back to work with no change in his old routine except that his earnings went to his wife via the sheriff. In this case the leniency seems to have worked well. In another case a young forger who was hired out under the act is said to have boasted about the ease with which he had gotten off.

Another difficulty has to do with the efficiency and reliability of the prisoners as workers. The men without dependents have little incentive to hard work since their earnings go entirely to the county. In two cases employers complained of thefts on the part

of the prisoners working for them. Several others said that they used prisoners only as a last resort when workers could be secured nowhere else. On the other hand, many of the prisoners were reported as being even above the average in efficiency. A farmer was heard protesting to a sheriff against the transfer to other work of two prisoners employed on his farm.

A difficulty which is more potential than actual is the danger of mistreatment of prisoners. One sheriff stated that certain farmers worked their prisoners so hard that men were sent there as punishment, and other rumors of severity were heard. On the other hand, Mr. L. A. Markham, formerly county agricultural agent in Rock County, spoke of instances where farmers had taken a personal friendly interest in prisoners entrusted to them. Very few prisoners refuse to work. In many cases men after their release continued to work for the farmers who employed them during their sentences.

BENEFITS OF THE SYSTEM

In spite of the dangers and defects involved in the administration of the Huber Act there seems to be little question that the net result in Rock County, at least from the standpoint of the prisoners, has been very decidedly good. Regular employment with compulsory support of dependents has certainly been far more salutary than months of idle confinement in bad company. The successful operation of the act in Rock County appears to have been due to several factors. First, and perhaps most important, has been the character of the sheriffs—their conscientious desire to obey the law, their interest in the prisoners, and their success in getting the co-operation of employers. A second factor was the unusual demand for labor, particularly on farms, during the war.

A third reason for the special success in Rock County is the fact that the sheriffs there are compensated for feeding prisoners on the basis of a lump sum per year. Every prisoner placed out to work who takes his meals away from the jail reduces the amount paid out by the sheriff for food, and hence increases his profits on his feeding contract. Even if the prisoner escapes, the financial effect is still favorable to the sheriff. In other counties the usual plan is for the sheriff to be paid a fixed amount per prisoner per day for food, and since there is a certain amount of profit per

Vermont, where in ten years, out of 3,000 prisoners employed outside of the jail, six escaped and four were recaptured.

5. The failure of the Huber law in most of the counties of Wisconsin has been due to the following causes:

(a) The short tenure of the sheriff's office. He serves two years and can not succeed himself, so that as soon as a sheriff learns to operate the law successfully he gives place to a new man.

(b) The lack of instruction to sheriffs as to the purpose and the administration of the law. Provided that there are enough prisoners to justify the expenditure, the state should have a competent and efficient promoter to travel through the state advising and instructing the sheriffs.

(c) The practice of allowing prisoners to lodge outside of the jail instead of returning to the jail every night. This practice greatly diminishes the deterrent effect of the sentence and prejudices the community against the law. While the prisoner is nominally in the custody of the sheriff, he is not under his observation and control. There is a just prejudice arising from the feeling that prisoners escape too lightly. A real difficulty in this respect is that most of the prisoners working on Wisconsin farms were employed several miles from the jail. If Sheriff Tracy's experiment in Vermont may be taken as a precedent, however, this difficulty may be overcome.

(d) The failure of the law to reach the prisoner awaiting trial, who deteriorates morally and physically from enforced idleness in evil association. It is true that such prisoners cannot be compelled to work, but they can be permitted to work and will gladly avail themselves of the opportunity if the work is paid for.

(e) The fact that prisoners who do not have dependent families get no part of their earnings. Such prisoners have no inducement to exert themselves. After reimbursing the county for their keep, the balance of their wages should be held for their benefit, a portion being spent for immediate necessities and the remainder paid to them upon discharge. In some cases a portion of the prisoners' wages might properly go to restitution.

(f) The fact that it is counter to the financial interests of the sheriffs to apply the law. A small percentage of the prisoners' earnings should go to the sheriffs as compensation, as in Kent County, Delaware.

(g) Application of the law indiscriminately to all types of pris-

prisoner, the more prisoners there are in jail the better off is the sheriff. In one county the feeding allowance was not increased during the war, and the sheriff, finding that he was losing money on feeding the prisoners, ceased to make arrests, so that his successor states that he found a large accumulation of unserved warrants. The average sheriff is not likely to be enthusiastic about a law whose efficient administration cuts into his own income.

CONCLUSIONS

The following general conclusions are offered with reference to the Huber law:

1. In contrast with state prisons, county jails contain two classes of prisoners: those awaiting trial, who, with few exceptions, may go free, if they can furnish a financial guarantee in the form of bail; and misdemeanor prisoners, petty offenders, sentenced for short terms, nearly all of whom may go free if they can pay a small cash fine, usually not more than \$25.

2. The inmates of county jails are, as a rule, subject to greater suffering and more injurious conditions than the inmates of state convict prisons; the most injurious factor in their condition is association in idleness with criminals of all degrees.

3. The evils of county jails would be greatly mitigated if all of the inmates, both those awaiting trial and those serving sentence, could have suitable employment. The most equitable and profitable form of employment would be that under which they would earn normal wages, reimburse the county for their keep, and provide a fund for the support of dependent relatives or for their own future needs; but it is impossible to provide such employment within the jail, except in populous counties, because of the small and variable number of prisoners.

4. The Huber law is sound in principle in so far as it provides employment for jail prisoners, serving sentence, at remunerative wages, of which the major part goes to the dependent family of the prisoner. The constructive extension of the limits of the jail to any part of the county where a prisoner may be employed will prevent nearly all escapes if the sheriff uses sufficient vigilance in recaptures; because prisoners who run away make themselves liable to state prison sentence for breaking jail. This has been demonstrated in the operation of the similar law in Montpelier,

oners. The purpose of the treatment of an offender should be to minimize the probability of his further injuring society or of others injuring it, and to re-establish a wholesome relationship between the offending individual and society. The sort of treatment required for these purposes differs greatly with different types of offenders. It depends, moreover, not so much upon the type of offense committed as upon the abilities, the attitudes, the character, and the environment of the individuals. The need for discrimination between types of offenders in applying the Huber law was pointed out by Judge H. L. Maxfield of Rock County and by Ex-District Attorney E. E. Brindley of Richland County. It is believed that this difficulty might be met by carefully selected traveling agents to instruct sheriffs and interest them in the application of the law.

(h) For many prisoners the parole system, properly administered by state probation officers, is preferable to the Huber law, and this system has quite largely taken the place of the commitment act in Wisconsin; but thus far the probation law is limited in its application, and the Huber law can be applied in many cases where judges would hesitate to place prisoners on probation.

6. The ideal plan is the one which was advocated by the late Dr. Frederick H. Wines and has been adopted by the state of Indiana and the District of Columbia; namely, to commit all misdemeanor prisoners not eligible for probation to a state farm; but pending the general adoption of that plan the Huber law, with the changes above suggested, offers a solution of the problem of employment for jail prisoners which has heretofore remained unsolved.