

PROBATION—A PRACTICAL HELP TO THE DELINQUENT

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IT IS not the purpose of this paper to present a theory for dealing with the poor and unfortunate who daily crowd the police courts, but to describe the actual working of a definite plan.

The first piece of legislation in Indiana looking toward a more humane method of dealing with offenders against the law was the indeterminate sentence law in 1897. The old system of measuring out a definite amount of punishment for so much crime was replaced by this law, which provided a minimum and maximum prison term and gave the trustees of the penal institutions the power to parole prisoners at the expiration of the minimum term. In other words, the state, instead of merely imprisoning those who broke her laws sought by this new system to make of them better citizens. While apparently revolutionary in character, this law was but an application of the principle embodied in the state constitution of 1816 and again in that of 1851, "The penal code shall be founded upon the principles of reformation and not of vindictive justice."

Since this law has been in operation more than six thousand persons have been paroled from the reformatory and state prisons. A decided majority of these lived up to the conditions of their parole and during that period earned for themselves more than a million dollars. These facts alone demonstrate the wisdom and justice of this new method of dealing with those who pay their debt to society by serving a term of imprisonment.

The legislature of 1903 made a wider application of this principle in the enactment of the juvenile court law. This law created a separate court in Marion County (Indianapolis) for the trial of juvenile offenders. It also provided for the establishment of a volunteer probation system, and it prohibited the incarceration of any children, coming within the scope of the law, in the same building, yard or enclosure with adult convicts.

Before the enactment of the juvenile court law, no legal method existed in this state by which juvenile offenders could be accorded any treatment

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different from that accorded to adults. This law with its provision for adequate investigation, before trial, of all children brought into the court, and its other provision for the appointment of volunteer probation officers opened the way for a definite, permanent, method of dealing with such offenders. To these provisions of the law is due almost entirely the success of the Marion County juvenile court in working out the great problems of juvenile reformation.

The records of the juvenile court show that more than 1,800 children brought into the court, charged with violations of the law, have been placed on probation under the supervision of volunteer probation officers, and of this number only about 15 per cent have failed to respond to good influences and have been committed to institutions for more rigid discipline.

The volunteer probation officers who serve in the Juvenile Court belong to no particular class or creed. Men and women, white and black, Catholic, Protestant and Hebrew have all gratuitously joined in this great movement for the social regeneration of the children of the city. This volunteer probation system has proven to be not only a moral, but a practical force in the community. Through its influence hundreds of boys have found steady employment; girls and destitute children have been placed in good homes; poor children suffering from physical defects have been provided with needed treatment by expert physicians without any expense to the parents; and through the personal contact of the probation officer home conditions have been improved and parents aroused to a keener sense of their obligation to their children.

An extension of this beneficent principle was made possible in 1907 by the enactment of a law under which courts may exercise the right to suspend sentence or withhold judgment in the case of adults. This measure made possible the application of the probation system in the administration of justice in circuit and criminal courts and in courts having concurrent jurisdiction by implication in city courts also.

The power to suspend sentence in many cases where the circumstances seemed to justify has saved many novices in crime from undergoing the harsh punishment that would otherwise be meted out to them and that seems to be contrary to the constitutional provision that "All penalties shall be proportioned according to the nature of the offense." As Judge Roby formerly of the appellate court of Indiana has well said, "The system under which a father and husband pleading guilty to a charge of larceny based upon the taking of a bundle of oats or a loaf of bread was sent up, was often absolutely sure to work brutal injustice. That it continued as long as it did is a remarkable fact."

The magnitude of the problem affected by this legislation is neither understood nor appreciated except by the few who officially come in contact with the police courts. During the four years prior to January

3, 1910, 37,904 persons were adjudged guilty in the city court of Indianapolis. Of this number 25,686 were committed to the workhouse and the jail. The majority of these cases were disposed of at a morning session averaging about two hours. It was no uncommon experience for the presiding judge to dispose of a slate comprising a hundred or more cases at a rate greater than one a minute. By such methods the spirit of our constitutional provision was ignored and the first trivial offense was punished with the same rigor that was meted out to the hardened criminal.

No statistics are available showing what number or proportion of these convictions were for first offenses, but unquestionably the percentage was large, for the reason that this court has jurisdiction in cases of misdemeanors and violations of city ordinances over all boys who have passed the full age of sixteen and girls who have passed the full age of seventeen. A trifling percentage of the total number convicted escaped the penalties imposed by a suspension of the sentence. The rest answered for their offenses by paying fines or by incarceration in the jail, the workhouse or correctional department of the woman's prison.

To administer justice properly in a police court the presiding judge should earnestly endeavor to distinguish between the delinquent and the criminal—the occasional and the chronic violator of the law; and to give sufficient time for careful investigation of the merits of each case; and to see that while the community is protected, the rights of the individual, especially of the poor and ignorant and uninfluential individual, be not overlooked. Of the 25,686 persons committed to the jail, the workhouse and correctional department of the woman's prison from our police court during the period above referred to, how many were benefited by incarceration? The imprisonment of some no doubt benefited the state and the public. A large number, however, receive the sentence imposed not because of criminal acts or criminal instincts, but because, unaided, they could not resist besetting temptations. To such as these, a term in the jail or workhouse was not a term in a house of correction, but a term in a house of corruption. Once the barred doors closed behind the unhappy prisoner his lot was the common lot of all. He became the forced associate of criminals; his self-respect was gone; his will was weakened; and his mind was prepared to receive instructions in crime proffered to him on every hand. He must of necessity come from such a place a less desirable citizen.

Recognizing the seriousness of the evils, I pledged the people of Indianapolis, in the municipal campaign of 1909, that if elected judge of the city court, I would introduce a probation system as a means of helping delinquent men and women.

In its strict sense, "Probation is a judicial system by which an offender against penal law, instead of being punished by a sentence, is given an opportunity to reform himself under supervision, and subject to conditions

imposed by the court, with the end in view that if he shows evidence of being reformed no penalty for his offense will be imposed."

The probation system inaugurated in the city court of Indianapolis contemplates the following:

First. The suspended sentence: During the three years that this plan has been in force sentence has been suspended in 574 cases and judgment withheld in 6,681. The majority of these were first offenders. In those cases where the judgment was suspended the court has had to set aside the suspension of sentence and commit the defendants in five cases, and where the judgment has been withheld less than 2 per cent have been returned to court for a second or subsequent offense.

While there is no provision under the law for the employment of paid probation officers, adequate supervision in 575 cases was made by good citizens who volunteered to serve in that capacity. These probationers were required to furnish the court a monthly report signed by the probation officer. Time will not permit the details of these reports. Each tells its own story of heroic efforts toward right living.

Second. Paying fines on installments: Could you witness, as I have on many a Monday morning, the pitiable scenes of wives and mothers and sobbing children, crowding the corridors of the city court pleading with officers and attaches of the court to say a word to the judge in behalf of a husband or father, you would then understand the need of a different system of dealing with this class of people. Much of their suffering came from the assessment of the fines which the defendant was unable to pay or replevy. He was imprisoned not because the court believed he should be imprisoned, as there was no term of imprisonment added, but because he was unable to pay the fine. In other words, he was imprisoned for debt—a form of punishment which was abolished in this country many years ago. To reach this situation and to aid this particular class a plan was introduced for the collection of money in small payments to be applied on fines and costs.

In those cases where a defendant had others dependent upon him for support he has been released on his own recognizance and the case held under advisement for thirty or sixty days, as the circumstances seemed to justify. At the expiration of which time he was required to report to the court that he had paid in the amount designated as the fine and costs to be entered against him. In the three years that this plan has been in operation \$27,410 has been paid in by probationers. On a number of occasions the court has made recommendations to the governor for executive clemency and whenever a parole has been granted the defendant has been directed to pay his fine and costs to the probation officer of the city court.

This plan operates to the benefit of the defendant in several ways: It saves him his employment; it saves his family from humiliation and

disgrace, as well as from the embarrassment incident to imprisonment; but more than all, it saves him his self respect. It has also resulted in a reduction in the number of commitments to the jail and the workhouse, which has meant a large saving in maintenance to the county and an increase in the revenues of the common school fund.

Third. Drunkenness and the pledge system: No unfortunates appeal more strongly to the court than those having the liquor habit. In all cases of first offenders charged with being drunk and in those cases where the defendant had others dependent upon him for support, the court has made it a condition on withholding judgment or suspending the sentence that the defendant take the pledge for a period varying from six months to one year. Under this plan 302 persons have taken the pledge and of this number all but 26 have kept the same faithfully.

In the severe cases where the defendant was bordering on the delirium tremens; he was committed to the workhouse and the superintendent informed of his condition. While there are no special arrangements for the treatment of inebriates at the workhouse the superintendent has successfully provided a separate department. These cases are thoroughly examined by the workhouse physician and such medical and special attention are given to them as the circumstances seem to justify. With these inadequate facilities a splendid work is now being done among this class of unfortunate and harmless offenders. When the family or relatives could afford it, persons have been sent to institutions to be treated for the liquor habit and our records show but one failure. Where the financial condition of the defendant was such that he could not pay for the treatment arrangements have been made for the payment of the money into the probation department in weekly installments thus assuring for the defendant the benefit of the paid treatment and the institution the satisfaction of the debt.

Fourth. Medical and surgical treatment: Men suffering from physical defects have frequently been before the court charged with offenses entirely out of harmony with their antecedents and environments. In these cases the court has been able to call to its assistance some of the best surgeons of the city and has received the support and co-operation of the superintendent of the city hospital.

Fifth. The criminal code is absolutely silent upon the question of recovery for loss or damage to property and injuries to the person growing out of criminal acts except that in cases of malicious trespass the court may fine a defendant a sum equal to twice the amount of the property damage. To fine a person double the value of the property damaged and because of his failure to pay the same, to place the additional burden on the citizen of supporting him in the workhouse or jail seems in itself an absurdity. As a part of the probation plan the court requires every person charged with any offense involving the loss or damage to property

and injuries to the person to make full and complete restitution to the injured party before the final disposition of the case. Upon a proper showing that restitution has been made, the court is then in a position to take such action as the other facts in the case justify. Under this plan more than \$5,000 has been recovered and turned over to the proper parties.

Sixth. To Amos W. Butler and Demarchus C. Brown, of the board of state charities, is due the credit for the suggestion of a separate session for the trial of women and girls. Like all innovations connected with matters pertaining to the police, it was first looked upon as a fad and predictions were freely made that because of the nature of the work and the rapidity with which it must be discharged the life of the plan would be short. But notwithstanding the criticism, it has become established as a permanent method of dealing with the delinquent women of the city. The local council of women by their efforts have made it a practical reality. With their aid and assistance the legislature of 1911 enacted a law providing for the appointment of a court matron in cities of the first and second class and this act prescribed her duties as follows: "She shall, under direction of the judge of the city court, investigate and report to such judge upon the past histories, conditions of living, character, morals and habits of all women and girls awaiting trial in such city court and shall have supervision of such women and girls while not in actual custody until final disposition of the charge or charges against them."

Out of 478 cases investigated under direction of the court matron only 49 were fined or committed to the jail or correctional department of the woman's prison and in the remaining cases the investigation disclosed that the facts would not justify imprisonment and the court either suspended the sentence or withheld judgment.

All cases involving domestic trouble have been added to the special work brought into the separate session. As a result of the investigation of 328 of these, less than 25 per cent of the offenders were committed to the jail or the workhouse. In the majority the court has withheld judgment and the defendant has been required to take the pledge and the wife has been directed to furnish the court with a written report on the first of each month as to the conduct of the offending husband.

Since January 3, 1910, the court has disposed of 43,881 cases. It would be impossible to convey through the medium of this paper the results that have been obtained in the transaction of this stupendous amount of business through exercising a friendly interest in these unfortunates.

Financially considered there has been a great saving to the county in the cost of maintaining its penal institutions in that there has been a reduction of 50 per cent in the number of commitments; \$27,410.00 has been collected from probationers who because of inability to pay under the old

method would have been committed to the jail or workhouse; and there has been a gain of \$3,144.75 to the common school fund.

The results of a system of justice are not to be measured wholly by dollars and cents. Of far greater significance is the moral uplift.

The reports to the court show that home conditions have improved; that men have abstained from the use of intoxicating liquor; that employers have been enlisted in taking a more friendly interest in employees; that many have joined churches, and in other ways have added to a higher standard of living.

A probation system established in every court in this state exercising criminal jurisdiction would be a profitable investment so far as the public is concerned, but better than all it would mean the social regeneration of thousands of men and women.