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THE PAYMENT OF PRISONERS.

F. EMORY LYON.

That the problem of prison labor has nowhere reached a satisfactory solution is apparent to every thoughtful student of the subject. That experiments in plenty have been made in this direction is obvious. The various methods that have been pursued are fairly familiar to the readers of this journal. Solitary shop work, leasing of prisoners, the contract system, employment by the state, road making—all have had their history of indifferent success.

It is not the purpose of this article to discuss the relative merits and defects of these various methods of prison labor. It is rather to raise the more fundamental question as to whether unpaid penal servitude is justifiable on ethical, civic, or industrial grounds. In the past progress of prison reform, slight attention has been given to the essential justice of the assumption that the delinquent has forfeited his industrial status. Only the occasional idealist has ventured to voice a protest, as in the words of W. D. Howells: "The state sets the prisoner a thief's example by stealing his wages, and confiscating the prisoner's earnings." This "jolt" from the ethereal world has, however, gradually awakened renewed discussion and taken form in laws and demonstrations of a better way that amounts to a new awakening.

Naturally the trend of prison reform in an industrial age moves in that direction. Reformation by discipline has marked the first great step in the transformation of the modern prison system. Education and economic efficiency are destined to characterize the great advancement of the future. Already the industrial ideal prevails over the military. More and more it has been seen that reformation itself could not come by moral suasion merely, or even by control and discipline alone.

It is realized that in teaching the lesson of life, those who are delinquent must be taught to do the things that are taught in a normal society. Hence most reformatories and some prisons in America have undertaken the teaching of trades. They have introduced such manual and mechanical training as will tend to prepare the individual for society. The chief purpose of such training has been to teach the lesson of thrift and the unselfish maintenance of others. One of the chief motives of toil, however, has been lacking in the prison systems of the past, because of the relation of virtual vassalage which prisoners have borne to the

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state. Hence, the serious question as to whether the state could, as a wise and practical measure, compensate the inmates of its penal institutions for their labor.

In approaching this subject, I venture to say we have in this question one of the most complex and complicated problems in the realm of penological science. At the present time there is the widest variance of opinion as to whether prisoners should receive anything for their labor. There is still wider divergence in practice and in the laws of the different states of the union governing the subject. There is apparently little difference of opinion as to the fundamental wrong involved in the suffering of innocent dependents while the offender against the law is being punished or corrected. Notwithstanding this fact the simplest investigation of the subject speedily discovers serious legislative, administrative, industrial and social difficulties in the way of putting the principle into practice. However, it is believed these should not be unsurmountable if it can be demonstrated that great good to society would be the result.

A questionnaire sent to 25 representative American wardens disclosed the fact that more than one-half of them believe in the principle of paying prisoners for their labor. In the same way it was revealed that in nearly or quite two-thirds of the institutions reporting, some sort of remuneration is already given to the inmates. The widest range exists, however, between the large amounts paid by contractors to a few prisoners for overtime work, and the comparatively insignificant sums paid to all prisoners in some states. In no case reporting had discrimination been made in favor of prisoners having families to support. A good deal of uncertainty exists as to the number of prisoners having relatives dependent upon them. In many institutions statistics are not kept and in others the statements made by inmates concerning their domestic obligations are not considered reliable. So far as could be discovered, however, the estimated percentages run all the way from 8 to 90 per cent. A fair average would probably indicate that about 25 per cent of all prisoners had been contributing some measure of support to others previous to incarceration, but that fully 50 per cent are in reality under moral obligation to kindred of some kind.

As to the abstract question from the ethical standpoint there is undoubtedly a growing feeling that the practice of unpaid penal servitude is without justification. The chief remaining argument in its favor may be that the state gives value received by its training and preparation for good citizenship. But where punishment is still regarded as the primary object of imprisonment no compensation is afforded. On the other hand, the assertion has been made that it would be double punishment

for prisoners to be deprived of liberty and at the same time be compelled to give their earnings to the support of others or to make restitution for the offense. Whether the payment of prisoners would be a double burden on society depends largely upon the use made of these earnings. If these earnings were actually used to prevent families of prisoners from becoming public dependents there is no doubt that it would be a measure of economy for the state. .

The chief objection to the plan under discussion has been the great cost that a general application of it would entail upon the state. The popular impression is that the total earnings of prisoners would amount to more than the cost of their maintenance in penal institutions. But this is far from being true, when the cost of administration is included. Only a few prisons of the country have in recent years returned to the state any profit from the industries of the institutions. The self-supporting ones have usually shown the least desirable results from the standpoint of reformation. In most other cases the income has not been sufficient to pay the entire expense of keeping the prisoners and caring for them. Where the purpose of the states has been more than custodial and included the training and reformation of the inmates, an appropriation has invariably been necessary to carry on these objects. Nevertheless, several of the states have undertaken to pay prisoners in a small way. In most cases the amount paid ranges from one dollar to three dollars per month, but not a sufficient amount to be of service in supporting families of prisoners.

When we turn to other countries we find a very similar situation. Most countries give some small dole to prisoners, but very few, if any, have seriously approached the subject with a view to solving the problem on a just economic basis. This was shown in several papers prepared by European delegates to the recent International Prison Congress and which it was my duty to review before that meeting. A brief summary of the arguments for and against the payment of prisoners may be of interest here. Among the various objections to the principle of remuneration for offenders as presented in these papers, the following may be stated:

First, the state may by right exact not only deprivation of liberty, but the deprivation of earning capacity as punishment for crime.

Second, free labor in good standing would object to being placed on an economic equality with the offender.

Third, in so far as knowledge of others' sufferings is a deterrent, provision for prisoners' families would tend to lessen the burden of responsibility, should future depredations be contemplated.

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Fourth, even though the principle of paying prisoners be conceded as desirable, still the cost of maintenance and penal administration is too great to permit of an over-plus for this purpose.

None of these apparent obstacles, however, are sufficient to silence the humanitarian voice of civilization which cries aloud for the solution of every problem of injustice. Prompted by this voice, therefore, we find in these reports certain affirmative declarations of faith:

First, the innocent should not be allowed to suffer for the defecation of the guilty. The burden of their need should if possible be borne by the offender, otherwise society as the protector of its weaker members is given the responsibility either through taxation, or by voluntary benevolence.

Second, the family is the primary unit of society. Its integrity must be maintained at all costs. Any treatment of the prisoner which tends to disintegrate the family contributes toward social suicide. Every effort should be made by the state to hold intact all ties of domestic accord and social sympathy that have been strained by the offender's unworthy conduct.

Third, the safety of the state and social honor are at stake in the solution of this question. Indigence and pauperism created by the misdirection of labor from its legitimate purpose is a menace to government and it is discreditable for highly organized states to be indifferent to the welfare of any subject, a few of which have fallen beneath the machinery necessary to a survival of the whole.

Fourth, as a matter of abstract justice, it is not sufficient that modern legislation has absolved the kindred of the convict. In taking away and appropriating the means of support, it has, in effect, committed an overt act of retaliation against the innocent.

As reviewer of these papers I presented the following resolution for the consideration of the Congress:

RESOLVED: 1. That all political influences and considerations be eliminated from the conduct of penal institutions, and their administration be kept solely upon a business basis, with a view to lessening expenses.

2. That no private contract be permitted in any prison or reformatory, but that all industries be established and conducted by the state: either in the manufacture of articles needed by various branches of the commonwealth, or to be sold at the market value of similar products from private concerns.

3. That prisoners should be paid according to their industry. The amount thus allowed should be administered for them, to support dependents, and to provide a fund for rehabilitation after release.

4. For the present it does not seem practicable for the state to carry out the full program of relief. Until that ideal may become practicable, it is advisable that committees of patronage and prisoners' aid societies should be the chief distributors of the relief for the states, and furnish the same when not otherwise supplied.

5. In view of the far-reaching importance of these measures and the practical difficulties involved, it is recommended that fuller information be

invited from the respective governments represented, and that further consideration be given to the subject at the next Congress.

After a thorough discussion of this resolution it was deemed advisable to present the subject in simpler form, recognizing the principle of payment for prisoners without specifying methods. Accordingly the following resolution was presented to the General Session and unanimously adopted as the sense of the Congress:

RESOLVED: It is desirable that the state should allow payment to be made to prisoners and that steps should be taken to provide that any sum of money credited to prisoners should be available for the assistance of their families if in need.

As the practice in different countries varies considerably, it would be an advantage if fuller information could be placed at the disposal of the next Congress with the view to further discussion as to the best means to adopt for the relief of the families of prisoners.

Thus we find the movement fairly launched for world-wide discussion, and to be seriously discussed until solved. In the meantime, however, the problem appears to be passing beyond the academic stage into that of practical demonstration. In several cities and states arguments are being answered by facts—the most potent of all rejoinders.

In Washington, D. C., prisoners who fail under probation are employed at the workhouse at 50 cents per day, the same going directly to their dependents. Inmates of the Detroit House of Correction are paid for their labor without reference to domestic ties, and nearly all have sufficient to start life anew after release.

The States of Minnesota, Kentucky, California and others are putting into practical use recently adopted measures providing for the payment of prisoners.

Thus far these experiments have elicited only favorable reports. It is significant that no serious objection has been made to them by labor federations that have so strongly protested against the contract system.

The objection of the legislator is heard that if the families of prisoners are provided for, he will next be called upon to meet the needs of all wards of the state, and their kindred. But he should see that while the insane patient, for example, is being treated and contributing nothing in return, the prisoner is costing little, and giving much in toil to the state.

It may one day dawn upon the taxpayer also that society is pursuing a shortsighted policy by the present method. No reliable statistics are available to show the number of prisoners' dependents thrown upon public or private charity. Neither can one estimate accurately the enormous loss to society by the idleness of prisoners in county jails, and many city institutions, not to speak of the opportunity which every

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repentant prisoner desires, to make restitution to his victim. We only know that here is wicked waste, instead of conservation, and finally, none can say, though the future will reveal, what shall be the quickening influence of granting just compensation to the prisoner.

At this point it is hardly to be expected that the prisoner would object to compensation for his labor. In fact, a few have expressed themselves on this question of vital interest. From these expressions given herewith, it will be seen that the issue is one, not of economics alone, but of human character as well.

This by way of internal evidence, quoted from a prison paper :

"Nothing would be better than such a law. If the prisoner were paid a reasonable wage, the expense of his board, clothes and all other expenses incident to his care could be deducted and the balance be laid aside to his credit. Or in the case of the married prisoner, his earnings could be given to those dependent on him for support. Compulsory labor without remuneration deprives a man of individuality by likening him to a machine. The man who is paid for his work will take an interest in it and feel a certain pride in turning out a higher grade of work than will his neighbor who labors for his board, clothes, and a bad night's rest. We have spoken of the married man, but what about the single man? The chief reason advanced for refusing to pay him wages is that he will squander it for drink when he is released. If he does this, it is in itself glaring proof that his prison experience has worked him no good—an admission of the inefficacy of penitentiary methods. But there are many who would not spend this money for the gratification of an unquenchable thirst, and they should receive some consideration."

Another statement of the case by the prisoner :

"If some method could be found whereby the enormous economic loss to the State, under present penal methods, could be avoided or lessened, it would solve a portion of the present difficulty. Restraint, confinement of some sort, is an admitted necessity under our present sociologic outlook, but neither the restraint nor the confinement necessitates the present economic loss. Look at it for a moment. A mechanic is earning good wages upon which he supports wife and children; he makes some mistake—commits some crime, if you will—when the State steps in, shuts him in some prison, spends seventy-five cents per day to prevent his earning support for wife and babies, while those dependent beg or starve. Net loss to the State in dollars and cents—the loss of the man's time and product, plus the cost of maintenance and guardianship—in round figures \$3.00 per day, \$1,000 per year. But by

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far the greater loss is in a family forced from their independent position as producers, as contributors to the State's wealth, unto the line of dependent consumers, sapping the economic vitality of the State, destroying their own sense of responsibility. It is not one life ruined, it is a half dozen lives. Surely there is some method better for the State, better for the individual."