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PROBATION AND SUSPENDED SENTENCE¹

(REPORT OF COMMITTEE "B" OF THE INSTITUTE)

ARTHUR W. TOWNE, Chairman²

The development of probation has reached a stage where extension is not so important as are a critical study of the system, a refinement of its methods, and a willingness to allow experimentation in certain features of its general administration. Probation is both a form of personal service and a governmental system. Personnel, methods and organization are each vitally important. This report reviews briefly the recent progress and present status of probation, but discuss chiefly the practices and policies that are best standing the test of experience. The Committee believes that a report along these lines will be useful at this time.

An endeavor has been made to have the statements and conclusions which follow accord with the conservative judgment of those who have studied the operations of the system in a broad way. Since probation is in its infancy, we have sought to avoid dogmatism and sentimental appraisals. When debatable matters are referred to, it is with the purpose of drawing attention to aspects of the subject especially deserving of further research or experimentation. In the absence of adequate facilities for making extended investigation along original lines, the Committee has gathered its data largely from official reports, from published studies and addresses, from special correspondence, and from the experience and inquiries of the individual members of the Committee.

INCREASED USE OF SYSTEM.

When this Committee submitted its first report in 1910, it gave the number of states in this country having probation laws as 37, and stated that they applied to adult offenders in 13 states. Legislation upon this subject has now spread to 44 states, and allows the benefits of the system to adults in 26 states. Within six years the number of states authorizing probation for adult offenders has doubled. The growth during this period in the actual employment of probationary agencies has also been noteworthy. In the two states then having statistics collected by state probation commissions—Massachusetts and

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New York, the persons placed on probation in 1910 numbered in Massachusetts 15,518, in New York 8,634, total 24,152. The corresponding statistics for 1915 were 27,994 and 18,708, total 46,702. (Vermont also had a commission, but its collection of statistics did not cover all of 1910.) This represents not an unhealthy increase due to emotionalism or laxity, but apparently the steady gain that has accompanied the strengthening and stiffening of the system in these states. The gain reflects the growing confidence in the system in those states where it has probably been subjected to the most severe inspection and study. Equally significant advances are found on other states, and indicate that probation is more and more becoming an accepted way of handling certain kinds of juvenile and adult offenders.

BRIEF REVIEW OF PRACTICES AND RESULTS.

The basic methods used in probation—the placing by the court or magistrate of the offenders under the oversight of a duly appointed probation officer, the efforts of the probation officer to keep informed as to the conduct and progress of the probationers during a definite or indefinite period, his or her endeavors to rehabilitate the probationers and improve their habits, the reports of the probation officer back to the court, and the return of those violating the conditions to the court for further disposition—are by this time well known.

In most places, the probation officers still spend part of their time in investigating the history, environment and characteristics of defendants who have been found delinquent, for the purpose of aiding the judge to determine whether they are suitable for probationary treatment.

The use of probation in children's cases continues to find marked favor with judges and the public. It is also being extensively used among adult misdemeanants. The establishment of domestic relations courts has augmented its application to problems of non-support and other family troubles. Many persons addicted to occasional intemperance are dealt with by this means. Each year witnesses the greater recourse to probationary agencies in the cases of felons.

Statistical reports by probation officers indicate that roughly three-quarters of those on probation apparently live up to its requirements. Naturally the highest percentage is among children. Persons advanced in years are less responsive to its influence. Mental defectives also yield unfavorable results. As would be expected, persons hardened in immorality, drunkenness and careers of crime are likewise difficult in proportion to the duration and fixity of these habits. To general-

ize more than this is unsafe, for the testimony is universal that, after all, the question as to whether a person is a proper subject for probation depends almost wholly upon the individual and his particular circumstances. The early observation that the suitability of a person for probation depends, not so much upon the offense, as upon the offender, has become almost axiomatic.

One subsidiary use of the system is the collection from probationers of considerable amounts of money, in instalments, toward the support of their families and in liquidation of fines and restitution. The sums handled by a probation officer often far exceed his salary. Local studies have shown that, through avoiding unnecessary commitments to institutions, through the collections just mentioned, and indirectly through other means, probation possesses very definite economic advantages and constitutes a community asset.

IMPORTANCE OF STUDYING CASE METHODS.

The results of probationary efforts toward improving conduct are determined chiefly by the methods of operating the system. Methodology is therefore of paramount importance. This applies to the part played by the judges and to the work of the probation officers, especially to the case methods of probation officers. The subject has been discussed at the conferences held by the National Probation Association and by certain state and other organizations. Outside of the proceedings of these gatherings and scattered official reports, there is as yet little literature on this aspect of probation. Detailed, chronological studies of individual case treatment, showing the reactions of the probationers to different ways of handling them, would be most instructive. The science of probation can be built up only through observation, experimentation and intensive study. For this, as well as other reasons, it is desirable that as many courts and states as possible be induced to include in their reports such contributions as can be offered concerning the methods employed by their probation officers and the conclusions to be drawn therefrom.

At this stage in the development of probation methods, we cannot expect entire agreement as to standards and practices. Different types of probationers will need different treatment; local conditions must be taken into account, and the dissimilar experience, training and background of the probation officers will lead to various viewpoints. Thus it is found that the ex-police officer undertaking probation work tends to resort to repressive measures. The physician is more or less prone to discover conditions that are pathological or defective. The

church or mission worker is apt to place more reliance than others upon religious influences. One probation officer lays special stress upon the importance of employment; another emphasizes wholesome recreation or using night schools, while a third seeks the co-operation of the psychologist, the dentist or the oculist. Appeals and devices that fail with most probationers may work satisfactorily with some or when used in a slightly different way. Already certain methods have proved of no avail; others have been found especially efficacious; the value of others is still problematical. The art of probation rests upon an empirical basis, and its methodology must incorporate whatever is found to stand the pragmatic test of experience. Nothing in connection with probation is today more essential than the study of methods.

FUNDAMENTAL ELEMENTS.

Nearly four decades of experience have taught certain truths concerning principles and technique in dealing with persons on probation. The following are some of the most important of these truths:

1. That in itself the fact of the non-arrest of the probationer for another offense does not show whether the probationer has improved his habits or not; whether he has changed for the better can usually be ascertained only through repeated and careful inquiry.
2. That probationers do not, in the absence of an active probation service, carry long in mind the effects of the scare of having been in court, and do not materially alter their manner of life simply because the judge or probation officer advises them to turn over a new leaf.
3. That the probation period should continue long enough to warrant a reasonable presumption, based on adequate observations, and testing, that the probationer, freed from oversight, will under the probable circumstances of his life maintain a law-abiding and proper course of conduct.
4. That probationers cannot be effectively dealt with en masse as at group meetings, but only individually and according to their special condition and needs.
5. That the probation officer should endeavor to bring about such improvement as may be needed in the probationer as a physical and mental being; in his home and living conditions, and in all of his other relationships.

6. That the probation officer's personal contact, counsel and influence are vital elements in stimulating the probationer to do as he should, and that efforts by the officer to secure the co-operation and aid of the probationer's family, other persons and agencies are also indispensable.
7. That flagrant and persistent violations of the probationary conditions should be decisively dealt with.
8. That probation officers should not be taxed with more cases than they can reasonably be expected to look after, nor be required to undertake the reformation of offenders obviously not amenable to probationary measures.

INVESTIGATION THE BASIS OF INDIVIDUALIZATION.

The focus in probation, as in institutional reformatories, is centering more and more upon the necessity of adapting the treatment to the circumstances and needs of the particular individual. The foregoing principles might all be summed up in this one principle of individualization of treatment. And before we apply such treatment, we must have correct diagnosis. Painsstaking investigation of the offender to learn first his fitness for probation, and secondly what remedies should be invoked, is therefore an all-essential.

It is unjust to jeopardize the future of any defendant by allowing him to be convicted without conclusive evidence. Is it not just as improper, both to the defendant and the community, to have the court dispose of a convicted defendant without first having ample evidence as to his circumstances, tendencies and needs? One of the greatest advances in criminal jurisprudence during the last few decades has been the securing of investigations of defendants prior to the imposition of sentence. In most states, the statutes expressly authorize probation officers, upon the order of the court, to conduct such inquiries. Attention will later be called to the fact that these investigations are in some places made by special investigators who are not probation officers. Some judges believe it preferable to have special employes for this duty alone. These so-called preliminary investigations are valuable in enabling the court to make up its mind whether to place the defendant on probation or to make some other disposition. They prevent the placing of unfit persons upon probation, and secure those for probationary oversight who are most suitable for this treatment. They also enable the probation officer to secure information for use in shaping the first steps in the probationary oversight of those who are placed on probation. (This does not mean

that the same probation officer undertaking the supervision of the probationer should necessarily be the one who makes the preliminary investigation.) Indeed, such investigations are fully as essential as the medical examinations of patients before the prescribing of medical treatment.

The probation rules of certain courts stipulate that the magistrates shall have such investigations made before assigning defendants to probation.

A most significant and useful supplement to these investigations is now being developed in the medical and psychological clinics connected with certain juvenile and adult courts. The proportion of those who have failed under probation because of physical or mental defects has been striking. It is desirable that the physical condition of defendants, adults as well as children, should be inquired into before the pronouncing of sentence. If a defendant is feeble-minded, insane, epileptic or otherwise psychopathic, the facts ought by all means to be known. Where experts cannot be paid for, the effort can be made to secure volunteer service in the making of these examinations.

After the assignment by the court of the delinquent to the oversight of the probation officer, the latter's responsibility with respect to investigating and studying the probationer is by no means at an end. On the contrary, the responsibility of the officer in this direction becomes all the greater. The choice remains to be made by the probation officer as to what specific probationary methods will be best adapted to the individual in question. Investigation and diagnosis should now grow more intensive and more analytical. As one remedy after another is tried, their effects must be learned. This process of studying the probationer should be continued throughout the probation.

Delinquency is scarcely ever an isolated act; it is nearly always an expression of a set of habits. Its causes lie beneath the surface. Criminal or vicious behavior usually has its beginnings in childhood or adolescence. The soil has often been prepared by heredity. The nurturing of the delinquent ways may be furthered by the offender's physical condition or the limitations or peculiarities of his mind. All manner of environmental factors also play their part—poverty, improper parental oversight, evil companionships, defective education, unsuitable vocation, bad housing, and harmful neighborhood influences. Several such factors generally contribute to the delinquency, so the probationer must be studied comprehensively.

Searching inquiry will often show that in the complex of causative forces, some one factor stands out conspicuously. With human beings, as with most one horse shays, "there is always, somewhere, a weakest spot", and unlike the famous shay built by Holmes' deacon, they seldom go to pieces all at once, but as a rule, in some one spot first. A man may be unable to work because of headache, but the skilful physician finds the seat of the distress in the stomach. Another person limps and has pain in his legs, but the doctor discovers that the portal through which the rheumatic germs entered was undoubtedly in the diseased tonsils. Even with mental derangement, the psychoanalyst often finds the exciting cause to have been some one experience which left its scar upon the sensitive mind long years ago. Likewise, in the reformation of habits, painstaking investigation and patient interviewing often bring to light some one factor most directly responsible for the anti-social condition. A drinks because his work is too exhausting; B because of domestic infelicity; C because he likes the conviviality of the saloon; D because he has arteriosclerosis. M does not support his family because he is too lazy to work; N because he gambles away his money; O because he had a fight with his mother-in-law; P because his wife associates with another man. In turn, each of these weak spots may upon further investigation disclose some antecedent weak spot. The lesson for the probation officer is that he should study his patient until he thoroughly understands the patient's problems and needs. The alpha of good probation is investigation.

THE IMPROVEMENT OF CONDUCT.

The main business of probation is the remoulding of human habits and behavior. After the probation officer by investigation has found where the trouble lies, he must seek to remedy the condition. As a requisite to this, he should of course have an intelligent understanding concerning the make-up of human habits and behavior. Habits are extremely complicated. They are not created through a single effort of will or according to a set of instructions; they grow little by little from a thousand rootlets and in response to a thousand stimuli. Through the inter-twinings of thousands of these thousand-rooted habits, there develop behavior and character. Whoever has undertaken to break any of his own fairly fixed habits of thought or conduct has come to realize that it is not easy. All the more difficult is it for one to bring about really lasting transformations in the characteristics and habits of another person. The weaker the

mentality of the person and the less controllable his feelings, the harder it becomes.

The effect exercised by the probation officer upon the probationer cannot be potent and constructive until he has first won the latter's confidence and good-will. Their relationship, while one of respect, should be distinctly friendly. The authoritative nature of the oversight should be made clear to the delinquent, but its predominating spirit should be one of encouragement and helpfulness. With admonition and firmness should go tact and sympathy. All this is necessary to keep the probationer in a receptive and responsive attitude.

The probationer must be earnestly desirous of mending his ways and living properly. If he is slothful, his ambition must be stirred. If his moral sense is dull, it must be quickened. If his social standards are low, he must be made to recognize the benefits of having higher standards. Hope must be held out for him. The pathway to possible betterment must be kept before his view. He has himself to a certain extent made a failure of life; otherwise he would not have been arrested and placed on probation; in one or more ways he has failed to adjust his ways with the ways of the world. This creates the problem as to how he must change his manner of life to bring about a better relationship. It is the task of the probation officer to help him think out such problems; he must be his instructor, his advisor, his guide.

There are of course many instances of religious and secular conversions which have produced sudden and permanent regeneration of character, but these are exceptional in probation work. The changing of habits is usually a slow process, with steps now forward, now backward. Like the clever teacher who uses different appeals with her pupils, the wise probation officer plays upon different motives, using first one and then another inducement. If a man drinks to excess, let the probation officer try to impress him with the injurious effects upon his health; point out the folly of allowing liquor to undermine his industrial efficiency and take away his job; show him how it robs him of money for the necessities and various pleasures of life; prick his pride by telling him that he is a weakling not to be able to master his appetite; appeal to his sense or religious duty or to his love for his poor wife and children, or draw upon any of several other motives. If the man backslides, he should not always be surrendered at once to the court; perhaps some other appeal and other ways of approach may bring the desired result. Perseverance pays.

In so far as the probationer's physical condition affects the situation, the probation officer is expected to see to his bodily well-being. Many a boy can be made less lazy or less restless, as the case may be, by attending to his personal hygiene or to his eyes or nose or some other organ. If a man has tuberculosis, a rupture, flat-foot or grumbling teeth, he needs to be repaired. Every probation officer should have access to expert medical aid whenever needed.

But the advice and personal influence of the probation officer, the resolutions of the probationer, and attention to his bodily condition, are not all that count. Environment is also vital. A girl who goes back to her old neighborhood may be exposed to temptations beyond her resistance; if her family can be persuaded to move, she is protected from lapsing into her former ways. If a parent keeps on nagging a boy, of course he rebels and may run away or do some other wrongful act; the parent should be urged to exercise patience. Delinquency is often a reaction caused by an over dull existence; the poor mortal has been starving for occupation, recreation, attention or affection. The thing for the probation officer to do is to introduce into the probationer's life those interests or forces that have been wanting. Here is where the social settlement, the boys' or girls' club, the church, the playground, the night school, the library and numerous other agencies offer help. It is a duty to draft into service whatever remedial resources there may be in the community. The officer's function transcends the mere exertion of a personal influence; he is also called upon to be a social engineer who can tap all the forces—social, religious, economic, educational, recreational and otherwise—which may contribute to the reclamation and up-building of the offender.

Perhaps someone may declare that the foregoing account of methods is too ideal. It may be said, for example, that many probationers have little need of such measures. In so far as this holds true in special instances, the principle of individualization of treatment would, of course, justify the probation officer in relaxing the rigor of the probation. But if the selection of defendants for probationary treatment has been intelligent, most of them will probably call for the application of some constructive measures like those recommended. The officer must be prepared to deal with varying types and degrees of delinquency, and to utilize those methods most likely to achieve tangible, permanent improvement.

Just a word concerning certain wrong methods often employed. It has been taken for granted by not a few probation officers that

they are doing their full duty if they simply receive a weekly or monthly visit from each of their probationers, and reciprocate by calling occasionally at their homes. Such reporting is, in some places, done in large groups. As many as 40 or 50 or more probationers may congregate in a room one evening each week awaiting their turn to have their cards marked or punched by the officer. To say nothing of the pernicious effects of this wholesale rounding-up of young and old offenders, it makes regularity in reporting the principal virtue for probationers to display. In courts where this mechanical routine is tolerated, the judges do not hesitate to discharge probationers from further oversight after they have reported faithfully for a few weeks or months. The sooner the delusion can be dispelled that this surface-skimming probation does any good, the better. To be truly reformatory, the probationary oversight has to be individual and full of human feeling and resourcefulness.

KEEPING INFORMED CONCERNING PROBATIONERS.

In addition to promoting the welfare and rehabilitation of offenders, probation is expected to provide means of ascertaining whether those released under its oversight live up to the probationary conditions. With numbers of offenders at large on probation, the community has the right to demand that those who continue in evil ways shall be discovered and dealt with by some more drastic means. Probation must supply not only a guiding and helping hand, but also a watchful eye. It is unsafe to assume that those on probation are complying with its terms. Appearances may be deceiving, and the probationer's say-so usually needs to be checked up. Therefore one of the major duties of the officer is to inquire in the neighborhood and from various other sources as to how the persons under his care are progressing. This should not be interpreted as calling for a police surveillance or hounding. If too oppressive, the supervision may defeat its purpose. It must be vigilant, but at the same time carried on with tact and finesse.

THE FUNCTIONS AND PLACE OF PROBATION.

At this point, it is fitting to comment upon the position which probation holds in the minds of the courts and the public. Its destined place in penology will be controlled by the functions which it discharges.

When probation first gained legal sanction in Boston in 1878, it was advocated as a means of saving offenders from the full severity

of the law. For harshness and retribution, it substituted mercy and forgiveness. Inspired by this same motive, some judges still consider probation as principally a means of clemency. They let the restrictions thrown about offenders consist of little else than the injunction to sin no more. This usually means that the sinners are left pretty much to their own devices, and the probation amounts practically to a mere suspension of sentence. Extravagant claims may be made of the wonderful human salvage where such practices are in vogue; but respect for law in these communities is apt to be weakened, and the undue leniency results sooner or later in striking abuses which invite public condemnation. Such sentimental methods should be prevented from masquerading under the banner of probation.

Enough has already been said in this report to indicate that the chief service and function of probation reside in its reformatory possibilities. It can be humanitarian; it can exert a punitive influence upon the offender; it can have a deterrent effect upon many of the potential law-violators in the community who become aware of its workings. Its principal role, however, is to fit probationers to live normal, useful, law-abiding lives.

In addition to suspended sentence, fine and imprisonment, we now have probation as a fourth important way of dealing with offenders. It has become a permanent instrumentality for supervising and improving those delinquents for whom these three other modes of treatment are unsuitable. We may look forward to steady increases in the numbers to be dealt with through probation. If probation is to retain the confidence of the public and secure the financial support it deserves, it is necessary that the courts employ the system judiciously and that the public recognize better its proper sphere and functions and insist upon its right use.

THE SELECTION OF PROBATION OFFICERS.

What the teacher is to the educational system, the probation officer is to the probation system. Probation is fundamentally a personal oversight and service. The searching for information, the counseling, the admonishing, the restraining, the encouraging, the aiding that go day after day and month after month to make up the real substance of probation, emanate largely from the probation officer. The intelligence with which the system operates, its sympathy, its grip, its true value are for the most part what he makes it. If he is a pusher, the probation has push; if he is a sluggard, the probation is sluggish. If he possesses insight, knowledge and adroitness, his methods are sensible, ingenious and fruitful; if he is ignorant and un-

imaginative, his actions will be perfunctory and foredoomed to failure. This does not imply that the part played by the judge is not important; it means that in the long run, the probation is chiefly what the probation officer makes it.

Hence it is essential that the selection of probation officers shall be on the basis of their fitness for the work. It is necessary that their appointment and removal be shielded from the invasions of partisan politics. Unfortunate experience has shown that the probation officer who "lands his job" through "pull", lacks, as a rule, those qualities which make for intelligent, successful probation service. An officer indebted for his position to the political leader or machine, will usually find it difficult to avoid bias in listening to requests from his political backers and associates for special mercy toward this and that defendant or probationer. The character of ward politics must be reformed before ward politicians can become reformers of character. The anticipated growth in the use of the probation system, bringing, as it will, increases in the number and remuneration of the positions of probation officer, will enhance their value as a political entrenchment for the party organization and as "plums" for faithful henchmen. Those interested in efficient probation should help to protect the service from exploitation and deterioration such as has vitiated the police departments, the criminal courts, and the penal institutions in so many places.

Wise and independent judges will naturally desire to appoint proper probation officers, but this is not enough. Judges come and go, and there is no guarantee that the successor of such a judge will be equally appreciative of the requirements of the probation personnel. In certain states the situation has been met by civil service examinations, conducted in part orally, allowing credit for previous experience, and taking into account temperament and personal characteristics. Many of the civil service commissions in holding the tests have secured the assistance of outsiders familiar with probation or kindred lines of social service. In other states where appointments by the judiciary do not fall within the competitive class, the judges of their own volition have had examinations held from which eligible lists have been established. The results of these examinations have been on the whole very satisfactory. Where the civil service authorities cannot or will not conduct examinations of the right character, efforts should be made to empower the state probation commission or some corresponding body to exercise this examining and certifying function.

Considering the special qualifications desirable for effective probation work, the temptations often placed in the way of probation officers, and the importance of the service, there ought to be more liberal salaries. It has been suggested that a fair criterion for the compensation may be found in the salaries paid the high school principal and teachers in the community—that of the principal being about the proper amount for the chief probation officer and that of the teachers for the assistant probation officers. In order to attract the right kind of candidates for the positions, the salaries must be adequate. The fee basis for paying probation officers is dangerous.

The detailing of persons from other branches of the public service to devote themselves to probation work is growing less frequent. Likewise the designation by private societies of their employees to act as probation workers is decreasing. Volunteers are still utilized, but the tendency is to entrust them with fewer probationers and to keep them under the direction of salaried officers. Experience has shown that they can often render valuable help as assistants, but as a rule cannot be entrusted with a great deal of responsibility.

The proportion of women probation officers is probably increasing. They seem adapted especially for dealing with the cases of women, girls and young boys.

ADMINISTRATIVE ORGANIZATION.

The relative merits of the district and the personal assignment plans of conducting probation work have been debated at probation conferences. Under the personal assignment plan, the attempt is made to pick out the probation officer best able to handle the particular offender. Each officer may have cases that are widely scattered. Under the district plan, all the cases in a court coming from a certain section of the city, are turned over to the probation officer working in that district. In courts in the larger cities where children are assigned so far as possible to probation officers of their own religious faith, it is still possible to use the district plan by having the districts large enough to permit the assignment of two or more probation officers to the same district. It is also possible to assign both men and women officers, and those speaking different languages, to the same district. In theory, the personal assignment scheme has its advantages, but experience indicates that the district plan is on the whole the more practicable. A disadvantage of the district plan is that the probation officer is apt at times to be recognized when he visits the homes of his charges, thus enabling persons in the neighborhood to

learn that the probationers are on probation. It is decidedly advantageous, on the other hand, to have the work done by one who knows the neighborhood conditions and where to go for information and assistance. It is also an economy in time not to have to spend any more time than necessary in traveling.

Most probation officers serve only within the jurisdiction of the court appointing them. Where the territorial jurisdictions of courts overlap, the work of their probation officers also overlaps. This may occasion some duplication of effort. For example, several city, town and village courts within a county may each have its own probation officers, while the county court or some higher tribunal may also have its probation officers serving throughout the county. In certain states, such a duplication is obviated through the appointment of county or district probation officers to serve in all courts within the county or district. This tends to promote uniform and co-ordinated service and has been found in rural districts to increase efficiency.

The proper relationships to be sustained among different courts within the same territorial unit, and among different units, remain to be worked out. Steps have been taken through statutory amendments in certain states for a system of transfers of probationers from one court to another, when they move out of the jurisdiction of the court placing them on probation. In large cities, it not infrequently happens that different members of the same family are at times on probation from different courts. These and other circumstances have led to the proposal of a central bureau of probation records, and to suggestions of co-operation along other lines, including a consolidation of the probation service of several courts. One means advocated for securing a harmonious and centralized probation system has been the amalgamation of the courts themselves.

THE PART OF THE JUDGE IN PROBATION WORK.

All of this leads to the question, What should be the relationship between the judge and the probation officer? The human interest in the cases tried before both criminal and children's courts has always led certain judges to follow up certain defendants after they leave the court. This was true before the establishment of the probation system, with respect to those committed to institutions as well as those released under suspended sentence. As probation has developed, the judges have naturally been the ones to undertake a general charge of the probation service. The study given the system by certain judges, their intelligent building-up of the system

within their own courts, and their contributions toward extending and strengthening its operations elsewhere, have been of incalculable value.

The connection of the judges with those making the preliminary investigation of defendants is necessarily very close. In some courts, certain of the probation officers spend their entire time assisting the judges with these investigations. A few courts have appointed special investigators not connected with the probation staff, but working directly under the judge's control.

As regards the control over the probation officers, the situation varies in different places. Usually the judge leaves the details as to case methods pretty much in the probation officer's hands, and in the final disposition of the cases is guided to a great extent by the officer's recommendations. In courts having several probation officers, there are sometimes as many different ways of doing probation work as there are officers. Likewise in a court having several judges, their attitude and practices with respect to probation may be so varied as to render impossible a consistent probation policy for the court as a whole. As a corrective of these weaknesses, the proposal has been made that in a court having a bench of judges, one of them should be delegated to supervise and direct the probation officers and decide the final dispositions of the cases. This would practically amount to the setting up in the court of a probation part. Another recommendation has been to leave the administrative routine with the chief probation officer. A third suggestion heard here and there is to establish a local probation board which shall be separate from the court and to which the court shall commit defendants for the purpose of having them placed under probationary supervision. In Vermont, the State Probation Commission acts as such a board for the entire state. Over against these proposals is the desire of most judges to keep the control of the probation work in their own hands.

In rural communities, special difficulties are met. The probationers are more widely scattered; it is harder to find persons who know about their conduct and will report the facts without prejudice, and there are fewer agencies and facilities for doing constructive work. The local justices have usually had only a limited experience with probation and would find it difficult to organize and direct probation work. If, as suggested above, the probation in the rural sections of a county is carried on by a county officer serving in all courts in the county, we then have the question, to whom shall he be responsible?

Shall each magistrate in the county control the county probation officer with respect to the cases assigned by such magistrate? Shall the county judge who appoints him assume prerogatives in cases originally placed on probation by other justices? Shall the probation officer be an independent official? Shall he work as an agent of a county board or commission to whose care all probationers shall be assigned during the period of their probation?

The question as to which administrative methods will work best, can be determined not on a priori grounds, but only through actual testing.

PROBATION AND PAROLE.

Many similarities exist in the methods of doing probation work and of maintaining parole oversight of persons conditionally released from institutions. Much the same type of officers is needed. When two separate corps of workers, one for probation duties and one for parole duties, are in the field, there is apt to be overlapping. In different states, probation officers at the request of institutional authorities look after persons on parole. It has been urged that the co-ordination between these two branches of service should be closer, and there are advocates for the plan of having a single staff of officers discharge these dual functions. Here again, the solution must be found through experimentation. One thing is certain: that is, parole work should not be allowed so to encroach upon the time of probation officers as to interfere with their regular probation duties. The assumption of parole work in large places will usually necessitate the employment of more probation officers. As a matter of fact, in most places the probation officers at present have all they can attend to if they do their probation work.

STATE SUPERVISION.

The original report of this Committee in 1910 pointed out that the growth of probation which has been more or less sporadic, has resulted in a variety of methods and standards, and has subsequently made necessary state supervision and co-ordination. The Committee recommended that the process should be reversed, and that the creation of state supervising bodies should be preliminary to the further extension of the system. Some form of state supervision is found in about a dozen states. Where special commissions do exist, the benefits have been very material. The wider use of the system has been promoted; but more important still, its operations have been studied and strengthened, the personnel of the probation officers has

been improved, and carefully framed legislation has been secured. We cannot too highly endorse the maintenance of an alert, comprehensive state supervision in each commonwealth.

FEDERAL PROBATION.

Outside of the courts of the District of Columbia, none of the federal courts have statutory authority to employ probationary methods. The National Probation Association is sponsor for the Owen-Hayden bill providing for the use of probation in all federal jurisdictions. The bill, at the latest report, had been favorably acted upon by a sub-committee of the Senate judiciary committee, but had not yet been reported into the Senate. It was also pending before the judiciary committee of the House of Representatives.

In concluding this report, the Committee wishes to repeat the statement made at the beginning, that debatable matters have been presented for the purpose of drawing attention to aspects of the subject especially deserving of further research or experimentation. Probation is still in the making; it is too early to foresee all the lines of its future development. We can only say that the principle of probation has come to stay, and that we hope the results of experience in different places, both in this country and abroad, may be published from year to year and utilized in shaping the future courses of the system.

MINORITY REPORT.

A. C. BACKUS.¹

Probation may be divided into two classes.

First.—Probation for Juvenile Offenders.

Second.—Probation for Adult Offenders.

In the first classification we deal largely with children under sixteen (16) years of age,—such as the defectives, delinquents and incorrigibles.

During the twenty (20) years of probationary application and experience, it is now well settled that that system has demonstrated a most efficient and practical method of saving the unfortunate youth.

¹Judge of the Municipal Court, Milwaukee, Wis.

Following the splendid results of the work in the Juvenile Court some states are now experimenting with the system known as the "Adult Probation", which deals entirely with the adult first offender. The adult probation system may be divided into two subdivisions. First,—Adult offenders in felony cases, and adult offenders in misdemeanor cases. It is but in recent years that the adult probation law in some of the states for *first offenders in felony cases* has been inaugurated and successfully carried out. Wisconsin has done pioneer work in that field. In the City of Milwaukee during the five (5) years a total of eleven hundred forty-six (1146) first offenders (felony) were admitted to probation, and in that period of time only thirty-one (31) were returned to the court for violation of their probation. It must not be understood that all first offenders are placed on probation. About twenty-six per cent were admitted to probation in Wisconsin. Great caution is taken by the court and special investigation made of each individual case. The probation officers are appointed by the court at a fixed salary and the court in constant touch with the department and receives continuous reports from the probation officers with reference to the probationer. Carefully compiled statistics show that under the old system where first offenders were sent to the state penitentiary or reformatory institution in a period of five (5) years from twenty-seven to forty-one per cent. were returned to court after serving their sentence on second offense. Showing that the penal institutions have not been the best corrective method so far as the individual is concerned. The probation system has almost reduced this to a minimum. During the period of five (5) years the return to the court being a little over three per cent.

In the larger cities the probation department ought to be under the supervision of the court, and the probation officers ought to be responsible to the court for all of their official acts, so that the judge may be in constant touch with the department,—not only in receiving reports after the individual has been placed on probation, but also in receiving further information from the department before sentence is pronounced or the case terminated. I have discovered from personal experience that this is the best system. Outside of the larger cities there ought to be state supervision.