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THE MOST EFFECTIVE METHODS OF DEALING WITH CASES OF DESERTION AND NON-SUPPORT¹

WILLIAM H. BALDWIN.²

Family desertion and non-support involves a paradox which makes dealing with the subject difficult, because the punishment which is often so well deserved aggravates the evil which it is intended to cure. The principles upon which successful treatment of it depends have been evolved from experience, and some of them are very plain.

1. It is necessary to begin early, and with the help of skillful probation officers. District visitors of charity organization societies can sometimes discover, before cases get into court, tendencies in families which might be corrected by calling prompt attention to the consequences involved; and wise care in such instances, anticipating the possible trouble, would often serve as a valuable preventive.

PROSECUTIONS TO BE AVOIDED WHEN POSSIBLE

When complaint is made to the court the circumstances should be investigated by a man or woman of experience, with the object of reconciling the parties, and having the husband or parent fulfill his or her obligations without being compelled to do so by the operation of the law. Carelessness, indifference, some temporary attraction outside the home, the beginning of habits of dissipation, lack of employment which might be found with a little assistance, may, any of them, start a man on the course which ends in continued non-support or in desertion; and there is no more effective way of solving such cases than by bringing, if possible, enough influence to bear on the husband or parent to break up such habits before they are confirmed. The family in which it has been necessary to invoke publicly the aid of the court to compel support will ever after be a different family from what it was before. The family life may be, and often is, restored so that it goes on happily; but there will always be a remembrance of the unfortunate necessity of compulsion. The importance of settling such cases without court action where it can be done is very great.

PROBATION OFFICERS SAVE TIME IN DEVELOPING FACTS.

2. The work of probation officers is especially necessary in deal-

¹Read at the meeting of the National Probation Association at Pittsburgh, Pa., June 5, 1917.

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ing effectively with such cases also because, if unsuccessful in effecting a settlement, and if the case must be brought into court, an experienced probation officer can develop the facts in regard to it, and bring out the circumstances connected with it, better than can be done in any other way.

I cannot emphasize too forcibly the need of an ample force of such trained probation officers, not only as a means of securing just and proper action on the part of the court, but also of facilitating its work.

Many of the people in family desertion and non-support cases are ignorant, their habits are bad, the family relations are complicated, there are facts in their lives which they are concealing from each other, and which they are unwilling to reveal in court, and even if willing to tell the facts, so much feeling has been aroused, there has been so much brooding over wrongs, fancied or real, that the judge is often compelled to hear many irrelevant statements before he is able to drag out from a willing witness the facts which he needs for a proper judgment.

During the whole of one forenoon I sat with Judge Latimer in the Juvenile Court of the District, listening to such cases; and what was most apparent in them all was that if a good probation officer had first looked up the facts, the judge, in not more than one-third the time, could have asked questions which would have brought out clearly the merits of the cases, and thus saved the time, not only of himself, but of all the court employees and the waiting witnesses, in going over matters of no importance.

These cases, in many of which no lawyer is employed, differ from important commercial cases where able attorneys develop and bring out the important facts for the court, giving it a chance to restrain and guide that which either side attempts to set forth; and the work of the court should not be clogged by having the judge compelled to go over in open court, in searching for the gist of the case, unimportant matter which could be eliminated by the help of a competent probation officer. Next year, for the first time, the Juvenile Court of the District is to have a probation officer to investigate adult cases; and I am sure he will earn his salary in the time he saves the Court in the trial of non-support cases, to say nothing of the assistance rendered in other ways.

EXTRADITION SHOULD BE EASY AND CERTAIN.

3. What has been said implies that the offender is within reach. If he is not within the jurisdiction, it is, of course, necessary to get him.

(a) For this purpose extradition should be made easy. In the case of larceny and many other crimes the community is well rid of the offender if he flees, but family desertion differs from almost every other offense in that the absence of the man deprives the community of a most valuable asset, his potential earning capacity.

For this reason the offense should not be made felony, which is necessarily punishable by death or imprisonment in the state prison. The purpose is not to inflict such severe punishment, the prospect of which makes prosecution more difficult, and lessens the chance of conviction, but to make the man relieve the community of the burden of supporting his family; and this can best be done by making the offense a misdemeanor, punishable by imprisonment for a year, which may be extended by working out a fine of \$500 in addition.

(b) Extradition should also be made certain. Nothing would do more to diminish the evil, or be of greater economic advantage to the community, than the practical evidence, that even though a deserter leaves the state he will be brought back in every instance where he can be found; and Alabama³ and some other states in recent laws have done well to insert an express provision that it shall be the duty of the county commissioners, or the corresponding officials, to provide the funds for doing so whenever requested by the prosecuting officer.

The mistaken impression that governors will not grant or honor requisitions for fugitives unless they are charged with felony, which led to the enactment of the felony law in New York and other states some twelve years ago, has done much to protect deserters, not only by making the process of extradition more formidable in states which have felony laws, but by hindering efforts at extradition in those where the offense is only misdemeanor. In spite of abundant evidence that this impression is not only theoretically, but practically, incorrect,⁴ it

³The excellent law passed by Alabama on September 16, 1915, has just been declared unconstitutional, apparently because of a slight defect in the title, like that which last year led to a similar decision in Pennsylvania on the law of 1913 in that state. The Pennsylvania law has just been re-enacted with an important addition which makes it apply to illegitimate children also.

⁴A comparison of the experience of several states under felony and misdemeanor laws in the following table makes this very plain:

	Felony		Misdemeanor		
	N. Y.	Minn.	N. J.	Penna.	Mass.
1910	31	..	40	13	3
1911	33	..	47	10	5
1912	35	4	37	24	19
1913		4	39	33	32
1914		4	41	31	32
1915		8			32
1916		5			40

still lingers; and the responsibility for it rests on those who assume that governors will not extradite unless a man is charged with something which may land him in the state prison or the electric chair. Nothing could better indicate the progress which has been made in this perplexing subject during the last fifteen years than the excellent report which has just been submitted by Judge Hoffman's Committee, which recommends that we should go a step further even than a Domestic Relations Court, and put all these and other related cases into a Family Court. Surely it ought not to be necessary to invoke the specter of the state prison and the electric chair in order to bring a man who is not supporting his family back from Covington, Kentucky, into Judge Hoffman's Court!

In classic times each tragic actor wore a mask with which to impress the spectators. In our most successful plays now men and women in ordinary dress move the audience by portraying in the most truthful and natural way possible the story of the play. It would be almost as absurd to require them to wear masks on their faces because it was done in the past as it is to insist that unless a frightful felony charge is presented to a governor, he will make no effort to protect the interests of a suffering wife and her children.

FELONY CHARGE NOT NECESSARY TO INTEREST GOVERNORS.

Careful investigation in numerous instances has shown that governors are quite ready and able to appreciate the merits of non-support cases, even when not dressed up in the mask of felony. Two only need be given. Several years since a man in an influential position in Florida, who had asked about the Uniform Act, wrote that he proposed to make the offense felony, because it was necessary to do so in order to get governors in that part of the country to honor requisitions and the bill was so introduced. The statement had a strange sound in view of the fact that a man had been brought back to a neighboring state charged with misdemeanor for disturbing a religious meeting;

In the three years comparable with New York, New Jersey issued more than four times as many requisitions for misdemeanor in proportion to population in 1910 as New York did for felony, and the average for the last four years in Massachusetts was two and one-half times as many.

The average for the same years in New Jersey was more than six times as many as it was for the last five years under the felony law of Minnesota, and in Massachusetts four times as many.

This is in spite of the fact that ten years ago a former Attorney-General of Massachusetts said "extradition for misdemeanor was impossible, and he knew it." The charge is due to the fact that the matter was taken up intelligently and accomplished, as it can be in any state.

The opinion of the Massachusetts judges that the offense ought not to be felony should be conclusive. (Report on Criminal Remedies for Non-Support in Massachusetts, 1916, p. 19.)

and it developed that there was no foundation at all for it except that some lawyer had told him it was necessary to make the offense felony.

A state official in Rhode Island having declared in 1913 that extradition for misdemeanor was not possible, I recommended that instead of arguing the question a practical test of it be made by asking for extradition in the first clear case. Some weeks afterward I received a clipping stating that the Governor of Missouri had refused a requisition for a man wanted in Rhode Island for failure to support his children, because the offense was only a misdemeanor. A letter to Governor Major brought out the statement from him that the fact that extradition for misdemeanor was possible had been "a closed question for years"; that an action against the man in Missouri for non-support of his children would be proper, but that the real reason why he had refused the requisition was because the man had been divorced and had lived in Missouri long enough to acquire a residence there. The difficulty lay not in any question about extradition for misdemeanor, but in selecting an improper case for enforcing it.

ERROR AS TO ACTION OF INTERSTATE EXTRADITION CONFERENCE.

This mistaken impression is based in part on a misunderstanding of the action taken by the Interstate Extradition Conference in 1887, which is supposed by some to have declared that requisitions for misdemeanors should not be granted; but the fact is that this Conference definitely refused to adopt such a resolution, and declared instead that extradition for petty offenses ought to be discouraged. This left the question as to what offenses are petty and what are not entirely to the judgment of the demanding governor. In the thirty years which have since elapsed family desertion and non-support has increased to such an extent that the offense can no longer be considered petty, and the fact that it can best be handled as misdemeanor does not keep it in that class. It remains for those who are responsible for the execution of the laws on the subject to show the prosecuting authorities and the governors that it is worth while to bring men back and make them support their families.

An interesting instance of this has come up in Pennsylvania since the Domestic Relations Court Committee met in New York in February, in connection with a statement that although bastardy has been a misdemeanor for more than fifty years under the Pennsylvania laws, it was impossible to bring a man back from another state on account of it. When the reason for this statement was sought for, it was found that in the rules adopted by the then Governor of Pennsylvania following the Interstate Extradition Conference, and which represented his

interpretation of the attitude of the Conference, it was stated that requisitions would not issue for this offense, which was then considered trifling; but there has never been any difficulty about securing requisitions for desertion, which is only a misdemeanor in Pennsylvania, and the record of the proceedings of the Conference indicated that under proper circumstances it expected that requisitions for bastardy would be granted. The responsibility for the failure to issue them in later years was, therefore, due to a failure to impress the Governors of Pennsylvania with the fact that this subject, like that of family desertion, had come to be very important, that it was worth while to bring such men back and make them support their illegitimate children under the laws of the state, and that there was no reason why they should be bound by the impression of a predecessor. Steps have been taken to do this, and as a further evidence of this change the legislature has recently included illegitimate children in re-enacting the non-support law from which it was necessary to leave them out in order to secure its passage four years ago.

Illegitimate children have also been brought within the scope of the desertion and non-support law in Minnesota in a revision of the laws relating to children, in which many other important improvements were also made, and thirty-five out of forty-three laws recommended by the Child Welfare Commission were enacted by the last legislature; but unfortunately no effort was made to overcome the mistaken impression as to the extradition of family deserters for misdemeanor. In fact, it seems to have been strengthened by the statement that although "it is not intended to imply that extradition for a misdemeanor is not provided for by law, experience shows that it is impracticable in Minnesota at the present time." The same tendency was followed further by increasing the possible penalty for desertion to five years in the state prison, although it was stated that juries hesitated to indict for the offense when the penalty was only one year.

The war is unifying the nation, causing it to act together with little regard for internal boundary lines. We ought to make the hindrance from them as small as possible in attacking the evil of desertion and non-support.

IMPORTANT TO FIND THE DESERTER.

In the very important matter of making extradition certain, the National Desertion Bureau has done admirable work in hunting down deserters, and it would be fortunate if similar systematic efforts were made by the authorities and by agencies dealing with such cases in other places, towards which a start has been made by the municipal

government in New York. In any large manufacturing business it is necessary to establish such safeguards in paying the employees that they shall not only not be able to take advantage of the paymaster, but that they shall not think that they can do so, and shall not try to. It is the aleatory instinct in man that leads him, in spite of so many failures, to try to make money on the stock market. One of the first objects which strikes the traveler in approaching Jerusalem is a large leper hospital in which such unfortunates can be comfortably cared for; but I remember vividly a pitiable leper who lay by the road near the Garden of Gethsemane asking for backshish, because he preferred taking his chances of getting money from the public to the monotony of institutional life. It is the chance of escaping obligations which have become tiresome which tempts men to leave their families and the state; and one of the most essential requisites for dealing effectively with such cases is to have them understand that they cannot do it successfully. The responsibility for this rests with those charged with looking up these cases and seeing that they are properly prosecuted.

AN EXTRADITION TREATY WITH GREAT BRITAIN.

Towards this the pending treaty with Great Britain will be a great help by making it possible to readily reach family deserters who escape from the United States to Canada, or from Canada to the United States. A request for this was made by the National Conference of Charities and Correction at its Cleveland meeting five years ago. In accordance with this the subject was taken up by the writer with the State Department in the following January. In spite of the hindrances of the war, such interest was displayed, not only by our State Department, but by the authorities of all the provinces in Canada and by the Foreign Office in England, that the completed treaty was signed in December last, and sent to the Senate for ratification.

Objection was there made to it by a Senator who considered it too drastic because he thought there were cases in which the wife ought not to have the power to compel her husband to return. It is admitted that there are cases in which a man ought to be brought back and punished for not supporting his wife, and the fact that this can only be done where the circumstances are such that the law of the state from which the man fled makes his conduct a criminal offense, and, therefore, a basis for a request for his return is apparently overlooked. The pressure of legislation necessary for the war has interfered with further consideration of other subjects, but it is hoped that this will

receive attention soon, so that Canada may no longer be a place of refuge for men who desert their families in the United States.

PROSECUTION WHEN BEGUN SHOULD BE VIGOROUS.

4. It is needless to say that the prosecution, which is equivalent to a declaration of war, should be followed up vigorously when once it is begun; not in the way of inflicting a retributive punishment, but of insuring future good conduct. The danger of moral deterioration because of a court sentence is usually less than that of lack of power in handling the cases for want of establishing the facts in the court with an overhanging sentence. The suspension of this sentence with an order for the payment of a weekly sum for support is advisable in ordinary cases; but if the record is such that this method is not likely to be effective unless preceded by a sufficient period of actual imprisonment, this punishment should be inflicted.

5. In the case of the suspended sentence the assistance of a competent and faithful probation officer is again of the utmost importance. The question of employment is fundamental, and this such a probation officer may be of great help in obtaining. The encouragement which such an officer can give will do much to keep the man diligently at his task when the inclination to again desert, or to yield to indolence or bad habits, comes over him. The knowledge that if he fails to make the weekly payment, or to take home his earnings to his family, he will be promptly apprehended by the probation officer restrains him from giving way to temptation in that direction; and the influence of a wise probation officer is so helpful in every way that it means, in many cases, the difference between good conduct with happiness, and further transgression with its failure and punishment. There is no better investment of public funds than to provide such a probation system in connection with Domestic Relations Courts and Juvenile Courts in these cases. Such a system there has been from the start in the Domestic Relations Court at Buffalo, the first in the country; and nothing has contributed more to the success of the work there, of which the large and increasing collections, totaling in 1915, more than \$145,000 paid into court and direct, are an important, but not the only result, than this admirable probation system.

COLLECTIONS ON ORDERS MUST BE FOLLOWED UP.

6. Closely related to the general subject of probation is the necessity of a systematic method of collecting the amounts payable on orders, or bonds, or otherwise, under suspended sentence. As the

Committee of Massachusetts Judges well says⁵ the probation officer "should follow up the payments as maturities are followed up in a bank. Promptness is the great preventive of delinquency." Men with weak wills, often with little energy, and usually with many temptations, must never be allowed to get behind in these payments. Many a man who can pay a few dollars a week for years will never under any circumstances be able to make up arrears of \$50.

The importance of this was so apparent in the District of Columbia that, in spite of the meagerness of the probation force, the Juvenile Court since last fall has had one of the officers who heretofore worked with children devote a considerable part of his time to following up adult cases of non-support. By thus taking immediate notice of any failure to comply with the order of court, the collections have been much improved, and the change has been amply justified. Next year, for the first time, the appropriation bill provides for a probation officer for adult cases, and the results are certain to show that the expenditure is well worth while.

A more striking proof as to this, because the amounts are larger, comes from the Municipal Court in Philadelphia. In April, 1915, the probation department induced the presiding judge and the board of judges to put three special men on to follow up the collection of non-support orders. A very considerable increase which resulted from this caused the judges to add more men for the follow-up work on orders in 1916, until now there are seven men who give their full time to this task, beginning when the order is two weeks in arrears. The following table, which gives the amount collected on non-support orders by the department of accounts in 1913, the year before the court was established, and by the court in the three following years, shows what a gain there has been because of this systematic work:

TABLE I.

NON-SUPPORT COLLECTIONS, MUNICIPAL COURT, PHILADELPHIA.

<i>Year.</i>	<i>Amount.</i>	
1913	\$329,989.08	By Department of Accounts.
1914	345,490.94	Municipal Court established,
1915	409,329.59	Three follow-up men put on in April.
1916	520,066.80	Follow-up men increased to 7 during year.

As Mrs. Rippin, the Chief Probation Officer, well says: "It is as much the duty of the Court to see that the order is carried out as it is to make the order"; and here again the certainty of operation makes the machinery go smoothly, with resulting happiness and comfort.

⁵Report on Criminal Remedies in Massachusetts for Failure to Furnish Support, 1916, p. 36.

COMPENSATION TO FAMILY FOR HARD LABOR IMPORTANT.

7. In dealing effectively with such cases, compensation to the family for the hard labor which should always accompany imprisonment is important. Such compensation connects the labor of the offender directly with the support of his family, for want of which he is imprisoned. It does not take many days for the evidence that the work which he is doing under compulsion would provide him, if voluntarily performed while doing his duty outside, with three times the amount which his family receives as compensation for it to demonstrate how utterly foolish his conduct is; and the feeling that on account of the compensation his wife can refrain indefinitely from asking for his release makes him all the more ready to yield to the inevitable and undertake the support of his family without resistance if permitted.

The experience of Ohio, of the District of Columbia,⁶ of Massachusetts, and of other states with laws which require the payment of compensation for labor performed in confinement has shown how simple, how direct, and how effective in securing support, such a provision is. Although its enforcement had not become general throughout the state, it was chiefly to secure compensation to the family that

⁶STATEMENT OF AMOUNTS COLLECTED BY THE JUVENILE COURT OF THE DISTRICT OF COLUMBIA FROM DELINQUENT HUSBANDS AND FATHERS, UNDER THE NON-SUPPORT LAWS OF THE DISTRICT, AND PAID TO THEIR WIVES OR OTHER CUSTODIANS OF THEIR CHILDREN, FOR THEIR SUPPORT, FROM JULY 1, 1906, TO JUNE 30, 1917.

Year Ending June 30.	Amounts appropriated for payment of 50 cents per day for labor performed by men committed to the workhouse.	Amounts paid to families on account of earnings of men committed to the workhouse.	Amounts collected by court from men placed on probation under suspended sentence, for support of their families.	Total Payments.
1907	\$ 200.00	\$ 200.00	\$ 6,050.59	\$ 6,250.59
1908	200.00	190.50	21,888.56	22,079.06
1909	2,400.00	2,340.00	38,319.65	40,659.65
1910	2,000.00	1,674.00	30,808.28	32,482.28
1911	3,500.00	3,448.50	38,684.97	42,133.47
1912	3,775.50	3,775.50	41,718.61	45,494.11
1913	5,500.00	5,057.00	46,774.79	51,831.79
1914	6,795.50	6,795.50	43,391.71	50,187.21
1915	5,315.50	5,315.50	42,309.59	47,625.09
1916	6,724.00	6,724.00	46,885.65	53,609.65
1917	*6,375.00	*6,375.00	45,892.46	52,267.46
Total.....	\$42,785.50	\$41,895.50	\$402,724.86	\$444,620.36

*The item for the year ending June 30, 1917, includes \$375.00 in the deficiency bill now before Congress, and although the beneficiaries will not actually get it until after passage, it is included in the year ending June 30, 1917, because earned by the men during that period and will be appropriated for that period.

the law declared unconstitutional last year was promptly re-enacted in Pennsylvania. It is unfortunate that, nevertheless, the new law in Minnesota omitted such a provision, so that when men are sent to jail there for non-support the family gets nothing; and that no such provision has been secured in New York, Rhode Island, and some other states where the effort to get it has been made.

It may also be noted that this feature was omitted in the Colorado law of 1911, and that nothing has ever been done under that provision of the Mothers' Compensation Act of 1913, which provides that work-houses shall be established for the detention and employment of men committed for non-support, and their earnings paid into the Mothers' Compensation Fund. The unwisdom of such a failure to connect a man's earnings with the support of his own family shows a vague conception of the essentials of the problem of desertion and non-support.

EXISTING LAWS SHOULD BE DILIGENTLY ENFORCED.

8. It is proper also to say that it is highly important to make the utmost use of the existing law, even though it is not as effective or comprehensive as it might be. In no other way can defects in the law be so well discovered and corrected. The worst possible condition, especially in regard to this perplexing subject, is to have a law which sounds well and seems to mean something, but which because of confusion or lack of interest on the part of some official is not adequately enforced.

This is especially true, not only in the matter of extradition, which has already been discussed, but also in regard to laws in several states which seem to afford compensation, but have not done so. The responsibility for the failure of these should be definitely fixed by a persistent effort to enforce them.

A law in Minnesota passed more than ten years ago provides that in sentencing any offender to jail or other place of imprisonment the court may require that all or part of the term of imprisonment be with hard labor; and that such labor may be in the jail or jail yard, or on public roads, streets, or elsewhere in the county.

An amendment to this law in 1913 provided that a reasonable compensation for the labor so performed might be paid to the wife or family of such prisoner as the court might direct, and in such an amount as the court might determine, and that it should be allowed by the board of county commissioners or the governing body of the municipality upon such order of court.

Such payments to the dependent families have not been made.

and the reason appears to be that the courts have not imposed such orders in passing sentence; yet the law which seems to make an adequate provision remains. The propriety of so providing for the dependents of men sentenced for non-support is beyond question, and if the fault is in the law, its defects ought to be revealed by an effort to enforce it.

GENERAL SOCIAL CONDITIONS NEED ATTENTION.

9. Beyond all this it may be said, that, just as it has been stated that in the making of a gentleman it is necessary to begin two or three generations before he is born, so the most effective way of dealing with cases of family desertion and non-support is to prevent them from happening. All the causes leading to divorce which Judge Hoffman has so well set forth in a recent paper on Domestic Relations Courts and Divorce,⁷ operate also in relation to non-support, and to desertion, which is often called the poor man's divorce. Men and women who are themselves more or less defective, with insufficient income for supporting children, even when all goes well, with a desire for the recreation to which many welfare workers of the present day insist that each person is entitled, and which is often interpreted to mean an excess of moving pictures and such diversions, with small appreciation of the responsibilities of family life and with little religious sentiment to carry them through the hard places when they appear, are allowed to marry without much hindrance by anybody. The results which might be expected from such a combination appear sooner or later in the Domestic Relations Courts. It would be far better if some moral teaching, some care in education, some supervision by the state in the case of applications for marriage licenses could diminish the number of ill-considered marriages. If the present war can only impress people more with the solemnity of life and bring them face to face with their responsibility to the Lord who created them male and female, and charged them with the responsibility for the future of the human race, there may be some gain in this respect in the face of the fearful destruction of so much of the best manhood of the warring nations.

⁷The Delinquent, February, 1917.