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THE DEVELOPMENT AND NEEDS OF PROBATION SERVICE¹

CHARLES L. CHUTE²

When penologists get together these days there is bound to be a good deal of discussion on what are the crime waves saying, and I suppose I am expected to add my voice to the chorus. In bringing probation into your deliberations, perhaps shall be expected to relate the system in some way to the prevalence of crime—either to admit an inevitable connection between them, or to establish a complete alibi.

But I shall attempt neither. The probation work of the court as its investigation bureau, its agency for testing out suitable offenders through helpful, firm, disciplinary guidance, instead of immediate, indiscriminate commitment, has been called by a no less hard-boiled and shrewd observer than President Coolidge, "The Right Hand of Justice." He also wisely said in the same address to probation officers some years before he became President: "Side by side with the administration of punishment there must always go the question of reformation. . . . Justice requires as strongly the saving of that which is good as it does the destruction of that which is evil." We have lately been in some danger of forgetting this. To charge the probation service, which, when rightly used is bringing intelligent, constructive discipline to bear on a great number of beginners in crime, with encouraging crime is simply going back to the indiscriminating, childish penology of the past.

On the other hand, I shall not attempt to establish a complete alibi for probation. Misused or over-used, it may abet crime just like any other misused treatment. Probation, in the words of Dr. Charles Platt, President of the National Probation Association, is sometimes "a great social service that is being fumbled"; but so are prisons and reformatories and other agencies for crime treatment often fumbled today, with disastrous results to the individual and to society.

The principles of probation are: *investigation* to establish the history, character, and social setting of the offender, in short to ascertain the individual causes and degree of crime before pronouncing

¹An address at the Conference of the National Crime Commission at Washington, D. C., November 3, 1927.

²General Secretary, National Probation Association, New York City.

the sentence; second, *out-patient treatment* under strict conditions and competent supervision, stimulating and aiding the young or unhardened offender to redeem himself if possible, without the danger and inevitable loss to him and to society resulting from unnecessary commitment.

The fundamental rightness of the probation plan—for adults as well as children—would seem to be sufficiently established and recognized, as indicated by the spontaneity with which it sprang up in so many widely separated and different places, meeting everywhere a fundamental need, the need for individualizing justice. Dean Roscoe Pound has said: "One of the most insistent demands of today is for the individualization of criminal justice, for a criminal justice that will not return recidivists through the mill of justice periodically at regular intervals, nor on the other hand divert the youthful, occasional offender into an habitual criminal by treating the crime in his person rather than the criminal." Probation meets both demands. Through its investigative branch it aids the court in classifying and adequately dealing with the recidivist, and it offers a real chance for individual treatment to the youthful, occasional offender.

Adult probation as well as juvenile probation is today written into the statutes of all but 15 states. In all of these latter states suspension of sentence, so often the entering wedge for a probation system, is provided for. Probation service in many of our large cities has shown great improvement and extension in the last few years. The number of salaried officers has been increased. There are now over 4,000 at work throughout the country. These facts point to a general acceptance of the principle in this country.

In Europe, too, the use of probation is increasing, according to Dr. Louis Robinson's recent reports on penal methods in England, Belgium, Holland and Germany. In England, the use of probation is widely advocated and is rapidly developing. The Government, through a Bureau in the Home Office, is encouraging this development. The British Home Secretary in a speech last month in London, stated that the first and foremost object of the Criminal Justice Act of 1925 was "to put a probation officer in every court in the land."

The theory of probation is generally recognized as sound and constructive. What I want to do is to discuss its needs; and these are many. Sometimes we feel that probation has never been given a fair chance. That it has extended widely and that it has succeeded as well as it has with the misunderstanding that it has encountered,

with inadequate personnel and equipment and lack of standards so generally manifest, is to my mind a remarkable testimony as to its merits.

Among the needs of probation work today are: First, more adequate and more uniform laws. This is the least of its needs, however, except so far as better laws would produce better administration. The immense variation between the laws of the 33 states having adult probation, however, is illogical and should be remedied by bringing up to standard the laws in states that are backward in this matter. In some of these states, the courts are unduly limited as to the selection of probationers, or the power to use probation is lodged only in a few courts, or, worst of all, no adequate provision is made for appointing and paying the salaries of good probation officers, or enough of them, to investigate offenders before probation is granted and to maintain really constructive supervision afterwards.

There have been proposals of late to severely limit the courts in the use of probation for serious or second offenders, but few states have fallen into this error. In the states where probation has been best developed—Massachusetts, New York, and New Jersey—there are practically no limitations on the discretion of the courts to select probationers on their merits with a view to their real character and record and not on the technical and uncertain basis of the offense charged or the number of offenses. Nowhere is the importance of full judicial discretion greater and nowhere is the unenlightened use of discretion more disastrous. But legal limitations are of no assistance here. The right selection of probationers which, next to thorough supervision after they are released and returning them to court when they fail, is the most important factor in successful probation, can be obtained only by a sound judicial discretion aided by a competent probation staff. Nowhere has it been shown, to my knowledge, that the judges—especially of our higher courts—are not in general cautious and even over-conservative in granting probation to serious offenders. The more serious the offender and the worse his record, the more cautious they become; and there has been no marked abuse revealed to my knowledge in this type of cases. Probationers have been badly selected in some courts, due to ignorance of their true character, due to lack of preliminary investigation. By no means should all first offenders be placed on probation, but sometimes second offenders should be. The offense charged is far less important than the real character and record.

It has been demonstrated conclusively by the establishment of a model probation department in the Court of General Sessions of New York City, at work for the past two years, that by the thorough investigation of every case, including mental examinations where called for, and with a probation staff of such high calibre that its recommendations are almost invariably followed by the judges, the granting of probation to unfit probationers, whether first or subsequent offenders, can be practically eliminated. In this court, handling only felony cases or misdemeanors reduced from felonies, only 18% of convictions during the past year have resulted in probation, whereas formerly with a totally inadequate staff between 35 and 40% were so placed. No one wants to place repeated or confirmed criminals on probation, least of all the probation officers who have to handle and get results from them.

The probation officer of character, ability and training, is the most important element of the probation service. The greatest defects of our probation laws are in not giving the courts power to appoint as many probation officers as the actual needs of the service require, in not authorizing the payment of adequate salaries, so as to obtain the very best men and women that can be secured for this important work. As a result, we secure inadequate and unsuccessful individuals for this work, overload them with cases and expect them to get results in reforming the offender and in seeing to it that while on trial in the community he does not continue to injure it. These things the good probation officer can do. No form of treatment is safer for the community, inasmuch as statistics show that only about 6% of probationers escape from supervision, while 11% are returned to court and committed. 83% finish their probation terms without further offense and are discharged. (These are the figures for last year for all of New York State.)

Studies that have been made of results of probation treatment after a period of years, although inadequate as yet, indicate, however, that between 60% and 70% of adults placed on probation go straight and do not get into trouble again. Unfortunately, a large amount, in fact a majority of so-called "probation work" is nothing more than suspension of sentence. The probation officers are too inadequate in number of ability to give real, constructive supervision. Some probationers, of course, learn their lesson from a court experience. They are strong enough to maintain the proper balance without help or supervision. But the ordinary probationers never does this. He needs all the support he can get. The causes of his crime are environmental and

social. He is led into wrongdoing by others. He must be protected from these influences. His environment must often be changed. Above all, his occupations must be looked into. Work that interests him must be found. His dangerous leisure hours must be safeguarded. A clever probation officer, interested in his human problems, can work wonders in these directions. Here is an illustration, a true story, of what probation officers can do and are doing constantly:

Emil Horr at 18 seemed destined for a career of crime. He was convicted of larceny, his first recorded offense, but so disgusted the judge by his sullen manner that he came near being committed for contempt of court. At the recommendation of the probation officer who investigated his case he was placed on probation. He was lame and had been so pampered and indulged by his people that he grew accustomed to the idea that everything was his within taking distance. The family was in fair circumstances and surroundings, so that community conditions had nothing to do with this boy's downfall. In the uncoöperative young specimen before him the probation officer saw no point of contact by which he could reach him, until he traced his dislike of school back to sensitiveness over his deformity, and staked his plan on a suspected inferiority complex so strong that it had apparently turned Emil squarely against society.

Emil started his probation career by refusing to report, refusing to work, refusing to accompany the officer to the mental clinic. He stayed in bed every morning until ten or eleven, and went to the movies every night. In between times he loafed. Enough to try the patience of a saint, but his probation officer was no saint, and his patience was as long as his experience. He took Emil, almost by force, to a clinic where he was examined mentally and physically. The report of the psychiatrist revealed a border line case, with aptitudes in a mechanical direction and suggested that Emil might receive benefit from a trade school and afterwards make a living in a mechanical trade at which he could sit down—a necessity on account of his affliction. Emil at first refused to go to the trade school until his probation officer brought him along bodily one day, after carefully preparing the principal for the turbulent newcomer. The principal treated him like his own son, as Emil expressed it long afterwards, and between his encouragement and the "kidding" of his probation officer, as Emil again expressed it, the boy came permanently out of the mood of sullenness in which he had regarded the world. A sense of efficiency was implanted in him by the campaign of "recognition" insisted on by his probation officer, and the ability to learn

a trade that was coaxed out of him, and with his disease arrested, this boy is now making good in a shop and putting away savings. That this was a real making over of human material seems borne out by the fact that Emil's good behavior extends to his home life. He repays his parents' earlier mistaken kindness with kindness on his own part, and if he goes to the movies, always takes somebody in the family along.

Our methods of selection and supervision of probation officers are often wrong. These workers, especially the man in a position of authority—the Chief Probation Officer of a large court—should be professionals in the highest degree; that is, they should have training and pass an examination for their work just as the doctor or lawyer must do. There are a great many things they must know: crime and its causes, personality and how to influence it, the technique of supervision and how to utilize community resources. The probation officer should be a *superior* person if he or she is to command confidence and develop the latent goodness which we must believe is stronger and more enduring than delinquent trends.

No longer are we in the dark as to proper methods of training and selecting probation officers. We know what is needed, but the public is not yet convinced that these positions should be eliminated from politics, put on a professional basis and adequate salaries provided. But very marked progress has been made in some courts lately, demonstrating what can and should be done everywhere.

The National Probation Association recommends that appointment of all probation officers be under the Civil Service, or where this is not available, that appointments be by competitive examinations in charge of a disinterested and competent agency outside the court. It recommends that the salaries of probation officers be not fixed by law as in some states, for they are always made too low; but that the judges be empowered to fix the salaries, as in the Superior Courts of Massachusetts and New Jersey and in the Court of General Sessions of New York.

We recommend that scattered probation units be combined. Generally there should be but one probation department serving all adult criminal courts in a county. The New York State Crime Commission, which has shown a constructive interest in probation, is recommending such a coördination of probation work in the courts of New York. They should go further and propose it for every county in the state.

The proper development and standardizing of probation work requires state aid and supervision. Probation work has grown up as

an adjunct to the local court and methods, standards and equipment have varied with local interest and sometimes with the intelligence or lack of intelligence of a single judge. The state which pays the high cost of institutional confinement has a stake in promoting a satisfactory probation system, not in one or two communities but in every court in the state. England has learned this lesson and has established a well manned Bureau in the Home Office for the development and supervision of probation work throughout the country. Last year, I am informed by the British Home Office, the sum of £45,000 was appropriated by the Treasury to pay in part the salary and expenditures of local probation officers. Through this appropriation, the Government is able to maintain effective supervision. It has issued detailed rules for the conduct of probation, collects statistics and otherwise makes itself responsible for the development of the probation service.

In the United States only 7 states have state departments or commissions that supervise or aid probation work with any degree of efficiency. No state has appropriated money for insuring the payment of adequate salaries to probation officers. The states contribute to the salaries of teachers; why not to these officers who play so large a part in the effective administration of justice?

The enactment by Congress in 1925 of a standard probation law for the U. S. District Courts should serve as an impetus for the development of state probation service. In most of our states, effective adult probation work has hardly begun to be developed. The U. S. Government has been very slow in providing the needed salaries for probation officers even in its own courts; only \$30,000 is in the Department of Justice budget for this purpose for the current fiscal year. It is hoped, however, that a much larger sum will be available next year as it has been fully demonstrated in the United States Courts that now have paid probation officers that their services are very much needed.

Crime Commissions, city, state or national, in promoting more efficient apprehension and prosecution of criminals, badly needed of course, should not omit from their program measures to strengthen and develop probation work. The National Probation Association stands ready to cooperate and furnish information to any organization in the country interested in bettering the probation service.

Probation work, standing as it does at the point of first contact between the offender and the processes of the law, is in a strategic position. Through its investigations and diagnoses of offenders,

this service, if rightly manned, is capable of furnishing the basic information regarding the causes of crime and the character of criminals which we so sorely need today in our efforts to combat crime. It can more and more become the right hand of the court in securing even-handed justice which can only be realized by treatment of the offender and not alone the offense. Although we do not yet have adequate data as to the results of good probation work, the statistics and studies that we have all indicate that probation treatment, if carried out as it should be, is vastly more successful in reforming the offender than the institution can possibly be. Hence my plea is that all organizations interested in efficient and preventive justice do not omit from their programs measures to strengthen and develop the probation service.