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# PAROLE: PRINCIPLES AND PRACTICE

CLAIR WILCOX<sup>1</sup>

If one were to attempt to learn something concerning the parole of prisoners from sources available in an American library, he could not fail to be struck by a glaring contradiction. Parole, the text-books on Criminology would tell him, is one of America's greatest contributions to penological science. Parole, he would learn from the popular magazines and the sensational press, is a means by which sentimental reformers and corrupt politicians connive to release crooks from the punishment which they have earned. The curious thing is that both these statements are, in a measure, true. The criminologist and the journalist are discussing two different things. The criminologist is talking about the *principle* of parole as an ideal method of releasing prisoners. Good parole, it is true, is the best method of release that has yet been devised. The popular journalist, on the other hand, is talking about the present administration of parole and that administration is, by and large, nothing to boast about. This simple distinction between the parole principle, on the one hand, and present parole practice, on the other, is a necessary preliminary to any adequate understanding of the question of parole.

An intelligent man who understands what parole aims to do cannot very well oppose it *in principle*. The recent criticism of parole has been due, in the main, simply to a lack of understanding. Journalists, men in the street, even judges on the bench have been inclined to place parole in the category of executive clemency. They seem to think that its purpose is to shorten terms of imprisonment, to hasten the hour of release. They feel that the proponents of parole are actuated by a sentimental regard for the comfort of the criminal. This is a mistaken view. It is not the purpose of parole to lessen punishment, to make things easier for the offender. Parole is not leniency. On the contrary, it is to be commended because it is at once the most severe and the safest method by which prisoners may be released.

We cannot hang, electrocute or imprison for life many of those who break our laws. Most of them must be released sooner or later

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in one way or another. The prisoner who is not paroled goes out as a free man. The state suddenly loses its control over him. Society is no longer safe. The prisoner who is paroled on the other hand, is not free. The state adds to his imprisonment a period during which he must live and work and behave himself in the world under the constantly watchful eye of the authorities. His liberty is conditioned on good behavior; his readjustment to society is carefully supervised and he is faced by the constant and powerful threat of reimprisonment; for society need not wait until he is convicted for the commission of another crime in order to lock him up again. The slightest deviation from the straight and narrow path should bring him back within the prison walls. *Every* convict who emerges from a prison should therefore be *compelled* to serve for a time under these conditions. This requirement should be enforced, not as a favor to the offender, but as a method of crime prevention adopted for the better protection of the entire community.

Most reasonable men will agree that society will be better protected by such a system of conditional, supervised release than by a system which permits the criminal to go scot free. They must therefore agree that parole is a good thing *in principle*. But it does not at all follow that present parole *practice* is guaranteeing the community that measure of protection which it deserves.

Let us consider how an *adequate* parole system would work. First, no prisoner would be released on parole until he had been prepared for an honest life in free society. This means that the prison would be required to educate, to train and to reform. It was in this connection, in fact, that parole came into existence. It was first used just fifty years ago at the New York State Reformatory at Elmira where it was regarded simply as one subordinate element in the whole reformatory scheme of prison discipline. It partook of the nature of a graduation from a course of training.

That was the original idea of parole. In later years, however, its use was extended from first offenders to hardened criminals, from juveniles to adults, from petty lawbreakers to professional thieves, from reformatories to prisons, to penitentiaries and to jails. This one incidental phase of the reformatory scheme has spread as though it possessed some peculiar merit in itself. At the same time, the educational, industrial, social and moral training which was the essence of the reformatory idea was disregarded. It is this fact which, in large measure, explains the weakness of most present systems of parole.

Any system of parole should assume that the prisoner's release will be preceded by a period of careful, deliberate, directed training for free life. Such a process would require the development of individualized treatment based upon differences in mental capacity, of prison schooling, of moral and religious education, of adequate physical and recreational activities and, above all, the development of a varied system of well-paid work for every prisoner which will at the same time make him pay his own way and train him for a life of future usefulness. American penal institutions today, in the main, are far from realizing this ideal. The strong and the weak, the crazy and the sane, the clean and the diseased, by and large, are treated as if everyone were like the other. The religious, educational and recreational work of our prisons is too often a poor excuse for the real thing. And, finally, we find that our penal institutions are often afflicted with the worst curse of all—idleness. Even where work is provided it is often of the wrong sort, inadequate in amount and performed in a manner which falls far short of the standards of free industry.

It is less than reasonable to expect *any* parole service to take men who have been compelled to remain for months and even years under the conditions provided in most of our prisons and make useful and law abiding citizens of them. A first and fundamental step in the general improvement of the work of parole in the American states must be in the improvement of penal equipment and in the technique of penal administration. The old and unfortunately surviving idea that the purpose of imprisonment is revenge must go by the boards. Imprisonment must become a process of reconstruction. And this must be done, not through any sentimental notion that it would be a nice or kind or pleasant thing to do, but because, in the long run, it is the only *safe* thing to do. In so far as we can make our prisons self-supporting, all this can be done without increasing the burden on the taxpayer. And it can be done as soon as we are willing to apply to our prisons the same attitude and the same type of intelligence that has proven so effective in the development of our free industry. Until this change takes place no parole service can be held solely responsible for failures in the conduct of parolees; for the effectiveness of any parole administration must be conditioned by the character of the material which it receives.

Any adequate and effective system of parole, then, must first be preceded by institutional training for free life. A second requirement of a good administration of parole is that prisoners shall be

granted or refused release only on the basis of an exhaustive and painstaking study of each individual case in order that those who are not fit to be at large may be held while only those who may return to the community with safety may be freed. By and large existing parole administrations fall far short of this ideal.

How are prisoners actually selected for parole in the American states today? The simplest thing, of course, is to release nobody or everybody. A few paroling authorities pursue the policy of refusing all applications for parole. Such action is tantamount to a repeal of the parole statute and imperils social security by engendering ill-will among prisoners and then releasing them without supervision or the right of re-incarceration. Other parole boards release everybody at the earliest possible moment. Here the parole law becomes an automatic reduction of all sentences, a thing which is even worse, perhaps, because it gives liberty without reference to fitness for liberty and reduces the period during which stone and steel guarantee society protection from those who endanger its peace. This policy is sometimes adopted because of the inadequacy of a state's penal equipment. Parole is used as a means of turning men out of cells to make room for others who are crowding in from the courts. Where legislatures refuse to appropriate adequate funds for correctional institutions, penal officials can scarcely be criticized for attempting to meet their problem in this rather desperate way. The obvious remedy for the abuse here is not the revision of the parole law but rather the provision of a more nearly adequate penal plant.

Those parole boards which do not choose to release everybody or nobody must attempt to separate the sheep from the goats; to liberate certain prisoners and hold others. There are certain factors which generally influence this decision. Of these, prison conduct is usually given greatest weight. In many places those who behave well in prison are freed almost automatically when their time comes. This is all very well in encouraging good discipline in prison, but it may have very little to do with the future security of the community, since the greatest rascal in the world may be able to walk the line for a few brief months if he knows that such action will speed his return to his pals and his mischief, while many a stupid youngster who could be released with perfect safety may be held for an undue length of time merely because he has proved troublesome to the guards.

Another factor generally considered is the nature of the crime for which the prisoner was committed. Some parole boards are par-

ticularly severe with those who have been guilty of this or that certain crime without reference to the facts entering into the individual case. Such a general rule simplifies parole procedure but, it may be feared, at the expense of good judgment. For there is no necessary connection between the title of the crime committed and the degree of safety with which the particular individual guilty of it may again be turned into the community.

Parole boards almost invariably announce that they do not retry the case at the time of parole, and just as invariably they do that very thing. The difference is that their review of the case is hasty, without attorneys or witnesses or any adequate consideration of the evidence. While the law has thrown all sorts of safeguards about the manner in which a man may be committed to prison in an original trial, it is still possible that his time of imprisonment may be unduly shortened or extended far beyond the average by the haphazard and even capricious action of a board of parole.

A third item which generally has weight with paroling authorities is the prior criminal record of the applicant for parole. Usually they guess that the old offender is a poor parole risk. And it is probable that they are usually right. But it does not follow at all that the so-called first offender is a good parole risk. He may not really be a first offender at all. And if he is, he may be a very unsafe man to release. But boards of parole are nevertheless turning men onto the streets every day on this basis alone.

The only other factor generally entering into parole decisions is the appearance, personality or general demeanor of the applicant. Truthfulness, square shoulders, a good voice or a steady eye may go far toward winning a scoundrel his freedom in more than one state. Members of parole boards are human, like the rest of us, and are often inclined to congratulate themselves on their ability to read character at a glance. And so, shrewd but experimental guess work, prejudices and hunches many times decide whether a boy is to spend another two or three years behind prison walls or to be allowed to circulate among us. It seems reasonable to conclude that the unsupported guess of a board of parole forms a shaky foundation upon which to return forgers, blackmailers and thieves to the community.

There are three great temptations that are likely to beset any paroling authorities and there is evidence that here and there in America parole officials have succumbed to one or another of them. The first temptation is *Sentiment*. It is easy to be easy. It is easy, and dangerous, to let pity and generosity run away with judgment

and give another chance to a potential murderer who evidently means to do right if he can. It is easy, too, to be hard-boiled and to say nay to all pleas for mercy. But it is just as sentimental, just as unreasonable and, in the long run, just as unsafe for the community at large.

The second temptation is *Carelessness*. When boards of parole are poorly paid, ex officio, or unpaid and required to devote only a portion of their time to the work of parole it is not surprising if they entrust much of their work to clerks, hurry through their meetings and get the unpleasant business out of the way as speedily as possible. The more so, since the public is not generally alert enough to know whether they have done their work well or ill. And so it happens that hasty and ill-considered decisions are made which involve years of servitude, human misery, human happiness and even life and death.

Finally in parole work as in any other field of public administration, there arises the temptation of *Graft*. Sometimes it occurs that thieves land in a public office rather than in a public prison. It would be unreasonable to expect the parole office to be an exception to this rule. So it happens that an occasional parole official is willing to sell special privileges for dollars and cents, or, perhaps, for political influence. And wherever there are men in prison there are others outside who will furnish the money for their release to anyone who is able and willing to sell it. Such a situation may readily lead to the demoralization of the entire parole service. But the remedy here, as elsewhere, is not the repeal of the parole law, but rather that general purification of politics which will come at such time as an aroused public conscience demands it.

It has been suggested that an adequate parole service must be based upon (1) institutional preparation for parole and (2) scientific selection. The third and final condition of an effective administration is that the state provide a sufficient staff of field agents to insure the continuous, efficient and sympathetic supervision of those who are on parole. This is a condition which no state has as yet seen fit adequately to fulfill. A few states, to be sure, have a field parole service. Most states have none. This means that the control of the parolee becomes entirely a matter of correspondence. Printed rules are announced but are not enforced. Written reports are required but there is nobody to check on the accuracy of the replies. The parole officer becomes a mere clerk of record. Men who are on parole find it easy to beat the game. They are not watched and they

know it. Parolees are seldom recommitted unless they are caught in a new crime. The whole paper system becomes a huge joke and parole comes to be nothing more than a speedy manner of emptying prison cells. This is unfortunately the case in the majority of the American states today.

Some paroling authorities have adopted a policy of releasing criminals with the understanding that they leave the state, never to return. It would be difficult to imagine a more reprehensible practice, since it but solves the problem of one community at the expense of every other. If generally adopted it would make the whole plan of protecting society through penal discipline a mere pretense.

Some states do attempt to supplement their paper control of the parolee by requiring sponsors, employers or "first friends" to guarantee his good conduct. But these persons are generally unknown to the paroling authorities, are in no way qualified or trained for the work which they are asked to do and are not responsible to anybody for its proper performance. In the long run no such system of sponsorship can offer an adequate substitute for a real parole system because mere sponsorship cannot guarantee to the community the degree of security to which it is entitled.

Other methods of supervision have been attempted. Sheriffs, constables, detectives and police officials have been pressed into service. These men are generally overloaded with other work, are by no means peculiarly qualified to advise and assist the prisoner in regaining his place in society, and, finally, since unpaid, are generally inclined to neglect the work or disregard it entirely. In other states parolees are required to put in a periodic appearance at an office, a perfunctory performance which assures the officer that they are on the ground but does little more. Some states lean very heavily on philanthropic, religious and welfare organizations, allowing private charity to undertake the task of parole supervision. Many of these bodies have made a very creditable showing within the limits of their means but it must be insisted that the control of convicts is a public responsibility, that must eventually be shouldered by the state itself and should by no means be left to the voluntary efforts of any private group.

Only a few of the states employ field parole agents. Where such provision is made, the positions are often filled by men who are not adequately qualified for the task. Little, if any, training is provided or required. The parole officers are almost always underpaid and they are invariably overloaded with work. Many officers are being

asked to supervise the social rehabilitation of three hundred, six hundred, eight hundred, and in one case as many as two thousand parolees. Such a task is a human impossibility. The officer who is charged with it becomes, perforce, little more than a policeman whose only work is to return to the prison old offenders who have again run afoul of the law. It is less than reasonable to expect a parole system which is so undermanned, overworked and illy equipped as is that of the typical American state to show anything very substantial in the way of results.

There are, to be sure, many official statistics which seem to prove that existing parole systems are enormously and astonishingly successful in reclaiming offenders to useful lives. It is a dangerous thing to place too much faith in these figures. They are based generally upon inadequate data. No news is always good news when the parole figures are made up. A casual examination reveals that many of them are computed in such a way as to be carelessly inaccurate if not deliberately misleading. They relate almost always to very brief periods, affording no information concerning the later behavior of the parolee. It is consequently uncertain whether such figures prove anything at all. We must have two things before we can begin to measure the real success or failure of parole as a method of release. The first is a complete and accurate body of criminal statistics. The second is an adequate and effective parole administration. Today we have neither.

The picture which I have drawn is pretty dark. Perhaps it is too dark, for an occasional ray of light does pierce the gloom. Here and there a warden is attempting to classify his prisoners for individualized treatment upon the basis of careful physical, psychological and psychiatric examinations. Here and there a start is being made toward the provision of adequate employment and vocational training within prison walls. We find an occasional institution which is undertaking the preparation and presentation of really comprehensive information on the mental condition and social background of the individual prisoner, to serve as a basis for the decision which must be made by the paroling authority. We find one or two states which have provided a large staff of parole officers, functionalized the parole service, districted their territory for the more efficient supervision of parolees and made a start toward the development of complete parole records. But these activities unfortunately are the exception rather than the rule. Generally speaking, American adminis-

tration still has far to go if it is to develop the technique of an adequate parole service.

Those who believe in the principle of parole must look to the future for this development. Methods of parole selection can certainly be improved. A full time, highly paid central board, composed, not of politicians, but of experts, should be able to judge the individual applicant with much more skill than that generally exercised by present paroling authorities. It is not too much to hope for the development of an expert paroling technique. It might even be possible for such a board to establish tests which would serve as a real criterion of reformation. If adequate staffs of investigators and examiners were employed, there is much in the way of previously neglected but pertinent information which might be obtained and used for this purpose. Obviously parole boards should inform themselves concerning the applicant's mental condition in order that the unbalanced prisoner should be held and only those who are sane and responsible be given their freedom. In the same way the board should aim to procure the completest possible information on the offender's background, his crime, his previous record and the nature of the environment into which he will go upon release, all matters closely related to the probability of success or failure on parole. It should also consider the prisoner's accomplishment in the courses of educational, moral and vocational training provided within the institution. By the preparation and careful use of complete statistics it should attempt to discover exactly how significant these and many other items may be in determining whether a prisoner should or should not be released. There is nothing fancy or new fangled about the idea that science should be made to assist in the difficult task of judging men. This is a thing which has already been done in business. It is just as important that it should be introduced into penal administration; for here we are dealing with decisions that involve human happiness and misery and even human lives. It is certain that the technique of parole selection must be made to approach the accuracy and impartiality of science before our penal administration can command a sufficient degree of public confidence to permit the adoption of a really indeterminate sentence.

It is to be hoped that the future may also see an improvement in the equipment for parole supervision. There should be more parole officers. Each officer should be responsible for a smaller number of parolees. These officers should be selected from among those who are qualified by knowledge and experience for the work. They should

be men who know their community and its resources, men who can handle men, men who possess the ability to develop the technique of social case treatment. They should be specifically trained by the state for their work, work which requires a knowledge and a skill which passes beyond both the strength and courage of the policeman and the sympathy of the sentimentalist. They should be given tenure on good behavior, be well paid and rewarded for proficient service. Without such provision the parole law remains little more than an empty expression of pious intent upon the pages of the statute book. With it we may hope to procure a parole service which can turn criminals into honest men with whom the rest of us may safely live and do business.

All of this will cost money, it is true. It is probable that we will eventually be spending thousands for the parole service where we now spend hundreds. But it will be money well spent. Proper parole in the long run should pay for itself by reducing the prison population, by cutting the cost of new arrests and further prosecutions and by curtailing the expenditure for detectives and police. Parole is properly to be regarded as a method of protecting the citizen against crime, much as insurance protects him from the losses due to fire and other calamities. Prudent men are not deterred from the use of fire insurance by the cost of the premiums. No more should the state allow the cost of developing a system of parole to prevent it from availing itself of this most effective means of insuring the lives and the property of its citizens.