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“THE PRISON OF THE FUTURE”—AND A FIFTH SUGGESTION¹

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The deliberate infliction of physical torture upon the bodies of fellow human beings is today a discredited activity, universally recognized as illegal, pathologic, and socially undesirable. So sternly, indeed, does the voice of our age cry out against wanton cruelty that it is difficult for us to understand how torture could have played such a sustained and gruesome role in the history of the world. Yet there it is—a dark-hooded counselor of evil, a sadistic stain that has but recently been expunged from the altars and courts of mankind.

Torture as a legitimate arm of jurisprudence first appears in Egypt and Persia. In Greece, torture was well established as a part of the judicial system. The refinements of Roman torture are well known. So exquisite was the taste of Emperor Caligula that he delighted especially to see thorny rose-stems inserted into the tenderest apertures of the human body, then suddenly jerked out. Nero's pleasure was to have Christians soaked in oil, then lighted to provide illumination for his drunken jollifications.

Pagan torture, shrewd as it was, seems naive and amateurish when compared with the studied sadism of the Middle Ages, which furnishes the grossest testimony of man's inhumanity to man. The fiendish ingenuity displayed in instruments designed to inflict the maximum amount of suffering while still permitting life to endure shows that the whole question of torture had been carefully canvassed, and had the complete sanction of Church and State. For a thousand years, torture was universal and commonplace in Europe; no one was spared. Tender youth, weak old age, delicate females—everyone was liable to the degradation and agony of tortures arbitrarily and cunningly inflicted.

Preferring not to enter the awful torture-chamber of the Middle Ages we should at least try to understand the general philosophy underlying torture. What was its justification, and why did men permit its use in judicial procedure for so many centuries? The basic assumption was this: *hurt a man enough and he'll tell you the truth.*

¹Address delivered before the Section on Psychiatry in Correctional Institutions, American Orthopsychiatric Association, Chicago, Ill., February 22, 1934.

²Director, Psychiatric Field Service, State Board of Control of Wisconsin, Madison, Wis.

It should be pointed out that legal torture was the outcome of a barbarian device known as the "ordeal." Thus a man accused of murder or heresy was required to thrust his arm into a cauldron of boiling lead; if after a reasonable length of time his arm healed, he was adjudged innocent; but if deterioration set in, his guilt was considered as proved.

When Roman law supplanted the ordeal through Europe, court procedure became more complex. Before sentence could be passed it was necessary to secure testimony of guilt—preferably from the accused himself—and it was upon this cruel hook of self-incrimination that most medieval torture hung.

The thumb-screw was probably the commonest device used in bringing accused persons to confession. Its name might indicate that the thumbs alone were mangled but actually the thumb-screw was used to crush all the joints of the body. An ingenious variation of the screw principle was the knobby crown, a knotted band which was placed around the forehead and gradually tightened till the skull cracked like a walnut.

If confession came too hesitantly, the victim was placed on the rack, a stretching-engine designed to pull the human body asunder by means of ropes and pulleys. One of these diabolical machines was in every well-equipped castle and dungeon in Europe, and was frequently used not only as an instrument of confession but as one of extortion. Extortioners were not the only users of the screw, rack and gag. Civil judges in all European countries employed these and other mechanical means to secure evidence in support of criminal charges as well as to inflict punishment following conviction.

The peculiar psychology of the torture-chamber cannot be rationally grasped or explained by anyone now alive; it was a mixture of superstition, ignorance and fanaticism that has fortunately disappeared from the face of the earth. Today, a weak remnant of medieval torture exists furtively and extra-legally in the third degree, the lynching mob, and isolated prison camps, but as a recognized form of jurisprudence it has no existence anywhere in the civilized world. Men still fall short of that final excellence to which the race aspires, but they no longer deface and agonize the bodies of their fellow men with the spike, the screw, and the rack of sanctioned torture.³

As true Christian civilization and socialization developed, torture devices were removed from the dungeons. And in the course of events the dungeon was succeeded by the prison as a place of de-

³Readers Digest, February, 1934, p. 28.

tion. The pendulum of public opinion in the 17th century began a backward swing with the result that the prison was converted into a place of punishment for criminals. Now in the twentieth century the pendulum is swinging away from pagan concepts back toward Christian principles—away from vengeance and punishment toward correction and rehabilitation of offenders so far as such efforts can be made to square with social protection. In this hasty review of the oscillations of public opinion, an orderly approach is made to an encouraging and understanding discussion of our topic.

Addressing the First International Congress on Mental Hygiene on the topic "The Prison of the Future," Hon. Sanford Bates, Federal Commissioner of Prisons said "The prison of the present has evolved from a place purely of detention into a place of punishment. The thoughtful observer who candidly questions the efficacy of the punitive treatment still hesitates to expose his community to the risk of abandoning the protection that comes from imprisoning its law violators. The program of swift and sure punishment as a social corrective must not be weakened."

Logically, the question he propounded follows: "How can we devise a system that will be at once a present protection and still comprehend a program of sound humanitarian rehabilitation?"⁴

It is universally agreed that police, courts and other agencies directly antagonistic to crime and criminals should be upheld, encouraged and supported to the limit. But following conviction other means acting more or less indirectly will be found more potent in reformation than those bearing directly upon criminal intent. And it should never be overlooked that as Thomas Fuller is reputed to have said "He who cures a disease may be the skillfullest; but he who prevents it is the safest physician."

While many definitions of an ideal prison have been formulated that of Ex-Attorney General William D. Mitchell is brief and to the point: "The prison of the future should be at once a disciplinary school for those who can be reformed, a place of permanent segregation for the incorrigible and a laboratory for the study of the causes of crime."

Adopting this definition and elaborating thereon the Hon. Commissioner of Prisons offered four suggestions directed toward the realization of this conception.

⁴Proceedings of the First International Congress on Mental Hygiene, Vol. 2, pp. 515-529 (May, 1930).

First Suggestion

The prison buildings and equipment of the next generation will be so constructed and devised as to lend themselves to the application of constructive programs of rehabilitation. They will be of strong construction where strength is needed, but will give prominent place to the hospital, the laboratory, the school, the mental hygiene clinic, the workshop and farm and they will have a library as well.

This suggestion is bearing fruit. Interest in the architectural features of correctional institutions is being directed to the practical working out of the theory of planning small units that offer a substitute for home life. "Prisoners may well be classified with respect to their suitability to one another as associates," says Alfred Brooks, an experienced prison architect.⁵ He places emphasis upon the idea that the prison should be an instrument of reformation as well as one in which the necessities of security and supervision are cared for. And he adds that the prison has largely become an institution of education in a broad way. Architect Hopkins sagely observes that the effect of environment is just as noticeable and far more important upon the prison official than upon the prisoner. And informed persons will agree that while the most encouraging developments have been in the treatment of offenders along extramural lines, nevertheless prison architecture is changing to meet the aims of correction rather than directed solely to the demands of punishment.

As a straw showing the direction of the prison architectural breeze in the Wisconsin State Journal of January 24, 1934, appears a news item from San Quentin, California, to the effect that well lighted, airy cells will replace San Quentin Prison's dreaded dungeon—the "hole" where unruly prisoners are confined to solitary—when a new cell block is completed there in June.

Second Suggestion

The prison of the future will be manned by persons who will be trained in the science of human nature.

The prison personnel is being professionalized. Schools for the instruction of prospective or probative prison officials are in course of organization and operation and in consequence personnel is being refined as the concept expands that prison service offers for college

⁵Journal of Criminal Law and Criminology, Vol. 22, p. 137 (May, 1931).

graduates, experienced school men and others with a developed sense of social welfare an opportunity for intelligent and constructive work.

Third Suggestion

Much attention will be given in the prison of the future to realization that an idle mind is the Devil's Workshop, that idleness in prison is a public menace. Private interest in prison labor is to be abolished. The prisoner must not be exploited.

In the government of prisons, there is no factor that is more important than that of work for inmates. This work must have a definite, useful objective. While admitting the value of mere exercise, such activities have not the therapeutic value of labor with a useful purpose.

Such is the philosophy back of the industrial activities of the prison.

For many years, there has been a definite effort on the part of those interests which claim to be adversely affected to abolish all productive activities within prisons where the products of the prison labor go upon the open market.

Experience has established that restricting the market to the production of such goods as may be used by the state or its political subdivisions will not and cannot afford to the men confined within the prisons a sufficient amount of productive labor so that all, or a substantial majority, of them may be so employed.

The fundamental claim of those who would take products of prison labor off the market is that such products enjoy an advantage in that the labor costs and even the total production costs are less than the labor costs and the total production costs of like goods made in free industry.

There was a time when conditions under which prison goods for the open market were produced justified this claim. However, as to the great majority of American prisons, it has been many years since there could be a demonstration that this is the fact. Indeed, the labor and other costs included in the price of prison products have gradually been raised, until practically all of the industrial prisons placing goods upon the open market are doing so on a basis of fair competition.

This basis of fair competition is the underlying idea of the new compact between the states governing the operation of industries within the prisons.

This compact is the outgrowth of a series of meetings between the

operating boards of prisons carrying on industrial activities which have been held in the time intervening since February, 1933. This compact prescribes that the hours of labor in any given industry operating within the prison shall be the same as in the competing free industry. It further provides that the prison goods shall go upon the market at the fair current market price. It provides that the state operating the prison shall include in the cost of the goods a labor charge substantially equivalent per hour with the labor charge of the competing free industry, and there also shall be included an overhead which shall be per unit of product substantially the same as in the competing industry.

This Prison Industries Code is now in effect. While all of the details to operate it have not yet been worked out, it represents a great advance in the method of handling prison labor problems, and for the first time in history, the states have come to a substantial agreement among themselves having arrived at a method to preserve the use of the greatest therapeutic agency which their prison administrators have. This has been accomplished without working any hardship upon those who may feel that the unrestricted and uncontrolled use of prison labor would place free labor at an economic disadvantage.

Wisconsin is justifiably proud of the part which Col. John J. Hannan, President of its Board of Control, has had in devising and putting into execution this Magna Charta of prison labor. Debasing convict labor is passing into limbo along with that more abhorrent evil, child labor. My friends, "The World do move."

Fourth Suggestion

Some way must be found to individualize the corrective and protective treatment to be given the inmates of the prison of the future. This will be the most difficult yet most hopeful of its functions.

Men may be punished en masse, but they cannot be reformed that way. While one man will react favorably to certain influences, another will either fail to respond or will react adversely.

"It is just at this point," says the Honorable Commissioner, "that the psychiatrist and the mental hygienist can be of inestimable value in the development of our future prison program. Before we can treat we must prescribe. The astonishing accumulation of knowledge made in the last quarter of a century in the science of psychiatry will be heavily drawn upon." And so he prophesies that the prison staff in the future in addition to the officials and guards educated in their

various duties and relationships will be augmented by psychiatrists and psychometrists, vocational and athletic instructors, laboratory technicians, research assistants and others who will all find their respective places as component parts in the program of individualization.

Mr. Bates then expressed the attitude of the management of the Federal Prisons toward psychiatry thuswise: "The psychiatrist or mental hygienist, whether he calls himself by that name or not, is in the prison business to stay. All we ask of him is that he work with us and not apart from us, that he realize the tremendous difficulties of our work, that he not content himself with telling us what is (or was) wrong with our offenders, but that he take his coat off and go into the operating room with us to help correct and cure them. We penologists are the only people for whom poor business means success. When our customers stop doing business with us and attend the clinic, the hospital, the vocational school, the social center, and the churches instead, it will be the happiest act of some future warden to tack up on his front gate the sign: "Closed. Going out of Business."

So the American Orthopsychiatric Association can heartily agree with Mr. Bates that "the great problem, then, is to harmonize the police and custodial function of the prison with the educational and correctional function. It will be necessary to make this amalgamation tactfully and gradually, but in the long run there can be no substitute for intelligence. Scientific intelligence has revolutionized our mechanical civilization in the last century. If it can be applied with success in the fields of commerce, medicine, and sociology, it can be applied in correcting more difficult and baffling problems of human nature."

Going further this Association can in a spirit of entire and complete cooperation with the invitation of the Honorable Commissioner offer to him and his colleagues and associates as an addition to their program for "The Prison of the Future," to wit:

Fifth Suggestion

Delete the word prison from the designation of their ideal Institution and substitute therefor a word and concept less opprobrious and less odious.

There is no gainsaying the fact that the psychological and hence the social attitude of the public toward the graduates of correctional institutions is a restraint upon and an obstacle to successful rehabilitation of the offender and fitting him back into free society. No 100% change in this attitude is sought for nor expected as the public can-

not shut its eyes to the fact that many delinquents are mentally deficient, some incorrigible and others downright vicious.

Warden Lawes who has had a varied experience with convicts always has looked upon them first of all as human beings. He has taken a common sense view of them. Convicts no more fall into a single personality category than "children" or "Chinese" do. On the average the intelligence may be below that of the run of the population, but there are intellectuals among them. Taken as a whole they may be feebly inhibited but there are some who normally show a high degree of self control. He recognizes them all as men who can be better trained for life on the outside by kindness than by brutality. Any dog trainer recognizes that principle.⁶

Warden Lee of Wisconsin by virtue of similar acquaintance and experience commends this doctrine.

The degrading stigma, the reproach and disgrace associated with the word and concept "prison" are directly and unequivocally antagonistic to the magnificent and Herculean labors of Messrs. Bates, Hannan, Lawes, Lee and their associates and co-workers in the field of delinquency. For remember owing largely to its malodorous name *prison brands not only for time but for eternity*. The prison sentence is nothing; it is the one following prison that's hard. It is high time to take this wolf by the ears.

Says an editorial entitled "Ex-Convict" in a recent issue of a prison magazine,⁷ "the pages of known history are marked with the work of many who did manage to overcome this terrific handicap. Such men are geniuses not cast in the common mould. For the average man the handicap is unfair. Surely in this great land of ours there is some newspaper big enough, some writer brave to the point where he will take up the cudgel for the lost ones who face, bravely and patiently, life's greatest handicap—a mistake paid for in full.

Maybe, at this point, some one might say, 'Well, why should you expect anyone to get all het up and excited over a lot of *criminals*?' We answer by quoting the Philadelphia Record of January 11th, referring to a speech by Senator Dickinson of Iowa: 'A year ago—(Said the Senator)—if I had a hundred dollars in gold in my pocket, I was a law-abiding citizen; if I perchance had a pint of whiskey, I was a criminal. Today, if I have the whiskey I am a law-abiding citizen, but if I have the gold I am a criminal violating the law.'

There is food for thought, aplenty, in that speech, for those who

⁶Eugenical News, Vol. 18, p. 134 (Nov.-Dec., 1933).

⁷The Periscope, USNEP, Lewisburg, Pa., February, 1934).

believe that the moment a man is found guilty of crime he automatically becomes a demon."

The use of prisons as places of punishment of criminals dates from late in the 17th century, their prior use having been as places of detention or seclusion only. Thus the asylum for detention and seclusion evolved into the prison for punishment and confinement. Its most essential element was the dungeon.

The evolutionary process has not ceased and probably never will. Hence it is fitting, practical and necessary to recognize and salute the improvements of time not only by their adoption but by giving them collectively a more befitting name. No longer a bare house of penal detention, the prison caterpillar in accordance with Mother Nature's Laws and the Purpose of an Infinite Creator has developed other attributes and is evolving into a full-fledged lepidopteran. The dungeon has been succeeded by the hospital.

Realist or idealist, there is so much obstruction in the correction of delinquency that grows out of the prison concept that universal forces legally, socially, medically, psychiatrically, psychologically, religiously and otherwise should become enlisted and united behind the resolve to toss the contemptible word "prison" into oblivion. It no longer serves a useful purpose in our everyday vocabulary. The prison of the future will not reach its objectives while the connotations exist in the public mind which now follow the prisoner in his sojourn in, through and out of prison. To destroy this evil influence not only must prison technique be changed as suggested by Sanford Bates, but the cutting must be done down to the roots and a change in name appropriate to the salubrious changes in aim and policies must be made.

Besides it is grossly unfair to the prison of the future to call it a prison. It will be a scientific laboratory where the bodies, minds, and souls of the inmates will be subjected to the utmost scrutiny, and where every step known to modern science will be taken to prepare the inmates to resume their places in the world. Therefore, fortunate the prisoner who finds himself assigned to an institution where the byword will be "build" and not "break."

In the Northeastern Federal Prison at Lewisburg, Pennsylvania, a new deal has been called in prison administration. Not every inmate is a wild beast who must be placed in a steel cage and removed entirely from any contact with his fellows, air, and direct sunlight. Federal authorities believe that the least they can do toward seeing that the inmate is discharged in a better condition than when he was

received is to remove his physical handicaps and upbuild his physique so that he can earn an honest living if he wishes.

Yet the vice of calling this beneficent institution a prison is perpetuated simply because violators of the law are incidentally therein detained while their corrective education is being accomplished.

Nor should improvement in the technical methods of correctional institutions be defeated or perverted by the mournful sighing of the Ballad of Reading Gaol which drones along

"But this I know, that every law
That men have made for man,
Since first man took his brother's life
And this sad world began,
But straws the wheat and saves the chaff
With a most evil fan."

Such carping is reactionary opinion, the product of a state of mind common to many delinquents. It is morbid, gloomy pessimism projected upon society out of a depraved and degenerate mentality. Law as an organ of society naturally acts in the manner of a rear guard, but it does evolve as men realize and discover the truth. The lawmakers will join the procession in time. The American Orthopsychiatric Association may well adopt as its slogan as to Suggestion No. 5, "Eventually, Why Not Now?"

Yet some will say a jail by any other name is but a prison still. But my dear friends, don't you see that we are still calling an institution "prison" whereas it is not a prison according to the original meaning of that word or at least its meaning since late in the 17th century? And the stench in the nostrils of society from that old prison concept is the reason in considerable measure why the public refuses to join social welfare agencies in a more liberal policy toward those who have graduated from the modern correctional institution.

With the recent dedication of the New York State Training School for Boys at Warwick, the state opens an institution which succeeds the old House of Refuge on Randall's Island, which latter is now abandoned as an institution for delinquent juveniles. The new institution is to be run "more like a fresh-air farm or a country boarding school than an institution for youthful delinquency." According to Capt. Robert Rosenbluth, Superintendent, Warwick is "the only reformatory in America where the inmates may carry keys to their own rooms in their pockets and have the freedom of the grounds."

According to the policy of the administration, the Board of twenty physicians, psychiatrists and criminologists will for each newly arrived inmate study "how physical defects, mental twists and unhealthy social factors tend to direct a boy into a career of crime and how these delinquents can be corrected."⁸

While considerable objection may be levelled at some of the innovations outlined for the New York State Training School for Boys surely its change of name is more inspiring and in keeping with its function than House of Refuge.

Similar establishments in England are for these many years (since 1908) no longer alluded to in the law as Industrial Schools nor Reformatories, but are designated as "a Borstal Institution."⁹

In Wisconsin, the Home for the Feebleminded has been changed by statute to Colony and Training School.¹⁰ And yet better had Wisconsin copied New York's improvement in changing the name of its corresponding institution to Letchworth Village. Likewise in Michigan the Industrial School for Girls is now the Home and School for Girls. In Wisconsin the institution for women corresponding to the State Reformatory (for men) was softened into State Reformatory and Industrial Home for Women which by practice and usage has been contracted to Wisconsin Industrial Home for Women.¹¹ And so the country, if not the globe, over there is a growing tendency to follow the course and clinch the fruits of social progress by an appropriate change in the names of transitional institutions.

Hence instead of damning correctional institutions in the future by denominating them prisons, why not christen and Christianize them with such names as Bates Village, in honor of the efficient Commissioner of Prisons, or Hannan Industrial Center, in honor of Wisconsin's outstanding friend of the human race, or Baker Institute, in honor of New York's eminent psychiatrist.

For this trespass upon your time and good nature both an explanation and an apology are due:

The explanation is that while neither you nor I may live to see the Fifth Suggestion adopted it is as sure to come in time as day follows night.

The apology is for inflicting upon you an address not strictly within the confines of psychiatry. Yet the topic comprehends a psychological problem. Someone must start its discussion. The sci-

⁸Eugenical News, Vol. 18, p. 130 (Nov.-Dec., 1933).

⁹The Loom of the Law, Cairns, J. A. R., p. 165.

¹⁰Chapter 52 Wisconsin Statutes.

¹¹Chapter 54 Wisconsin Statutes.

entific spread between psychology through clinical psychology to psychiatry or the reverse affords the basis for an apology should anyone take offense that a mere psychiatrist seeks to slay the Prison Dragon.

Psychology once aroused, harnessed and controlled is stronger than stone walls or iron bars; neither do stone walls and iron bars alone a prison make. Mind moves the mass and *mutato nomine* is one of the means by which social inertia has been overcome and activated.

Nil desperandum! (We must despair of nothing.)