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PROBATION AND REHABILITATION

PHILIP LUTZ, JR.¹

Social reform never seems to keep pace with the modern developments. Social justice has lagged. My theme is that greater opportunities lie in the direction of enlarged service to probation cases, along educational, social, cultural, vocational and spiritual lines, with a view of treating offenders as we treat defectives in hospitals, and that in this social service by the State, the Federal Government should make grants of aid to the State as it now makes grants for the furtherance of education, development of agriculture, building of roads, relief of the distressed and for public works.

The Federal Government has already adopted a form of this in the establishment of CCC camps, which gather young men without employment to do some work under guidance, the purpose being to save these young men from a life of idleness and crime. All of us know how successful this program has been from the standpoint of the prevention of crime.

We have a new Federal law now, signed by President Roosevelt on June 7, 1934, giving the consent of Congress to two or more states to enter into an agreement or compact for cooperative effort and mutual assistance in the prevention of crime, and in the enforcement of their respective criminal laws and policies and to establish such agencies, joint and otherwise, as they may deem desirable for making such agreements and compacts.

This law marks a departure from the Federal policy of centralization of power. Can it be that the government feels that in the matter of law enforcement, states must do the job? I am satisfied that law enforcement must be done locally, and here is the gesture or feeler of the Federal Government, to see what can be done through state cooperation. Crime is nationally and internationally organized. It is easy for a professional gangster to cross state lines and lose his pursuing officer. Now the government, by Act of Congress, makes effective reciprocal agreements, reciprocal policies and reciprocal agencies of regional districts of states in an effort to wipe out organized gangs of criminals.

The recent Central States Parole Conference undertook the first

¹Attorney General of Indiana.

piece of pioneer work under the law, relating to parole and probation, which is directly related to crime prevention and enforcement of criminal laws which, if successful, may have far-reaching and history-making results in other lines relating to crime. As Chairman of the Committee to draft agreements for submission to the several states, I feel that considerable progress has been made. This anti-crime step will serve as a psychological warning that states will organize and modernize their warfare in cooperation with the Federal Government.

I studied penology out of textbooks when I was in the university more than twenty years ago, but I did not become really interested in penal and correctional institutions and the prison life of convicts until last January. I was returning on a train with three of the country's most talked of desperadoes, from Tucson, Arizona, where they had been surprised and arrested. I had been sent by the Governors of Indiana and Ohio to Arizona to prosecute the petition of Indiana for their extradition from Arizona to Indiana, to be returned to the Indiana Prison, out of which they had boldly walked in one of the country's most clever prison escapes, on October 12, 1933.

The three men, Pierpont, Makley and Clark, together with John Dillinger, had caught the imagination of the people of this and other countries. I hardly appreciated the hazard and danger of my trip, in the thrill and excitement of my experience. I have followed the fortunes or misfortunes, whichever you may choose to call it, of these three men ever since that day in January; even to the door of the prison, through their trials, the sentence of death by electrocution given Pierpont and Makley, and the sentence of life imprisonment given Clark, and to the death of Dillinger in the Chicago street.

I have seen and studied these men at close range on numerous occasions, and as I traveled with them on the train from Arizona to Indiana, I sought their viewpoints. I believe these will be interesting.

First Makley said to me, "I have definite ideas about prisons." (He had been in two at least, Missouri and Indiana.) "I have read every book, every magazine and every newspaper article I could find on the prisons and jails of all countries in the world. Warden Lawes of Sing Sing Prison, New York, stands out without a peer in modern, up-to-date, progressive prison management. He is the only man who has ever caught the glimpse of the viewpoint of the man behind the walls."

Harry Pierpont, the killer, was the boy we watched most carefully throughout our entire trip. My statement may surprise you,

but Pierpont has been regarded by men who know as Criminal No. 1 of the so-called Dillinger gang. He stood ahead of Dillinger in his leadership of the gang and in his brutal, "kill crazy" fear that he spread wherever he went.

Pierpont said to me, "Nothing they do to you after you are in prison six months can hurt you—nothing physically, nothing mentally. You just get hardened to it. Society has been cruel to me. Something happened to me every day I was in prison that made me hate society. I just hate the police. A man who deserves to go to prison for more than six months should go for twenty-five years, which means his life."

Pierpont is the type of young man with high school education, who is always bragging, always hating, but brutal, revengeful, resourceful and dictatorial.

When I first communicated with the Attorney General of the United States several months ago, seeking the assistance of the Department of Justice in regard to the Dillinger case, transporting a stolen automobile across state lines was the only Federal crime of which these men could be convicted. What formerly were regarded as local crimes, to be dealt with by local law enforcement, guarded jealously under the doctrine of state rights, have now been made Federal with punishments as severe as death. A new era of war on crime has suddenly come upon us. Judges, prosecuting attorneys, sheriffs, feel that the time has come to tighten up on the law.

Governments have failed to provide the necessary bridge that leads paroled convicts from their life behind prison walls into some proper niche in community life. Giving a prisoner a ten dollar bill, a new suit of clothes and a threatening warning farewell isn't all that society owes to one who has violated the law, and suffered punishment provided by law. Governments should provide a rehabilitation program for those who show tendencies to become useful citizens. This may involve a new program and additional expenditures, but crime costs, and the cost does not end when the prisoner leaves the prison walls behind him. I believe he needs encouragement and help to fit him into community life infinitely more than he needs training behind prison walls, which are no more than the boarding houses for misfits in society.

In fact, I firmly believe we send too many to prison. Prisons are not entirely filled with dangerous, vicious, brutal beasts. I have talked to too many of them. They are largely men who have some fine redeeming traits, and these men should be given every opportunity to rehabilitate their lives along lines that will justify their

places in society. I personally believe in a more liberal policy in the suspension of sentences in lieu of confinement and parole, firmly believing that such action on the part of the court will serve society to a greater advantage, at much less cost, and prove to be a greater deterrent of crime.

Such an attitude would prohibit the intimate association of first offenders with habitual criminals in penal institutions. I have just recently learned of an instance where a man returned to his home in another state, holds a responsible position, but is a prey for blackmailers and ex-convicts who call upon him for gifts and loans of money. It costs him a neat sum annually to appease his prison mates.

Probation does not stigmatize the offender for life, but will make it possible for him to immediately re-establish himself as a useful citizen under guidance of a specialized department, interested in the rehabilitation of citizens, with special attention to educational and spiritual assistance. You can't transport a man from a cell of steel into society, and expect a miracle over night.

Psychologically, the offender on probation will feel kindly and not unkindly toward society which offers him a chance. In Indianapolis, the Judge of the Criminal Court has accomplished wonders in his Probation Department, but only through a modern department, ably officered and administered by men and women who understand and study the cases for crime causes.

The offender on probation will appreciate the absolute necessity for a careful, prudent, law abiding career, because of the court's power to revoke a suspension and order punishment.

After all, human values are greatest, and the spirit of the law is reformation, not revenge, not vindictive and brutal punishment. We should seek the way that will best serve society, that will save that class of citizens for whom there may be hope to find their place in community life. We cannot do away with prisons. They will always be necessary for those whose minds are warped and hopes are lost, who can never return to society for serviceable citizenship, but I do not approve the cry for vengeance against these, who by circumstances or environment, step over the bounds of propriety and who with direction, may be returned to society for fruitful and useful occupation through a modern rehabilitation service.

It may cost money, as crime always costs, but we should never count the cost in dollars. The inquiry should be, "Is it a good investment? Do we want to pay our obligation to posterity?" We are engaged in a great humanitarian work. Let us be human.