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“HE’S ON PAROLE”

JOHN C. CAREY*

The words Probation and Parole are perhaps two of the most abused and most misunderstood words in the language at the present time. They are mistreated by persons in all classes of society even by those who should know better. Newspaper writers are as a rule rather exact in their use of words but they are the most serious offenders in using the words, probation and parole, synonymously. The New York Herald Tribune printed an editorial on this subject on April 26, 1936. The editorial was entitled PROBATION IS NOT PAROLE and was in reply to critics of the Division of Parole in the Executive Department of the State of New York, who mistakenly believed that John Fiorenza, the murderer of Mrs. Nancy Titterson was on parole at the time this murder was committed. This editorial was unusually clear and convincing and the writer appeared to be very well informed, but even he made two errors of fact. In a recent review of a moving picture, GIRLS ON PROBATION, October 20, 1938, Kate Cameron, the movie critic of the New York Daily News used the words, probation and parole, all through the review as if these words were synonymous.

The purpose of this article is to make clear the difference between probation and parole, to inform the reader of the functioning of the various parole and probation departments in New York State, and more especially in New York City, and to say a few words in defense of the State Division of Parole of the Executive Department, State of New York, which is blamed for most of the probation and parole failures in this state.

Webster's Dictionary tells us that Parole, also spelled "Parol," has its root in three languages, French, Italian, Latin. The first meaning given is: "word of mouth or oral utterance;" the second: "word of promise, word of honor or plighted faith, especially a promise given by a prisoner of war that he will not try to escape if allowed to go about at liberty or if released, to return to custody at a certain time, if not discharged, or not to bear arms against his captors for a certain period." It also has another military meaning,

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usually a check on the countersign. Those of my readers who have been reading the recent book of Kenneth Roberts or other military novels probably recall having come across the word quite frequently.

In this article we are not concerned with the military meanings of the word but will accept as our definition that parole is a word of honor or promise; namely, the word of honor or promise of a prisoner that if allowed to go outside of a prison, reformatory or other correctional institution, he will conduct himself as a law abiding citizen. That "parole" is not a strictly correct word to describe the conditional release of a person from a prison or other institution is evident; we have never accepted a prisoner's "parole," his word of honor, that he will comply with the terms of his conditional release, but we have always had a parole officer to check on him, and to help him with conditions of parole.

There is a second legal meaning for the word parole, as when a magistrate or other judge says to a prisoner accused of a crime "I parole you in custody of your attorney" or "I parole you on your own recognizance." This means that instead of setting bail or committing the accused to jail while he is awaiting trial, he is released on his word of honor to return for trial when ordered. This meaning of the word parole does not concern us in this article.

There are several meanings of the word probation, aside from probation as it is understood in a court. Many definitions of the word probation, as probation officers understand this word, have been given. Some stress the concept of punishment, some stress the concept of rehabilitation. It may be said that probation is a system of treatment by which a person convicted of a crime or other offense against the law is rehabilitated and is made into a law abiding member of the community without his having been committed to a correctional or penal institution. A person is released on suspended sentence under the friendly but authoritative supervision of a probation officer whose duty it is to keep the court informed of the progress of his probationer. Parole and probation have several things in common. In both instances the person being treated has been convicted of a crime or other offense against the law. In both instances the parole officer or probation officer exercises friendly but authoritative supervision over his client. In both instances the probation or parole officer is obliged to think first of the protection of the community rather than his client. There are several differences, the principal difference being that the person

on parole has served part of his sentence in a prison or other institution and has been conditionally released, while the person on probation has not served any part of a sentence although he may have spent a considerable length of time in jail awaiting trial and sentence.

The story of the X family will illustrate the three-fold purpose of this article.

The father is Patrick, forty-six years old, the mother Mary, forty-four; the children are John, twenty-one; Edward, eighteen; Harry, seventeen; Patrick, Jr., sixteen; James and Frank, twins, fifteen, and Walter, fourteen. John is a fine healthy boy, anxious to work but has been unable to find employment for sometime. Edward is a fine healthy boy too, but he has a strong aversion towards work or even looking for work. Harry has just left high school in the second term. Patrick is supposed to be going to school but is truanting most of the time. James and Frank attend school fairly regularly, as does Walter. A minor crime wave began in the X family one day and continued for sometime. Patrick, the father, was a fine old soul, but "he liked to have his little drop" once in a while. When he is "under the influence" he does not bring home any money to Mary. Patrick began the crime wave when he came home drunk one night. Mary reprimanded him for this and he beat her up. Mary decided that she had stood for this long enough and summoned him to Magistrates' Court. He was tried and found guilty of disorderly conduct and was placed on probation to the Magistrates' Court and was discharged with improvement a few months later. Patrick was very much annoyed with Mary because of this experience and for some time after his discharge from probation he did not bring her any money at all. She was finally obliged to summon him to the Family Branch of the Domestic Relations Court. He was tried and found guilty of non-support, was placed under an order and to insure the payment of the order he was placed on probation to the Family Branch of the Domestic Relations Court.

One of Mary's friends heard this, made some slighting remark and Mary "wiped the floor with her." This friend had Mary summoned to Magistrates' Court, where she was tried and found guilty of disorderly conduct and was placed on probation.

At about this time. John, twenty-one, and Edward, eighteen, learned of a way to make some easy money, and went out and committed a burglary. They were arrested and held for trial in the

Court of General Sessions. They were permitted to plead guilty to unlawful entry and since it was their first offense or at least the first offense at which they had been caught, they were placed on probation to the Court of General Sessions.

Harry, seventeen, wanted some easy money too, but he thought his two brothers were saps to take such chances. He stole \$75.00 from the pocket of one of his father's drunken friends who had just been paid off at the docks. This friend had no conception of the rules of hospitality. He reported the theft to the police who arrested Harry. In due time he has arraigned in the Court of Special Sessions for petty larceny, a misdemeanor. Since this too was Harry's first offense, he too was placed on probation to the Court of *Special Sessions*.

Patrick, Sr., had observed for sometime that Patrick, Jr., who was sixteen, had not been showing the proper respect for his father. Patrick, Jr., hung around in pool rooms and remained out until all hours at night, was truant from school and hung out with a bad crowd. When Patrick, Sr., attempted to reprimand him, Patrick was quite profane, not to say obscene, in his comments. By this time, Patrick, Sr., had begun to worry a little bit about his boys and thought it was time to take some action to prevent his namesake from following in his brothers' footsteps. He consulted among his cronies and learned that he could bring the boy to Magistrates' Court as a Wayward Minor. He secured a summons; Patrick, Jr., duly appeared in Magistrates' Court, was found to be a Wayward Minor and after investigation, he too, was placed on probation.

It was costing the family several dollars a month to give the boys carfare to report to their various probation officers and there was very little spending money for the twins, James and Frank, and the youngest boy, Walter. They decided that they were as much entitled to spending money as any other member of the family and if they could not get it from their parents they would get it some other way. They accordingly planned to burglarize a neighbor's flat. The job was pulled off fairly successfully, but Walter, who was the look-out and was posted on the roof, became panicky when a neighbor questioned him as to what he was doing there. He tried to run away, was caught, turned over to a policeman, then squealed on his two brothers, who had successfully made their get-away. The other two boys were arrested a short time later and the following day all three were arraigned in the Chil-

dren's Division of the Domestic Relations Court. It was their first offense and after investigation, they were placed on probation.

The crime wave has now run its course and the members of the family are all on probation, yet if one of these people were arrested again for another crime, probably half the newspaper writers of New York City would write "He's on Parole." Since the Division of Parole of the Executive Department, State of New York, is generally believed to be the only parole organization in the city and state, this organization would come in for considerable criticism.

Let us start another crime wave in the X family and see what happens. The father, Patrick, has been several times brought to the Family Division of the Domestic Relations Court for failure to pay the amount of the order. He is finally committed to the Workhouse for three months. Mary missed him very much and began to console herself with the bottle. After one particularly long drawn out session, she began to brood over the disgrace that had been brought on her and her family by her arrest and placement on probation. She became more embittered against her erstwhile friend and again went out and "wiped the floor with her." She was arrested, arraigned for violation of probation and was committed to the Women's Prison on Greenwich Avenue, New York City.

John and Edward complied with conditions of probation for several months but found this interfered with their rights as free born male Americans. They were warned several times against violating conditions of probation but paid no heed to these warnings. One Saturday night they were in a saloon, met one of the witnesses who had testified against them and decided to settle the score then and there. The police arrived in the midst of the settlement, they were arrested and later were arraigned for violation of probation. John was committed to the New York City Penitentiary on Riker's Island and Edward to the New York State Reformatory, at Elmira, N. Y.

Harry, seventeen, was always a good boy, his mother said, but apparently met with bad company who thought it would do no harm if they borrowed a car and did a little joy riding. The police and the court, however, decided that this was grand larceny. Harry was returned to court and as he was only a little over seventeen, was committed to the New York State Vocational Institution at West Coxsackie, New York.

Patrick, Jr.'s disrespect for his father grew into disrespect for all persons in authority. One night he reported to his probation

officer in an intoxicated condition and in the company of a young woman who had a record of seven convictions as a prostitute. The Probation Officer suggested to Patrick that he was not in very good company and that it was not the wisest thing to do to report to the Probation Officer while under the influence of drink. Patrick thought this was a personal insult to him and to his girl friend and told the Probation Officer what he could do with himself and where he could go. He was arraigned for violation of probation the following day and was committed to the New York City Reformatory at Hampton Farms, New York.

The twins, James and Frank, and Walter, the youngest boy, had gone to live with their aunt, after the father's commitment to the Workhouse and the mother's commitment to the Women's Prison. Within a month after going there James ran away from home several times, was picked up one night sleeping in the subway and the following day was brought to the Court for violation of probation. Justice A., who was presiding in the Children's Division of the Domestic Relations Court in Manhattan that month, was a very religious man. He decided that James' religious training had been badly neglected and committed him to the New York Catholic Protectory so that he could receive needed religious instructions from the good Christian Brothers.

The following month, Walter, the youngest child, was arraigned for violation of probation. Justice A. had by that time gone to a different court. Justice B., who presided, did not believe in religion at all but was a strong believer in psychiatry and committed Walter to the Children's Village at Dobbs Ferry, New York, to ensure his getting adequate psychiatric treatment.

A short time later, Frank, the second twin, was arrested again for another burglary and he too was arraigned in the Children's Division of the Domestic Relations Court. Justice B.'s month in the court had expired and Justice C. was sitting. Justice C. decided that in view of Frank's violation of probation and family history which was brought out at the hearing, that it would not be wise to continue him on probation. However, Justice C. did not like the New York Catholic Protectory because he thought it too strict and did not like the Children's Village because it was too easy, and he committed Frank to the New York State Training School for Boys, at Warwick, New York.

Now that we have all the members of the family in institutions, let us get them out. Mr. X served his three months, was released

and came home. A short time later Mary completed her term in the Women’s Prison and she and Patrick had a happy reunion. In due time John was paroled from the Penitentiary under the supervision of the Parole Commission of the City of New York. Edward was likewise paroled but he is under the supervision of a parole officer of the Division of Parole, Executive Department, State of New York. Harry was paroled from the New York State Vocational Institution but he is not under the supervision of either the state or city parole board as this organization has its own Parole Department. Patrick was paroled from the City Reformatory and he too is under the supervision of the Parole Officer of the Parole Commission of the City of New York. John has returned to the home of his parents but Patrick refused to do this and is living with his uncle in another part of Manhattan and so the two brothers have different Parole Officers. James was paroled from the New York Catholic Protectory and reports to a Parole Officer of that institution. Frank was paroled from the New York State Training School for Boys and reports to a Parole Officer of the State Training School. (The New York State Training School does not like the word “parole officer,” so they call him social worker.) Walter, in due time, was paroled from the Children’s Village and reports to a parole officer of Children’s Village. Children’s Village no like “parole officer” either, so he too is “social worker.”

These seven young men are now actually on parole and not on probation as they were formerly. However, only one of them is under the supervision of the Division of Parole, Executive Department of the State of New York, the organization which would be roundly criticized, abused and condemned if any or all of the seven were again to commit a crime.

If the reader is slightly dazed from trying to keep track of the various probation departments, institutions and parole departments, the following table may help:

NAME	PROBATION DEPT.	INSTITUTION	PAROLE DEPT.
Father	Magistrates’ Court, and Family Branch, Domestic Relations Court	Workhouse	None
Mother	Magistrates’ Court	Women’s Prison	None
John 21	General Sessions	New York City Reformatory	Municipal Parole Commission
Edward 18	General Sessions	New York State Reformatory	Division of Parole, Executive Department
Harry 17	Special Sessions	New York State Vocational Inst.	New York State Vocational Inst.

Patrick 16	Magistrates' Court	New York City Re- formatory	Municipal Parole Commission
James 15	Children's Branch Do- mestic Relations Court	New York Catholic Protector	New York Catholic Protector
Frank 15	Children's Branch Do- mestic Relations Court	New York State Training School for Boys	New York State Training School for Boys
Walter 14	Children's Branch Do- mestic Relations Court	Children's Village	Children's Village

In summary we may say that in the City of New York there are nine probation departments. The Domestic Relations Court actually is two courts with two practically separate probation departments, that is, the Family Court and the Children's Court. The Magistrates' Court has its own Probation Department which supervises persons convicted of disorderly conduct and similar offenses, Wayward Minors and women convicted of prostitution. The Court of Special Sessions supervises persons convicted of misdemeanors who have been placed on probation. There are five felony courts, each with its own probation department; the Court of General Sessions in New York County, and the County Courts of the other four counties which make up the greater city, namely, Kings, Queens, Bronx and Richmond. The standing of these probation departments ranges from that of the Court of General Sessions, which is generally conceded to be the outstanding probation department in New York State and possibly of the country at large, to that of the Kings County Court, which in recent months has come in for much criticism in the newspapers and has been under investigation.

Even those persons who can distinguish between probation and parole generally assume that the Division of Parole of the Executive Department is the only parole organization in New York City and New York State. We have seen that this is not true. This organization has jurisdiction over prisoners released from the State Reformatory at Elmira, the State Prison for Women at Westfield Farms and the following prisons: Attica, Auburn, Clinton, Great Meadow, Sing Sing and Walkill. It has jurisdiction over normal inmates paroled from the Institution of Male Defective Delinquents at Woodbourne. It does not have jurisdiction over persons released from the various institutions for delinquent children, such as the New York Catholic Protector, The New York State Training School for Boys, The Children's Village, Hawthorne School and the New York State Industrial and Agricultural School. It does not have jurisdiction over persons released from the New York State Vocational Institution, although many of the young men committed there

have been convicted of felonies. It does not have jurisdiction over the city institutions, namely, the New York City Penitentiary or the New York City Reformatory. It does not have jurisdiction over the State Reformatory for Women although this institution is adjacent to that of the State Prison for Women at Westfield Farms. It does not have jurisdiction over the Institution for Male Defective Delinquents at Napanoch, over the Mattewan State Hospital for the Insane, nor over the Dannemora State Hospital. It has no jurisdiction over release of persons from other State Hospitals (Insane Asylums) and the State Schools (Institutions for Mental Defectives), under the Department of Mental Hygiene, although many of the persons sent to these institutions have committed serious crimes.

In conclusion, may I ask that the next time you hear some one criticizing the Division of Parole of the State of New York, find out whether the person who committed the crime that caused the criticism is on probation or parole. If he is on parole find out whether or not he is under the supervision of the State Division of Parole or under the supervision of one of the many parole organizations I have mentioned, before you pass judgment on the Division of Parole, Executive Department.