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THE PERENNIAL JAIL PROBLEM

Louis N. Robinson

Dr. Louis N. Robinson is the author of four books in the field of criminology. His latest, "Jails—Care and Treatment of Misdemeanant Prisoners in the United States", is an exhaustive study of county and municipal jails. For ten years he was head of the Department of Economics at Swarthmore College. He served as chairman of the Federal Prison Industries Reorganization Administration Board and was also chairman of the Pennsylvania State Parole Board, and for eight years was on the board of the Eastern Penitentiary of Pennsylvania.—Editor.

If ever there was a perfect example of what sociologists call "lag" in the evolution of social institutions, the American jail is it. Each one of us, at some time or other, has wished that he might roll back the years and live at least for a time in an earlier epoch. This is one wish that can easily be made to come true. All he has to do, is to take a short automobile trip in almost any one of the forty-eight states and knock on the doors of some of the innumerable jails in the county-seats. Once admitted, he will find himself in the atmosphere of the jails of Merrie England as it was when the emigrants first set sail for unknown America. Confronted by dirt, idleness, and indiscriminate mingling of sexes, the presence of children, clear evidence that local politicians are fattening on what they have saved in feeding prisoners, government by the "Kangaroo Court," miserable plumbing and an overwhelming feel of apathy and neglect, he may conclude that the glamour that covers the past is in this case only a shroud that clothes a decaying corpse.

Literally thousands of Americans, perhaps half a million, pass each year through these jails, some lingering for several years, others for only a few days or months, but all affected to no small degree by their stay in these places where theoretically the wages of sin are expiated. I doubt very much if any one of them is deterred from further crime by his jail experience. Some may decide never again to return, the corollary being not a resolve to commit no more crimes but rather a firm determination not again to be caught so easily.

Nobody knows exactly how many of these jails there are in the United States. After reading about everything that had been written on these institutions in preparation for writing my book, "Jails: Care and Treatment of Misdemeanant Prisoners in the United States," I placed the number at about four thousand.

The fundamental reason why these jails are bad, and everyone admits that with few exceptions they are bad, is that the governmental unit, the county or the municipality, which supports and administers them is too small. From this one fact flow various consequences which united produce our present jail problem. Leaving out the few big city jails, to which these remarks do not fully

apply, the typical county or municipality does not produce a sufficient number of prisoners financially to justify the building or equipping of an adequate prison for sentenced prisoners. Interest in and understanding of penological problems are, moreover, at a low ebb in the great majority of the counties and the municipalities. To wait until each of the four thousand units of county and municipal government which contain jails have arrived at the cultural level of realizing that crime can not be eliminated by forcing men and women to endure confinement in an institution that reflects the darker side of medievalism is to accept for several more generations the rule of superstition and ignorance. Held fast in the net of local politics and ancient custom, the jail has great difficulty in keeping up with the march of ideas. It is now so far behind that I doubt if many of them ever will get in sight of the procession. There are some individuals, I know, who argue that we have already gone too far in transferring functions of government from local units to the states or to the Federal Government. Each transfer, I insist, should be examined on its merits, and I am confident that any person, not swayed by prejudice or bound down by party spirit, would agree to my thesis that counties and municipalities should not exercise this function of caring for sentenced prisoners, whether felons or misdemeanants.

Institutions should be specifically designed to serve the types of people who use them. This is fundamental, and the first thing to find out in attempting to solve the jail problem is to determine the kind of people who are sent to jail. Various surveys of jail populations have been made which I attempted to summarize in my book, from which I now quote:

"Certain facts emerge from out these various surveys. It is quite clear that a majority of sentenced jail and workhouse prisoners are recidivists, that is, individuals who have been in prison before. The percentages given are without doubt an understatement of this fact. Since the fingerprinting of misdemeanants has not got very far, many would conceal the fact of former imprisonment, knowing that the questioner would have no way of checking their past careers.

"In spite of the high intelligence rating of the prisoners in the jail and workhouse of the District of Columbia, it seems safe to draw the conclusion that the percentage of dull and feebleminded persons in the jails of the United States is out of proportion to these classes in the general population.

"It is also probable that the number of those in jail with a psychopathic personality is far in excess of their proportionate number in the general population.

"Jails draw their population more largely from the unskilled

than from the skilled. Again the District of Columbia survey stands opposed to this conclusion.

"It is also certain that a large percentage of those sentenced to jail are in need of medical attention, and that this need is not being met.

"The large number of alcoholics is an ever-present fact.

"These separate studies confirm conclusively that women constitute only a very small proportion of jail prisoners.

"It seems certain that at least a third of the prisoners in jails are in there solely because they do not have enough money to pay their fines.

"The number of men who are of the productive work ages is large.

"All investigators appear to have found a sizeable group of young men for whom a training program is desirable."

Even without making a more thorough examination of jail types, it is obvious that the ordinary jail is not a suitable place for many who go there. To send confirmed alcoholics to jail for ten, thirty or sixty days is a waste of effort and money. Prolonged treatment involving psychiatric and medical care is essential in their case and since it is hopeless to expect any but the largest of the counties and cities to do anything for this class of prisoners that is worthwhile, each state should maintain institutions for the treatment and cure of this unfortunate class.

Young men and young women should go to state reformatories; not kept in idleness in jails where their only opportunity is the chance to acquire further bad habits and further bad morals. To fine a man and then send him to prison because he cannot pay the fine is certainly not an intelligent thing for society to do. Fines have their place in the punitive system. They serve among other things as reminders of dereliction of duty and they take the monetary gain out of crime. Imprisonment in an institution is to effect a change in the character of the prisoner. The two are certainly not identical in purpose, and yet the one is transmuted into the other with the utmost disregard of this fact. If a fine is desirable and the man is unable to pay the full amount at once, he should be allowed to pay in installments and the county or municipality should create whatever administrative machinery is necessary to carry out this procedure.

The number of able-bodied men in jails is large and yet the jails furnish little employment. Idleness is not only productive of bad habits but is from the public point of view wasteful and extravagant. There are also many jail prisoners who are able to do certain kinds of farm work, but the jails are located mostly in towns in all the northern states, and the location and size of the typical jail make it almost impossible to provide work for

either the able-bodied or for those of limited physical capacity.

Only in an institution of some size—the average jail population is only about thirteen—can the necessary medical and psychiatric care be provided.

State care of sentenced misdemeanor prisoners is the best possible solution of the jail problem. The present capacity of adult reformatories for young men and women should be increased and new ones built in states that do not have any and also in states where it would be unwise to add to the population of existing reformatories. To these reformatories should be sent the young adults now held in jails. State industrial farms for the able-bodied men and for the adults of less physical capacity should be established in every state. I have already pointed out that state care of the chronic alcoholics is essential and I believe that they should have an institution of their own and to these might be sent those of psychopathic personality who are not insane. Such an institution would be primarily medical in character and headed up by a psychiatrist.

So far, I have said nothing about probation. I am a firm believer in this form of correctional treatment, and am certain that good probation work would eliminate the necessity of sending to jail many of those who now receive a sentence to imprisonment, let alone those who are sent to prison because of failure to pay their fines. The point I would make is that even if a probation service exists, it will be necessary to send many to an institution and only a relatively small number of jails are fit places to send anyone and all should be eliminated.

As we all know, the Federal Government made grants of money to many counties and municipalities to assist them in repairing their old jails or in building new ones. This was done primarily to create employment. It does not seem to me to have been a wise step. I believe that the Federal Government should have used its power over the purse strings to bring about the kind of institutional care for misdemeanor prisoners which all intelligent penologists have agreed is desirable. Why rivet a system on the country by grants of money which is fundamentally bad and can never be made adequate to the task at hand?

Recently there has been a strong movement to build jails on top of courthouses or county buildings. As places for the detention of untried prisoners, these structures might be socially acceptable; but as institutions for the confinement of sentenced prisoners, they are far from being satisfactory. It will always be difficult to provide work for all the prisoners in this type of institution for the twofold reason that it must be of the industrial type unsuited to many and usually very competitive with free labor. Located above the hubbub of county or municipal politics, it will

be especially difficult for such an institution to acquire a personality of its own or to become an object of steady interest on the part of the citizens. Moreover, few jails, whether located atop courthouses or on the ground, can escape from the difficulties which small size and local control present. I see fewer objections to their use as places for the detention of untried prisoners but prefer that such institutions be built separate and apart from all other county or municipal buildings.

If sentenced prisoners are to be cared for by the state, how should those awaiting trial be held? Each county or municipality of any size should have a house of detention, located, as I have said, separate and apart from all other county buildings. Some few of the cells will have to be of maximum security, but eighty per cent need be of only medium security. In this detention house, there should be rooms provided for a combined court-prison classification clinic which would serve the court, the probation and local parole staff, and make searching inquiry into the life of all sentenced prisoners who go to reformatory, penitentiary or state industrial farm, or local jail if such continue to exist.

It is not going to be an easy task to change to state control of sentenced misdemeanant prisoners. The jail is firmly set, as I have indicated, in the midst of local politics. It provides jobs for the faithful and often a bit of "honest graft." In the past, public minded citizens unwilling to do nothing if blocked from creating state institutions, have attacked the jail from many angles. All these attempts at reform I have summarized in my book on jails, and present herewith:

"Group A. TO KEEP PEOPLE OUT OF JAIL

1. Release on their own recognizance.
2. Payment of fines in installments.
3. Probation.
4. Reform of the justices of the peace.
5. Abolition of turnkey fees.
6. Abolition of the fee system of compensation for feeding the prisoners.
7. Abolition of fee systems of compensating constable and deputy sheriffs.

"Group B. SUBSTITUTION OF OTHER LOCAL INSTITUTIONS FOR THE JAIL TYPE OF OFFENDER

1. Houses of correction and workhouses.
2. Local penitentiaries.
3. County road camps.
4. County and city farms.

"Group C. TO IMPROVE THE JAIL ITSELF

1. New buildings.

2. Repair and modernization of old buildings.
3. Devolpments in architecture and in building construction.
4. Change in location from city to country.
5. Separate buildings for women.
6. Separate building for convicted prisoners.
7. Location near other city or county institutions where prisoners may be employed.

"Group D. TO IMPROVE THE MANAGEMENT OF THE JAIL

1. State supervision.
2. Ousting the sheriff from control.
3. Civil service.
4. Provision for teachers by federal and city authorities.
5. Indeterminate sentence.
6. Parole.

"Group E. STATE CARE OF MISDEMEANANTS

1. State industrial farm for sentenced men.
2. Sending the women misdemeanants to the state reformatory for women.
3. Transfer to state institutions of the feeble-minded, defective delinquents and alcoholics.
4. State road camps."

Earlier in this article, I have emphasized four reforms, namely: the collection of fines in installments, probation, a varied program of state control, and houses of detention for untried prisoners. These, taken together, I believe to be the fundamental answer to the jail problem. We must not, however, overlook the fact that the end sought is a change in the inner life of those who offend. No improvement in physical care wholly meets the need. When a man goes free, there must be something to take the place of the outward compulsion of institutional life. This is by far the most important goal in the care and treatment of the individual offender. It makes imperative the selection of men of high character to administer institutional and probation staffs, men who see in the work something besides a money reward for their service.