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THE USE OF CORRECTIVE TRAINING IN THE TREATMENT OF THE PERSISTENT OFFENDER IN ENGLAND

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As a result of the Criminal Justice Act of 1948 the treatment of the persistent offender in England was substantially altered. The two new methods introduced in section 21 of the Act, Corrective Training and Preventive Detention, have still only a short history behind them, yet their working is clearly of importance to other nations. Indeed it would hardly be denied that the problem of the persistent offender—or the habitual criminal, as he is commonly called—is one of the most intractable tasks facing any penal administration. The purpose of this article is a modest one, it is not to discuss the concept of habitual criminality in general or to study comparative legislation, but rather to examine the development of Corrective Training since it came into force in April, 1949.

The first attempt in this century to deal with the persistent offender in England was made under the Prevention of Crime Act in 1908, as a result of which the two systems of Borstal and Preventive Detention were introduced, the one for the young offender, the other for the habitual criminal. It is not unfair to say that the former has proved as successful and the latter was unsatisfactory. The history of the so-called "double-track" method of Preventive Detention by which a sentence of penal servitude was followed by a period of detention has been described by Dr. N. R. Morris in Chapter 2 of his admirable book "The Habitual Criminal"¹. Its failure as a method of dealing with habitual criminality had already been observed in the important report of the Departmental Committee on Persistent Offenders in 1932.²

The recommendations of this committee had a considerable influence on subsequent penal legislation, and in particular on the Criminal Justice Act of 1948. The committee considered that the "double-track" system should be repealed and that in its place two new sentences should be introduced, detention for from two to four years for the persistent offender, especially between the ages of 21 and 30, and for those "less hopeful subjects for training" over 30 a sentence of prolonged

1. N. R. Morris. *The Habitual Criminal*. 1951. Longmans, Green.

2. Departmental Committee on Persistent Offenders Report. Cmd. 4090/1932.

detention, in particular for the "professional" criminal. These two proposals were included in the Criminal Justice Act of 1948, section 21, under the names of Corrective Training and Preventive Detention. It is with the former that we are here concerned.

No definition of habitual criminality is attempted by the Act, but eligibility for Corrective Training requires the fulfilment of certain conditions. The offender must be not less than 21 years of age, he must have had two previous convictions since the age of 17 of certain serious offences, and he must now stand convicted on indictment of an offence punishable with two or more years' imprisonment. The length of sentence which the court may award is not less than two, nor more than four years. (In practice courts have passed a majority of sentences of three years.) After two-thirds of the sentence has been served the offender is eligible for release on conditional license. During this period he is subject to the supervision organised by the Central After Care Association. This supervision is carried out by probation officers.

"Corrective Training," writes the Chairman of the Prison Commission, "is a new name in our penal terminology, but it does not describe any new method of treatment or training: it is the statutory application of an existing method to a category of prisoners selected not by the administrative classification system but by the courts."³ Mr. Fox adds, however, that although this method is that of the ordinary training procedures in a regional training prison, it was, nevertheless, envisaged that certain offenders would require a "regime of strict discipline and firm control."

Yet in spite of the fact that no claim is made for any novelty in the method of Corrective Training, except perhaps for the name itself, the fact remains that the problems created by this section 21 of the Act are certainly among the most interesting for the penologist.⁴ It could hardly be said that the Act merely placed in legislative form a number of procedures which had already been adopted in practice during the previous decade, as is true, for example, in the case of those sections dealing with the abolition of penal servitude or hard labour.

The two main issues involved are first, methods of training and second, eligibility. Though in theory separate, they are in practice closely related. The question of who is eligible itself depends on the

3. L. W. Fox. *The English Prison and Borstal Systems*, 1952. Kegan, Paul. Page 307.

4. It is interesting to read in Dr. Morris's book that the clause dealing with the habitual criminal, in spite of the obvious importance of the new procedure, in fact received a minimum of discussion in Parliament. Out of a total of 16 days allocated to the Bill at the Committee stages only one hour 40 minutes was spent on the discussion of clause 21.

methods of training available. The Persistent Offenders' Committee had recommended the provision of positive and progressive systems of training for all such offenders as are likely to respond to such treatment, including particularly those between the ages of 21 and 30. The emphasis was, in fact, on the concept of training. In the early stages the Judges said that they were "unable to obtain any very clear information on what was happening to prisoners who were sentenced to Corrective Training." As a result they were disposed to think that "a sentence of Corrective Training was in no way different from a sentence of imprisonment."⁵ In a valuable Adjournment Debate in the House of Commons Mr. John Maude pointed out that Corrective Training has been described by the Lord Chief Justice—and so regarded by the High Court—as an extended Borstal system.⁶ In the Court of Criminal Appeal, in *Apicella's* case, Mr. Justice Birkett said: "The sentence of Corrective Training is designed to be in the nature of an extension of the principles underlying Borstal treatment."⁷ As a result of a meeting arranged between the Prison Commissioners and the Judges the position was clarified, and the Lord Chief Justice pointed out that there was in fact a distinction between Corrective Training and simple imprisonment. In their most recent report the Commissioners stated that "the purpose of the Act was not to provide some new form of training, but to give the courts power to pass sentences long enough to enable the methods of training already developed in training prisons to be effectively applied."⁸ In the Court of Criminal Appeal, the Lord Chief Justice in the case of *Rex v. Albury* on January 29th, 1951, said that he would repeat the opinion of the Court, which had several times been expressed recently, that it was desirable that a sentence of corrective training should never be less than three years unless there were quite exceptional circumstances.

As regards the objectives of Corrective Training, therefore, there was some confusion, at any rate during the early stages. It was, perhaps, almost inevitable that the courts should have hesitated to employ a new sentence the implications of which they were not fully aware. On the other hand the Prison Commissioners were only able to plan within wide limits their system of training for a group of offenders of which the size and character depended on the decision of the Courts. In their annual report for 1945 the Prison Commissioners pointed out that

5. Times Law Report. May 4th, 1950.

6. Parliamentary Debates. Hansard, Friday Dec. 2nd, 1949.

7. *Re Bernard Apicella*. 34 Cr.App.R.29.

8. Report of the Prison Commissioners for 1950. Cmd. 8356/1951.

"the main problem concerns the courts, and how they may be induced to use such statutory powers as may be available to them, and not the treatment of the offender while in prison."⁹ It was impossible for the Prison Commissioners to foresee that the number of men sentenced would be so high. During the first eight months sentences were passed on 1106 men. The number of women received, however, was by comparison small, being only 54. In March, 1951, there were 2,186 men and 89 women in prison serving sentences of Corrective Training, and the difficulties caused by overcrowding were hardly anticipated by the prison administration. Owing to the increase of numbers in local prisons the introduction of Corrective Training wings made the differentiation between this type of sentence and simple imprisonment particularly difficult.

With the great variety of types of offender eligible for Corrective Training within section 21 of the Act, it is natural that there could be no homogeneous method of training. The work of classification and of allocation is in consequence of the greatest importance. A corrective Training allocation centre was opened in Reading prison in November, 1949, and transferred to Wandsworth in the winter of 1950-51. All men sentenced to Corrective Training are transferred to the allocation centre from their local prison where a decision is made as to the prison most suitable for them. In spite of serious difficulties arising from the pressure of work to be done at the centre as well as from shortages of accommodation, a very valuable piece of work is being done. The modern classification centre as seen in the Borstal or Approved School system, through the use of selection techniques including psychological tests and in certain cases psychiatric observation, and the investigation of the delinquent's social history, culminating in the meeting of the allocation board, makes an important contribution not only to the allocation of the offender, but also to the preparation of the case-record. From this material it is hoped that research will throw light on the characteristics of a serious group of criminals.

Generally speaking the men have cooperated well in the classification procedures, though many of them have been cynical of the ultimate result. Three years in Wormwood Scrubs is regarded by the prisoner as three years whether the sentence is served in the wing for Corrective Trainees or in one of the ordinary wings. Pressure of work has made it necessary for the time spent in the process of allocation to be reduced to a fortnight, and has created a delay (in 1950, of three months) in the local prison before arrival at the allocation centre.

9. Report of the Prison Commissioners for 1945. Cmd. 7146/1947. Page 64.

There are three main groups into which prisons or parts of prisons accommodating Corrective Trainees may be subdivided: first, the regional training prison, whether of maximum, or minimum security; second, the Corrective Training prisons which take the bulk of the C.T. population; and third, parts of Manchester and Pentonville prisons which have been set apart for the reception of men considered as unsuitable for an ordinary C.T. prison, usually through bad behavior. Of the 79 men removed under this latter arrangement up to March, 1951, 17 had been returned after satisfactory reports to a normal prison to continue their training.

Between the first two groups of Corrective Trainees there is a considerable difference, which it is one of the main functions of the allocation centre to elicit. Training in prison at its best is carried out in the regional training prison, and especially under minimum security conditions, but it is clear that this kind of regime "is suitable only for prisoners who are selected as likely to respond to and co-operate in a system based on the maximum of trust and self-responsibility."¹⁰ From the published statistics we see how small a proportion of the total C.T. population this group actually forms. In March, 1951, there were only 390 men in the regional training prisons at Wakefield, Maidstone, Sudbury, and the Verne out of a total of 2186 men serving sentences of Corrective Training. In spite of the fact that the regional training prisons are able to accept Corrective Trainees up to 40 percent of their total number, if suitable material is available, the fact remains that the quality of Corrective Trainees is inadequate to provide this quota, as the previous statistics show, and as the analysis of the 1,170 men received during 1950 with sentences of Corrective Training (discussed later in this article) also suggests. The majority is therefore sent to the normal Corrective Training prisons. The question then arises as to how far it is true that for this large group of men the same mixture as before, only in increased doses, is being given.

There is no need to discuss here the regime of the regional training prison, but some mention should be made of the salient features of the Corrective Training prison. Clearly it is much easier to devise a special system in places where the whole prison can be devoted to a single object. For this reason those prisons at Liverpool, Wormwood Scrubs and Durham, where only a part is given up to the Corrective Trainee, suffer under grave handicaps. The first Corrective Training prison to be opened was at Chelmsford, in September, 1949, when the necessary

10. Report of The Prison Commissioners for 1950. Cmd. 8356/1951.

conversion was completed, with accommodation for 261 men. It is fortunate in possessing a playing field and market garden covering about eight acres under conditions of maximum security. A summary of the features contributing significantly to training at Chelmsford and developed as far as possible in the other C.T. prisons as well, includes the following: first, the careful study of the men's welfare problems and their follow-up with the aid of social workers in contact with the family in the man's home town or village. Second, the development of technical training. Third, the organization of an efficient system of education. Fourth, the advantages of association with the exception of an initial period of eight weeks out of stage. Fifth, the employment of a much closer system of liaison with the probation officers who are responsible for the very important work of statutory after care under the aegis of the Central After Care Association. Sixth, the introduction of a privilege given to 24 selected men who are allowed to live in association in a hut during their last three months in prison. They collect their own food from the cookhouse and eat together in the hut. They are employed on council work outside the prison.

To some critics these benefits of training may seem slight. But criticism, to be fair, requires a standard of comparison. By comparison with the local prison it is surely right to state that an advance has been made, if only a moderate one, in the development of Corrective Training. Nevertheless the question of eligibility remains. Methods of training depend on the capacity of the offender to reform. The comments of Governors who have worked with the Corrective Trainees have not been enthusiastic. For example, on the 70 men sent to Wakefield, which as a training prison accommodates the more hopeful minority, the Governor comments: "A general apathy regarding the future . . . It was the exception to find anyone who genuinely wanted to be trained for a job on release". "The high proportion were in the unemployable or near unemployable class. Some had not worked for years, and saw no reason why they should start now." "The appalling air of irresponsibility . . . displayed towards their wives and children."¹¹ One Governor reported that many of the men, some 60 percent, are quite unfitted for vocational training through lack of manipulative ability, interest, or mental capacity.¹²

In their reports for 1950 and 1951 the Prison Commissioners supplement the individual reports of Governors with some most inter-

11. Report of the Prison Commissioners for 1949. Cmd. 8088/1950.

12. Report of the Prison Commissioners for 1950. Cmd. 8356/1951.

esting statistical material. A number of points emerge from a study of C.T. receptions during these two years: first, as regards age, 81 percent of the men and 68 percent of the women were under 30 years old at the time of their sentence. Just under half of the total male population of 1,987 were under 25 years of age. Only 56 men were over 40. Corrective Trainees, therefore, form in the main a youthful group. Second, it is also significant to observe how many of them will become eligible for preventive detention on their next conviction on indictment, or on their next conviction of this kind after the age of 30. A sample check in 1950 suggests that this proportion is between 40 and 50 percent. This fact in itself shows what a serious criminal record nearly half the Corrective Trainees already possess. 48 percent have over six previous convictions of indictable offenses. Third, turning to their previous types of sentences we see that 43 percent have previous sentences of imprisonment or penal servitude preceded by Borstal or Approved school training. Fourth, the *high* proportion of offenses of breaking and entering and also of larceny both among the men and women, and the very *small* number of sex offenses—23—and of violence against the person—41—are worthy of comment.

It is in the light of these facts that the problem of eligibility must therefore be discussed. The question arises as to whether fulfillment of the necessary statutory criteria is in fact an adequate test. In a correspondence in the "Times" newspaper both Mr. Parsons and Miss Elkin very wisely emphasized the need for a new approach to the definition of eligibility for the proper functioning of Corrective Training. Although the statistics for Corrective Trainees received in 1950 and 1951 show that only 76 prisoners who were reported to the courts as unsuitable for Corrective Training were in fact sentenced in this way, there is reason to believe that the real situation is not disclosed by this figure. In the case of *Rex v. Murray* in the Court of Criminal Appeal on 16th October, 1950, the Lord Chief Justice pointed out that while a report from the Prison Commissioners that a man *was* suitable for corrective training was not in itself a reason why the Court should pass such a sentence, it was undesirable to disregard their opinion if they reported that he was *not* suitable. Again at a later date the Court of Criminal Appeal said that courts should not pass a sentence of Corrective Training in cases where the Commissioners have reported on the man's unfitness for such training.¹³

13. The Times. July 17th, 1951.

We have seen that the courts have increasingly of late observed these instructions.

It is submitted that this decision does not go far enough. What is required is a full and accurate report on the prisoner's suitability for training available to the court at the time when sentence is being passed. Only in this way can the mistake be avoided of sentencing to Corrective Training a man whose whole history shows him to be untrainable. It is unreasonable to expect the Governor of a large and busy local prison, preoccupied as he must be with the daily problems of administration, to provide a report of the necessary detail and insight while the accused is kept on remand. The Prison Commissioners are aware of this difficulty, and have instructed Governors to say so when they are not in a position to express an opinion as to suitability.¹⁴ But this clearly does little to help the court faced with the problem of deciding as to sentence. All those facilities provided by the allocation centre at a later stage are not available at the time of the remand.

In a paper by the late Sir Alexander Paterson, one of the Prison Commissioners, we read: "It would seem desirable that the Courts should have, before sentencing a guilty man, the benefit of all the scientific and sociological data which is *subsequently* collected. The scientist should be the hand-maid of the court as well as of the prison." (italics mine).¹⁵ The change that is urgently needed is the introduction of a more detailed assessment of eligibility in terms of 'ability to respond to training'. It is frequently argued that modern penal reform gradually removes more and more responsibility from the judiciary and places it in the hands of the administrator. The whole development of classification is used in support of this argument. But modern methods of treatment, of which Corrective Training is surely one, are all dependent on careful selection. The judiciary can only make appropriate decisions as to sentence if they are provided with adequate information. Corrective Training in the full sense of the word can only apply to a carefully selected group.

The use of allocation techniques at an earlier stage is therefore required. A similar plea for classification at the remand stage before committal to an Approved school in the case of the juvenile delinquent was made recently by Dr. Peter Scott, psychiatrist at the Stamford House Remand Home in London.¹⁶ In the same Journal Dr. Leitch

14. Report of the Prison Commissioners for 1950. Cmd. 8356/1951.

15. S. K. Ruck (ed) Paterson on Prisons, 1951. Muller.

16. DR. PETER SCOTT. *The Residential Treatment of Juvenile Delinquents in Approved and Other Special Schools*. BRITISH JOUR. OF DELINQUENCY. Vol. 2, No. 1, July, 1951.

listed some of the factors, both favourable and adverse, indicating the probable response of the offender to the regime of an open prison.¹⁷ Only in this way is it possible to achieve that measure of success in Corrective Training which Parliament intended. There is a danger that too much may be expected too quickly from this new sentence. The prison staffs must be given adequate time and facilities for experiment. But the basic principles of training remain the same, and if there is dissatisfaction with the results, there is a real need to scrutinize more closely not only the material resources at the disposal of Governors entrusted with the task of developing Corrective Training, but also the criteria on which suitability for training is based. All the evidence suggests that with existing resources we have been far too optimistic about the chances of reforming a group of men whose previous response to training has been poor.

At the same time it may be true that the deterrent effect of this new treatment of the Persistent offender may be of some significance. The persistent Offenders Committee suggested, in Paragraph 44, that judges should warn offenders who are becoming eligible for a sentence of prolonged detention that on their next appearance they may find themselves being sentenced for a longer period. In an annual report the Commissioner of the Metropolitan Police¹⁸ stated that his officers considered the deterrent effect of Corrective Training to be a serious influence on the minds of many criminals whom they had apprehended. A number actually possessed a copy of the Act in their pocket when caught by the police. However this may be, it is reasonable to suppose that a sentence of Corrective Training may be regarded by the offender as a prelude to a much longer period of Preventive Detention if he persists in his criminal career.

17. DR. A. LEITCH. *The Open Prison*. BRITISH JOUR. OF DELINQUENCY. Vol. 2, No. 1, July, 1951.

18. Report of the Commissioner of Police for the Metropolis for 1949. Cmd. 7985/1950. R. S. TAYLOR: *Corrective Training*. PROBATION. Vol. 6, No. 5, 1950.

CRIMINAL JUSTICE ACT, 1948, section 21; and the third schedule to the Act.