# Reformation of the Criminal and Respect for Law the Purpose of the Criminal Law

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*1907*

Submitted to the Department of Sociology of the University of Kansas in partial fulfillment of the requirements for the Degree of Master of Arts

Master Theses

Sociology

Nyquist, Gustav A. 1907

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Sociologists and criminologists define crime as a social defect, a disease. Inherited tendencies, education, and environment, shape and formulate character. Through the evil influence of these formative agencies of character, the criminal becomes non-social, a violator of the established rules of conduct, and a menace to society.

"Society is founded upon the wants and fears of individuals".[1] In order that men should be able to survive, they came together in groups. The natural justice, the justive of the jungle and the forest, had to be modified, certain rights or privileges were surrendered by the individuals to the group, but other rights were established. The rules which determined the rights of the individual in the group are called laws. The violation of these rules we speak of as private wrongs and public wrongs. The rules defining public wrongs and fixing the penalty of the violation of these rules we call the criminal law.

In early history public wrongs were few. They were confined to assaults upon the State as a whole. Treason was the first public wrong. Wrongs suffered by

individuals were left to the vengeance of the wronged individual or his relatives. The combat took the place of the judicial trial.

But as society advanced, the wrongs of the individual became more and more the wrongs against the group. These wrongs were considered as assaults upon society. The perpetrator was treated as a public enemy, capital punishment was frequent, and the execution of the criminal was often marked by its cruelty. The Romans crucified their criminals, the Assyrians flayed the captive public enemy, and the burning of the religious heretic was common.

The form of punishment, however, grew less cruel, but crime was still considered an assault upon society, and the criminal a public enemy, punishment and revenge were blended in one idea. The criminal had to be suppressed, put to death, or driven from society or confined in prison. No effort was made to socialize him, that is subject him to a treatment that would restore him to society as a useful member. Reformation was unknown.

Punishment had two objects. One was to wreak vengeance upon the malefactor, the other was to inflict such punishment that others in contemplating the horror of the consequences of crime would remain law abiding/

The idea of fear as an element in the enforcement of law has never been abolished. As long as crime exists, it perhaps will always remain as one of the means of reformation. The apprehension of pain will deter the most stupid and depraved when nothing else will stay his hand from crime. But fear is inadequate. Men will do wrong as long as evil remains a propensity of human nature. To the one already guilty of a crime fear is an incentive to perpetrate other crimes in order that he may hide his first crime. Still the fear element cannot entirely be eradicated from our punishment of the criminal. Society properly resents anything that tends to destroy it, and the assailant upon public order must feel the approbium of public opinion. The real object of punishment should be to secure respect for law and at the same time, reformation of the criminal. He should be restored to society a useful and law abiding member.

"It is well to bear in mind that by reformation we do not mean that the criminal shall be relieved of his responsibility!"[2] Every man should be made to answer for his deeds, provided he is sane, and insanity should not be used as a shield. Every criminal should feel the resentment of society. Let him feel that his punishment is for the purpose of teaching him due respect for the law and to restore him to society as a useful member. Disease is sometimes

cured by heroic methods. Crime should be treated by harsh but above all by efficient methods. The treatment of the criminal should not drive him from society but restore him to it.

As to punishment,
We have two general classes of criminals: the juvenile and the adult. We will first deal with the adult criminal.

Society has delegated its power to punish the criminal to the courts. The first purpose of our courts is to apprehend and to determine the guilt or innocence of the person charged with a violation of the criminal law. Crimes are of two classes: crimes against persons and crimes against property. These classes are subdivided into many classes. The law fixes the penalty for each class distinctly. It is the function of court and jury to determine in what class or degree the accused is guilty.

Much has been said lately of the law's uncertainty and the law's delay on account of the inflexibility and the intricate technicalities of the criminal law and procedure. As has been stated before, the object of punishment should be to secure respect for the law and the reformation of the criminal. On account of the uncertainty and the delay in securing the conviction or the acquittal of the accused in our courts, the respect for law has suffered.

In the Thaw case, American criminal procedure was subjected to some severe criticism on the part of the lawyers of England. But the American lawyer might have said in reply to the criticism of the English that we do not rush our criminals into prison without giving them every opportunity for a "fair trial." But it may be truly said that our trials frequently offer a spectacle of lawyers pitted against one another in a fierce combat, not always for the purpose of seeing justice done, but for the purpose of, on the ~~other~~ one hand, securing a conviction and on the other, an acquittal, without giving due consideration to the guilt or innocence of the accused. It has been said, "it would not be good professional ethics for the defendant's attorney to give any thoughta to such consideration". A lawyer would smile at the suggestion. But the oath of the lawyer binds him to such consideration. The lawyer's duty is to aid court and jury in discovering the facts of the case, in a correct interpretation of the law, and in determining the proper penalty. But in exercising their office, attorneys often take advantage of every technicality, whether it concerns itself with the substantial rights of the accused or not. They prepare witnesses so as to be able to tell their story with the most impressive effect though truth may be subverted. If through their efforts the witness is sent to the

penitentiary for perjury, the lawyer, guilty of subornation of this perjury, is "left to the judgment of his professional honor". This is not true of the lawyers as a class. But under the strain of a "close case", they are prone to be tempted to reach out for any available means that might aid them in winning the day. We resent the harsh reputation of the ordinary criminal lawyer. We often think it overdrawn. But is not this reputation founded often upon facts, and the reason why criminal lawyers often stoop to low and underhanded and justice perverting practice may be found in the laxity of conduct on the lawyer's part sanctioned by the custom in our courts?

The law's delay is due mostly to our system of entertaining a motion for a new trial or an appeal. Few criminals if they have "money, influence and friends" are sent to jail or the penitentiary without two or more trials. This means expense and delay and contempt for law. We cannot abolish the motion for a new trial or the right of appeal. But why should not every motion for a new trial be overruled and the appeal be dismissed unless the substantial rights of the defendant have been invaded? Technical errors which do not prejudice the substantial rights of the accused are often made the grounds for a reversal and a new trial. This trial, is in many instances, a formality; the state is

less vigilant, the accused is prepared to side track the most damaging testimony, friends and attorneys have had an opportunity to change public opinion, time has caused the fervor of the prejudices of this opinion to subside, and otherwise aided by keen practice, the accused escapes the due penalty of his deed.

If the reversing of the decisions of the lower courts is due to the incompetency of the judges, some means should be devised which would induce the best men in the legal profession to accept the offices of judge of our criminal courts. Salaries are paid our judges that are far from equal to amounts earned by a competent attorney in his annual practice. In Kansas, our judges are considered foremost as practitioners. Their competency is seldom questioned. But in many States, the incompetency of the judges is a matter of common comment. If this incompetency is due to inadequacy of compensation, let the legislature remedy this mistake. It will prove "good economy".

The rules of evidence govern the introduction of facts as evidence tending to establish the guilt or innocenc of the accused. Their importance cannot be over-estimated. Upon them depends almost exclusively the vindication of justice. Men of pronounced ability have worked diligently for centuries for the purpose of eliminating any errors that

might be a bar to justice. Though subjected to much criticism, though they have the imperfections common to everything wrought by human ingenuity, their approach to perfection and "their delicacy of purpose", are such that any change in them must be made with great caution.

In the Thaw case, the introduction of expert testimony was a marked phase. The conflicting testimony of the medical experts brought much reproach upon our application of the law. A storm of protests came from scientists, educators, and lawyers. Some leading attorneys and judges expressed it as their opinion that in every criminal case where expert evidence is essential to the furtherance of justice, the expert witness should not be summoned by the opposing parties but should be called in directly by the court.

As to the examination of criminals by medical experts, it might be well to consider Dr. Lorand's advice. He said, "that every defendant in a criminal case should be examined by competent physicians or alienists as to his sanity before he is brought before a criminal court".

A noted criminal lawyer being asked to what he attributed his success at the bar, replied, "the evidence". On account of the "inflexible universality of its rules he was able to find some loop hole in its intricate technicalities and often saved his client though guilty". Some one

has said that"the introduction of evidence rests with the court." It rests with the court only so far as he is within the established rules of evidence. When these rules clearly forbid or admit certain evidence, the court has no choice. As a remedy, it has been suggested that these rules be simplified and the courts discretionary power be increased.

The jury system has received a great amount of consideration from the critics of our criminal judicial system. It has been charged that our juries are moved by prejudices and passions, that justice is often subverted. While it may be true that passions and prejudices may move our juries, the jury system as a whole is as perfect as any substitute suggested for it. Our laws and legal systems are the most conservative of the institutions of society, but they reflect the average intelligence and progress of our civilization. In them we find an equilibrium of our progress. Our juries represent the average intelligence among the members of society. The jurors advance in intelligence as the intelligence of society advances. And the jury system will be abolished only when our juries fail to keep up with the progress of society, or when men become so honest and like minded that there is no disputes as to the facts of the case and a question of law is the only matter for decision.

But there are some matters in connection with the trial by jury that need consideration. Delays and mistrials are fatal to justice. Certainty is essential to the respect for courts and law. Mistrials are of common occurrence, due to the fact that one juror becomes sick or otherwise incapacitated for service. Why should there not be a law providing that fourteen jurors be sworn, twelve regular jurors and two substitutes? If one of the regular jurors becomes unable to perform his duties as juror, one of the substitutes may take his place and the trial go on.

The jury room is uninviting. The jury will hurry to reach a decision or verdict. Their own comfort often receives, unconsciously perhaps, more consideration than the defendant's guilt or innocence. Why should not the jury be given such treatment during its deliberations as would tend to cause the jurors to give due attention to their sworn duty? Let them retire to their usual place of rest where they are accustomed to go during the time when the testimony is introduced, and let them deliberate during the usual hours for the court to be in session.

The jury determines the guilt or innocence of the accused; the judge pronounces the sentence. By what is he to be guided in pronouncing this sentence? He has before him the evidence introduced at the trial. But the past life

of the criminal is in most instances unknown to him. One of our criminologists has said, "that judges form a habit of passing like sentences upon all guilty of like crimes irregardless of the motives that actuated the deeds." These motives may be unknown to the court, and if known, are disregarded. This inflexibility of the universality of the law is illustrated by this instance. Two men guilty of murder in the first degree receive the same punishment. This may seem just. But one of these men committed the crime for the purpose of enriching himself and for the purpose of gaining a position in society from which he was kept by the life he took. The other took life because he had been wronged, in a way that destroyed his prospects and happiness. His home had been ruined, his reputation blackened, and he had become an outcast in society through the insidious deeds of the man he deliberately and premeditately murdered. Both deeds were planned and perpetrated in cold blood. Juries have often found men, guilty, such as the second man, not guilty of murder in the first degree but in some lower degree. Did the juries do this in absolute accord with the letter of the law? Did they not totally disregard the definition of murder in the first degree?

I do not mean to say that the second man, though

wronged, should take the law in his own hand. But I intend to show that, though the illustration is not good, the motives and influences, should receive due consideration in fixing a penalty. Let me go further and say after the verdict, there should be some form of procedure that would enlighten the court and the reformation officer as to the past life, inherited tendencies, training, education, and environment of the accused. The law now only cares for the circumstances of the crime. And the motives, and training and past life of the criminal are essential only so far as they fix the guilt.

Crimes have a maximum and a minimum penalty. But the range between these extremes is often inadequate. It does not give the judge sufficient discretionary power. Two men guilty of the same crime receive almost the same punishment although there may be extenuating circumstances in one case and aggravating in the other. Great provocation though not sufficient for defense, the accused a man of good repute on the one hand; on the other the deed is prompted by a vicious and malignant disposition, but the circumstances of the crimes are such that both men are found guilty in the same degree. In instances of this kind, adequate discretionary power should be delegated to the judge in fixing the penalty.

In the United State nine per cent of all criminals are persons convicted of homicide. This is startling when we take into consideration the whole category of crimes and the heinousness of this crime. Why is the per cent so large? Is it not due to the fact that the minimum penalty of other crimes that might result in death is fixed too low? Most of the homicide cases in small towns and rural districts spring out of what was intended to be but the crime of simple assault and battery. In discussing a murder case lately tried in Lawrence, some one said, "impose a fine of not less than fifty dollars upon every one guilty of assault and battery, and we will have fewer murder cases". We have no statistics to show the exact proportion of our murder cases that were the outcome of an ordinary brawl. But in watching the reports in our newspapers of the murder cases, we find an astonishing number of common brawls terminate in the death of one or more persons engaged in the brawl. If the minimum penalty were fixed much higher than it is now, it would have a tendency not only of lowering the per cent of murders but we would have more peace and quiet in the communities and rowdyism, a relic of barbarism, often the basis of a criminal disposition, would lose its supposed heroism.

It is a common criticism among some writers of

criminology that the minimum penalties for misdemeanors are too low and the maximum too high in our felonies. The professional griminal generally begins his career by committing some misdemeanor for which he receives little, if any punishment. This leaves with him a lowered respect for law, and he plunges deeper into crime. If he were made to feel the exacting force of the law in his first crime, he would perhaps choose to obey the law in the future. It is by reforming the incipient criminal we hope to eliminate the hardened and criminal class. If the law deals rigidly with the beginner in crime, we will have more respect for law and more genuine reform. The tendency of our courts to let criminals of this kind through on the "easiest terms" is not commendable. (I am now speaking of the adult criminal. I shall speak of the juvenile criminal later.)

Punishment of crime ranks from a small fine to imprisonment for life or capital punishment. Capital punishment is becoming less and less prevalent. Five states "forbid it by law". In the states where it is used, it is inflicted for murder. In some states it is also inflicted for arson, rape, robbery, assault with the intent to kill, and burglary. Next in severity comes imprisonment for life. Then imprisonment for a term of years in penitentiary or reformatory. Confinement in the county jail and fine are the penalties for misdemeanors.

It is now recognized that few criminals are so depraved and of such a menace to society that capital punish ment need be inflicted. There are, however, crimes of such heinous nature that the law inflicts the death penalty upon the malefactor as necessary for the protection of society. Criminals of this class are such that they can be deterred from crime only by the dread of the death penalty.

Life imprisonment as an absolute sentence is indefensible. It is true that there are instances where the liberation of a convict is a threat to society. His crime and his prison conduct conclusively show that there is no reform on his part. His viciousness and degenerateness clearly suggest that he would be a menace to society if set at liberty. In such instances the sentence should be such that his liberation would be optional with the proper official. But would it be just to imprison for life, a man though his crime be of a heinous nature, whose prison conduct and past life would demonstrate that he would prove a useful citizen if free? Hence ought there not be a condition in his sentence that after having served a number of years he could be paroled or given his liberty if his conduct showed conclusively that his reformation was thorough and his freedom not dangerous to society?

The danger line in punishment is , as I have said

not so
before, much in the laxity of the maximum penalty of felonies as in the inadequacy of the minimum of misdemeanors. Much discretion should, however, be given to the judge and other officials whose duty it is to fix the penalty according to progress of reformation. A statute fixing arbitrarily the penalty of a crime, giving the proper officials no latitude between a maximum and a minimum punishment is a menace to the best results obtained from imprisonment and fine. The circumstances of crimes vary as human nature varies; hence penalties cannot justly be fixed as axiomatic rules.

The trial, the determination of guilt and the fixing of the penalty, constitutes the diagnosis of the crime The inflicting of the punishment and the process of reformation of the crime is the cure.

Is the reformation of the criminal brought about by assigning a round of duties which he is to perform day after day and year after year in the same monotonous way? He is allowed to speak, only when spoken to. He goes to his work day after day at the same hour, eats his meals at a fixed time, is locked in his cell at the same time evening after evening. If ever liberated, he goes out into life an institutional individual, a machine, without initiative or ambition. It is true, his individuality has been crushed

and he is reformed. He is no longer a menace to society. He has learned to take existence as a routine. "The quips and scorn of life" neither depress nor exalt him. If his physical wants are satisfied, he rests content.

If this is true, why do some of the criminals return to the penitentiary? Some individualities cannot be crushed. The treatment in the penitentiary intensifies their criminal tendencies. They become more vicious and the monotony of prison life makes them sullen, bitter, and desperate. To them the penitentiary becomes a school of crime. If our prisons develop either institutional individuals without initiative and ambition, or sullen, bitter, morose, and desperate criminals, the punishment of crime is futile as a reformatory measure.

The penitentiary ought to present some of the opportunities, the absence of which has made the criminal a convict. It ought to afford him an opportunity for overcoming the short comings that led to his downfall, if these short comings are due to want of education, a misdirected education, a wrong social conception.

The educational advantages in most of our penal institutions are meager. The Reformatory at Elmira, New York, is one of the strong exceptions. The result of the reformatory methods at this institution are favorably known

far and wide. Educational advantages are offered, it is tru true, in all of our reformatories. But are they adequate? In our penitentiaries they are of little importance. In the Kansas penitentiary instructions are offered once a week, Sunday afternoons. Little or nothing can be accomplished in that time. Instruction two hours a day, five days in the week, would have some results.

While it is true that many men who are educated enter the penitentiaries, most convicts are ignorant. Many of them have never passed through the common schools, and those who have, have carried from the schools only a meager outline of the subjects studied. How few of the convicts have been guided at all by the lessons taught them even in the common schools, yo say less of the lessons learned in the high school, college, or university. Education was with them a form, the lessons an irksome task dismissed from their minds at school room door.

Even to the educated criminal in the loneliness of the penitentiary, with no mental recreation except the memory of what had been or the thought of what it might have been, the penitentiary school might impress with vividness the lessons he once scorned. Upon the one who has never known the advantages of an education, who has never entertained a thought beyond the foul ideas of the slum or the

criminal school,,the lessons of how honest men toil and achieve, how society has developed, of the whys and wherefores of everything that goes to make society, could not but leave a reformative impression.

Why should not the penitentiary be a trade school? Why should not criminals here prepare to earn an honest living when once free? As it is, the criminal leaves the penitentiary with few chances of not returning. Pushed out into society without means of making a living honestly, may not necessity drive him back into crime and to the penitentiary? Why should not convicts go out from the penitentiaries as carpenters, blacksmiths, tailors and shoe makers? The state maintains universities, colleges and normal schools for the purpose of making good citizens, why should the state not try to make a good citizen out of a criminal?

The state in maintaining colleges and normal schools recognizes educationas the one great agent in making good citizens. Why should it not make use of this agent in restoring the criminal to the normal conditions necessary for good citizenship?

The intention is not to advocate the idea that the state should transform the penitentiary into a university, but why should not the convict learn a trade while employed "to pay his way"? Why not let him devote leisure

hours to acedemic education which would give him a general knowledge necessary for the average citizen.

Physicians have often discovered physical defects and diseases in criminals to which they have attributed their criminal tendencies. Experiments had lately with boys in Boston have given ample illustration of how medical treatment may in some instances actually cure crime. Then why should not every criminal be subjected to a physical examination by a medical expert, and be placed under the supervision of such expert? While physical defects, unless such defect is irresponsible insanity, should not exempt from punishment, the punishment or process of reform should be fitted to the case.

Any treatment tending to aggravate the physical defects or the mental traits responsible for the criminal's disposition is of course a hindrance, not to say, an absolute bar to reformation. While exacting duties may be imposed, while absolute obedience to established rules may aid in bringing about a reformation, they need not be so imposed as to make the convict vicious and sullen. The monotony of these duties without any variation cannot have the best effect. Change and variety are essential to the cure of nervous and other diseases. The characteristics of childhood have often been changed, transformed by the change of surroundings. A child taken from a home of monotonous and irksome duties,

poor food and poor clothing, to a home of pleasant employment, plenty of food and clothing, has changed the child from a sullen, morose being to one of cheerfulness and contentment. It is a well known fact that the promise of th the slightest change in a prisoner's life is grasped by him with the greatest delight. At the Kansas penitentiary, ex-convicts say, "that the holidays that bring with them some changes in the daily bill of fare and some hours of social recreation are looked forward to with the keenest appreciation by most prisoners". If this is true, why should there not be more variety in prison life?

Some one may say if a convict's life is to be a round of pleasure, why send him to the penitentiary at all. To have variety need not bring a round of pleasure. It is for the good of society that variety in prison life should be brought about. It is to prepare the convicts for free life. Is it not a fact that ex-convicts seldom do well after having remained in a penitentiary for a long term of years? The monotony has stifled their mental powers. They have an "irksome", servile, suspicious disposition. Their mind moves with difficulty. They do their duties, if they ever assume any, in a monotonous, grinding manner. They are servile and suspicious. Through their rigid treatment, they have become so, and will impose upon their employer at

every opportunity. The longer a convict has served in the penitentiary, the more pronounced are these characteristics. If the convict is to be free, let him be prepared for freedom. Improve his understanding, elevate his ideas above those that moved his mentality when he became a criminal.

The silent system has often been criticized as the source of the monotony in prison life. If the silent system turns the mind upon itself to brood until reason gives way to paroxysms of insanity or the dull comprehension of the imbecile, the silent system is wrong. What if he becomes a raving maniac or an imbecile, he has brought on his own fate! If imprisonment is society's revenge, the prisoner has no rights. The sooner he is driven from society, ostracized or destroyed, the better for society. But imprisonment means reform, socializing, bringing the convict back into society in complete harmony with its rules of conduct, any system that makes reform improbable is wrong. But I would not advocate the abolishment of the silent system. However, it might be modified. Conversation carried on in the presence of and by the permission of officials could do no harm. No plots of mutiny could be formed. Criminals could not communicate information that would be detrimental to other convicts.

It would take away some of this mind destroying monotony.

Several of our writers in criminology are severe in their criticism of the poor and sometimes insufficient food supplied the convicts. Is starvation conducive to reformation? If society seeks revenge in its treatment of criminals, the tortures of hunger are no doubt a well chosen number on the program. But if society seeks to restore the convict, prepared to join society in its activities, good, wholesome, not extravagant or dainty, food will aid in the work of reformation. One writer says, "that more and better food is necessary in a penitentiary to keep up a healthy, vigorous, physical and mental life than is necessary for a person who has liberty". If there is anything in the old saying, "A sound mind in a sound body", food that will keep the body strong will keep up a vigorous and under the circumstances a cheerful spirit that plans for better life after the penitentiary years are past. The half starved convict is sullen. His attitude toward society grows more and more bitter as the years go by. He bides his time. Food is the first essential of the beast. Deprive man of it and his every aim and plan and ambition is to secure it. He is always on the level of the beast while the want of food is his whole concern. If reformation is to be hoped for, the convict's mind must be occupied

with something else than the contemplation of his physical suffering and its causes.

Isolation or congregation of prisoners was at one time a question for much discussion among some criminologists. Isolation was a safeguard against contamination of association of young criminals with old and hardened ones But it bred despair, sullenness, hopelessness. It left the prisoner in a condition more dangerous to society when once free than before he was ever sent to prison.

Congregation on the other hand made the comparatively innocent criminal a willing or an unwilling student of the old professional criminal. The silent system removed to some extent this objection. The prisoners congregate while at work but are forbidden in most instances to communicate with one another. And as I stated before, there is a movement on foot to modify the silent system so as to allow some conversation in the presence of officials.

If a convict has received a sentence of twenty one years and his conduct in the prison from the very first is such that, that he has apparently reformed, should he still be kept in prison? The example set by punishment must of course be given a consideration in answering this question. If a criminal, guilty of a high crime, and his

behavior at the prison were such that he obeyed every prison rule from the first day, it would nevertheless not do to give him his liberty. It would be an encouragement to crime to let him out because of his good behavior, irregardless of the crime for which he was incarcerated.

Laws have, however, been enacted for the purpose of giving the convict an opportunity to secure his liberty as soon as his conduct is such that it can be safely done. These laws are the inderterminate sentence law and the parole law. The inderterminate law fixes a maximum and minimum penalty for crimes. If the conduct of the convict is such that at the expiration of the minimum sentence he can be set at liberty without danger to society, he secures his pardon. On the other hand, as long as his conduct gives no evidence of reformation, he is retained in the prison, and may be ratined until the expiration of the maximum sentence.

But why fix a minimum sentence, why notleave the question of time of punishment to the proper official? Officials might be too lenient, and there must be a gradation of crimes. The fear element must be present. We have not entirely abandoned the old idea of vengeance and retribution. It perhaps would not be well to do so. Two criminals, different in disposition and temperament, have

been incarcerated. The greater criminal of the two has been sent for a minimum of ten years, the other for a minimum time of two years. Suppose the minimum would depend upon good behavior. The greater criminal, more intelligent, of genial disposition, might secure his freedom years before the one guilty of a crime much less heinous than the first one.

The inderterminate sentence has another purpose. Two men in different parts of a state are found guilty of life crimes in like degrees, but before different courts. Under the old form where the judge fixed the sentence, one may be sent to the penitentiary for five years, the other for one year. Under the indeterminate sentence, both are subject to the same punishment, and their good behavior determines the time each must spend in the penitentiary after the expiration of the minimum time has expired.

The parole law allows the convict his freedom under the supervision of the parole officers. This is a form of the supervisory system of England. As long as he governs himself according to law, gives proof through his conduct of reformation, he is allowed to be at large, but as soon as he violates the rules of parole, frequents places tending to cause degeneracy, he is apprehended and compelled to serve his time in the penitentiary.

As was stated at the beginning of this paper, character is formed or shaped by inherited tendencies, educational advantages or disadvantages, and other environments. The older the individual grows, the more positive and inflexible are his traits of character. If a person is vicious and of a criminal disposition, the earlier influences are brought to bear upon him for reformative purposes, the better are the results. For this reason laws for the care of juvenile criminals have been enacted. These laws have also been enacted to take the juvenile criminal from the inflexible procedure of the ordinary criminal court and to punish him separate from adult criminals.

We have distinct juvenile courts in twenty-two states. The Kansas juvenile court law, as amended at our late session of the legislature, is as comprehensive and practical as any of them. It makes adequate provision for the care of defective, dependant, and delinquent children. If properly applied by judicious, intelligent officials, few children will become criminals. Fine precautions are taken to see that they obey the law, and parents and guardians and other persons who through neglect or willful conduct lead children astray are held liable under a severe penalty.

The trial of the minor has none of the technical details and settings of the trial of the adult criminal.

The court has free hands. The treatment or punishment of the child is left almost exclusively to the discretion of the juvenile judge. The law places upon him the prerogatives of a just, conscientious, and kind parent while its delegates to him the full power and dignity of a judge. Parents must answer to him for their conduct, and they cannot hide their guilt behind a haze of technicalities.

It has been said, "that the efficacy of the juvenile court may be destroyed by the provision for an appeal". The constitution provides for a trial by jury, and to meet this requirement and also to obviate some gross error on the part of the court of original jurisdiction, an appeal was provided for. But the critics who object to the appeal forget that the distinct court to which the appeal is carried from the original court, sits not as an ordinary criminal court, but sits in the capacity of an appellate juvenile court. It can inflict no punishment but such punishment as is provided by the juvenile court law.

The punishment of one found guilty in the juvenile court aims at placing the delinquent, not in contact with adult criminals or subject him to the ordinary humiliation of the convict, but to subject him to such treatment as will reform him without the odium of having his reputation tarnished by criminal conviction.

The beneficial effect of the juvenile court procedure has been most noted in Denver where the noted Judge Lindsay presides in the juvenile court. This is but a beginning. Judge Lindsay has been one of those who have paved the way and called the attention of law makers and social reformers to the advantages of restoring the juvenile criminal to society in place of inflicting a punishment that would drive him from society. Youthful criminals are sent to industrial schools and reformatories. Here they receive training in trades, and also receive academic education as a preparation for active life. This training is a means of reformation. The boy of industrious habits and some of the self consciousness that is a trait of a trained mind will not as readily stoop to the deeds that send boys to reformatories and industrial schools, and the boy who has been properly treated and trained at this reformatory institution will not return to the ways of crimes. The aim of the treatment of the youthful criminal might well be heeded in preparing a program for the treatment of the adult criminal. If the tchnicalities and delays that characterize our criminal procedure were swept aside so far as the disregarding of them would not jeopordize the substantial rights of the accused, it would have a wholesome effect upon the criminal class. The oft repeated saying, "A good lawyer and

plenty of cash keeps the wealthy criminals in respectable society while the absence of these sends the petty but poor criminal to jail", would no longer be true.

Our jails and temporary places of confinement are often training schools for criminals. The ordinary trespasser serving a ten day sentence associates with the hardened criminal, the burglar, highwayman or murderer awaiting trial. The effects cannot be but deteriorating as to the character of the lesser offender.

Again men confined in these jails for months for some misdemeanor are often left there in idleness. Why should this be so, while the convicts in the penitentiary perform arduous tasks every day? This enforced idleness grows wearisome to one accustomed to work. To the tramp it may be an opportunity for a well earned rest, and a cause for a future contempt of law and an invitation to commit some petty crime at some future time so as to secure food and lodging during winter months. This mingling of idle men, some of them hardened criminals, gives the one ignorant of the finer technics of crime an opportunity to learn.

The jails are often dark, gloomy, and unsanitary. The ventilation is bad, the opportunity for admitting sunlight insufficient, and the jails are often built in most unsanitary localities in the cities. Surroundings are often

suggestive of squalor and decay. Everything in the jail and around it conveys to the inmate the idea of shame and degradation.

A bill was introduced in one of the houses of the Kansas Legislature last winter, embodying a reform of all these defects, but it was lost. It was suggestive of expense. But present expense would have meant future economy and saving of citizens.

The inflexibility and revengefulness of law has perhaps no better illustration than in Victor Hugo's character, Jean Val Jean. An escaped galley-slave, he had reached the foremost position in his community. He was all that a citizen could be. In a moment of self sacrifice and generosity, displaying the highest sense of honor and justice, he betrayed himself and was sent back to expiate his crime. He had risen above former conditions; he knew the comforts of wealth and station; he had aided others in the unequal struggle with poverty and misfortune; his freedom meant a better society and a better state; his added suffering would deter no other criminal from crime; still the law knew no clemency.

Our juvenile court law is a preventive measure against the development of a criminal class. The parole law and the inderterminate sentence law embody the clemency

wanting in the case of Jean Val Jean. A more humane interest taken in every criminal, facts and not red tape, due consideration given to every case, mean the elimination of revenge and the substitution of reformation of the criminal as the purpose of our criminal laws.

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