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THE NEW PENOLOGY

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We like to listen in on the conversations of our neighbors riding in on the 8:20 every morning. Sometimes we feel like butting in and telling them a thing or two to set them right in their thinking, but we usually manage to restrain ourselves with the realization that it is more fun listening. On this particular morning, the temptation was particularly strong; a gentleman with a fat neck and loud voice was explaining to his companion, the utter dam-foolishness of the authorities who have to do with the parole of state prisoners.

Glancing over his shoulder we saw the news item which evoked his caustic comment, "Paroled convict slays policeman" the headlines said. And certainly, my friend with the fat neck seemed to be right, why should the authorities release from prison, individuals steeped in crime, who are eager and anxious to resume their criminalistic activities?

Many times this question has been asked. During the last twenty years the Parole authorities in nearly every state at some time have been under severe criticism because of an offense committed by a recently paroled convict.

The obvious answer is, of course, that Parole Boards are human and fallible; they can only hazard a guess as to ultimate success or failure of the parolee. Some Parole Boards have been venal and corrupt, but these have been the exception, for the most part, they are trying within their capacities, to judge fairly. And in a surprising number of cases, they guess correctly!

The faults that exist are not, generally speaking, attributable to Parole Boards, they are the residue of an archaic system of penal justice which had its beginnings in the criminal procedure of our courts and its endings with our Parole Boards who have very often the unsatisfactory choice of releasing a chronic offender on parole where he will live in the community under supervision for a period, or, as an alternative, refusing parole and allow him to be discharged into the community when his sentence expires, there to continue his depredations without let or hindrance. Who can blame a Board

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for taking a chance occasionally with the faint hope that parole supervision may be instrumental in keeping a man out of trouble?

There is no denying, Parole is still a hit or miss proposition, with the "hits" through good fortune, far outnumbering the misses.

The Wickersham Report, now peacefully buried, had some valuable observations regarding Parole work in the United States. Its ill-fated treatise on the 18th Amendment, so far overshadowed the remainder of the report, that much valuable material was left unread except by specialists. It points out, for example, that in one state, the parole authorities were in the habit of disposing of approximately 95 cases in four hours. This is an average of about two and one-half minutes per case. Surely an intensive and intelligent study must have been given to each case! In this same state, the parole activities took on the complexion of a three ring circus, to quote from the report:

" . . . when a prisoner entered the room, he faced 24 people . . . in addition to the board members and prison officials, there were wives and daughters of board members, attorneys who were to plead for some of the offenders eligible to parole, other persons in the role of mere spectators and newspaper reporters.

It was explained that newspaper reporters were allowed to be present in order that they might write, if they wished, "human interest" stories, without mentioning the names of offenders who were given or denied parole. It was interesting, therefore, to see the papers next day and to observe that no reporter had paid any attention to this rule but that each had published such items as he pleased, supplying names, details of crimes, future residences, etc., solely with a view to making interesting reading. . . . There were other ways in which the hearing was worthy of comment. Presence of women presented a peculiar difficulty. In several cases prisoners were refused permission to make statements to the board on the ground that "there are ladies present."

One member of the board deemed it appropriate to shout admonitions and characterizations of the prisoners themselves at them. "You are just about the most contemptible cur that walks the earth" he hurled at one prisoner, and "What you need is a horsewhipping" he shouted at another. To another, he remarked, "You have not a bit of honor."

One could not escape the conclusion that to many of those in the room, the parole hearing was a show, and that members of the

board occasionally gave spice to this show by remarks at the expense of prisoners standing before them.

A significant note appended to this report, "we withhold the name of the state merely because there are worse parole systems in the country."

During the last few years there has been a quickening of public consciousness and this has been reflected in the formation of Parole machinery constructed to deal with the problem in a more scientific manner. In New York State, three years ago, the old system was scrapped, and a new, elaborate set up was organized, with the Board Members serving full time and receiving good salaries. A more adequate staff of supervisors was provided and an employment bureau was organized in connection with it.

Under the New York law the members of the Parole Board are, in respect to salary, on a parity with other ranking State officials, such as the Attorney General, Comptroller, Commissioner of Taxation, etc. None of the members can be a member of the executive committee of any political party, and must devote "his whole time and capacity to the duties of his office. Formerly a division of the Department of Correction, this Parole Board is now a branch of the Executive Department.

The Federal Government, under the leadership of Sanford Bates, Director of the U. S. Bureau of Prisons, organized a Parole Board, but the great influx of cases due to Prohibition and whatnot, has not allowed it to function as was originally intended. Instead of the Board sitting as a unit and interchanging opinions, they have been compelled to go on the circuit of federal prisons, individually, and there hear as many cases as possible. This of course is not satisfactory.

However, elaborate organizations are not necessarily the answer to the problem, although they do assist in carrying out more fully, the intent of our Parole laws. The real kernel is a changed attitude on the part of Parole or Pardon Board. The subjective attitude, swayed by personal feelings and prejudices, must change to an objective, scientific attitude that has no place for personal feelings.

We have seen Board members who would never vote to parole an individual accused of any sexual offense, even though the previous record and environmental background contained every element for a successful parole. Another member, serving temporarily, would not vote for the parole of a chicken thief because he had some chickens stolen some years before. Another, whose auto-

mobile had been stolen, reflected his personal reaction for a long time by his attitude toward automobile thieves. Obviously, judgment that is swayed by such personal considerations cannot hope to achieve a full measure of success.

The objective approach to the Parole problem, necessitates primarily a clear understanding of the purpose of parole. Without this clearly outlined objective, all your scientific data is worthless. To many Boards, Parole is merely an act of clemency—a grand gesture, something similar to the grant of pardons to criminals just prior to Christmas. Noble and humane in form, but worthless in substance. Others consider it merely as an expedient method of relieving an overcrowded prison; this, of course, is not parole in the real meaning of the word. But the honest, intelligent Board of Parole considers its cases with a twofold purpose in mind: the protection of society insofar as they can protect it, and the reformation of the prisoner, whenever such reformation seems probable.

To accomplish these purposes, it is imperative that the Board have before it every bit of data that it can possibly get. This data should contain not only the prisoners previous police record and his conduct while serving sentence, but a complete social history, medical and psychiatric report which describes minutely the home environment, work habits, social habits, and all other personal and family information which may contribute towards the painting of the written picture of the prisoner, not only as he is in Prison, but as he *was* before he went to Prison.

The Board must also be fully informed as to where the prisoner is going, when he is released. Where is he going to live? What occupation is he going to pursue?

It is reasonable to assume, that if a Board has presented to it, facts indicating that a youthful offender is a product of a slum home with law grade parents, that his work record was poor and the neighborhood to which he was returning was infested with pool-rooms, cheap dance halls and dives, that the prospects of a successful parole are very dubious.

On the other hand, a man may be sentenced for a particularly repulsive crime. Yet, his previous record may have been good, he may have worked steadily and supported his family. Despite our personal loathing for his offense, we would have to concede that he would make a good risk.

A criminal offense is merely one overt act in the life of a person and may be the outcropping of a moment's lack of control,

or may be the culmination of a lifelong adherence to faulty behavior patterns. To judge a man by this one act, divorced from all the other factors which have contributed to making him what he really is, is as unfair as quoting half sentences from the Bible.

The criminal offense, itself, is merely one word in the story of the prisoner.

The accumulation of data is not of course an end in itself, data must be interpreted in the light of experience. Recent studies have proved that it is possible to estimate parole success with a fair degree of accuracy. Prof. Burgess of University of Illinois and Clark Tibbitts of Chicago Institute for Juvenile Research have analyzed hundreds of cases and have discovered that where certain facts are present it is possible to say with some degree of assurance whether a man will make good or not.

Quoting Tibbitts in the *Journal of Criminal Law and Criminology*, "The factors are the various aspects of the cases under which the data are classified. Thus, each case is classified according to the factor. The sixteen factors may be characterized as follows: 1. Nature of sentence, indeterminate or fixed. 2. Offense named in indictment. 3. Age of parolee when released. 4. Country of birth or race of father. 5. Whether the parolee was permitted to plead guilty to a lesser charge than that named in the indictment. 6. Length of time spent in institution. 7. Severity of previous sentences, probations, etc. 8. Number of punishments while in the institution. 9. Diagnosis of personality, such as egocentric, inadequate, psychotic, etc. 10. Statement of prosecuting officer recommending or opposing release. 11. Whether first, occasional, habitual or professional offender. 12. Size of city in which youth resided at time of crime. 13. Whether a resident or transient at time of offense. 14. Number of associates in the crime. 15. Mental age. 16. Whether regular skilled worker, casual or unskilled."

No one can be so bold as to attempt to prophesy what any human being will do at some future time, but it is true that man is a creature of habit, that his thinking and acting are conditioned by his setting, his companions and the state of his emotional life. For one man who revamps his habit pattern by substituting good habits for bad, without some change in environment, or through external pressure, there are a dozen who do not.

Bad habits are just as strong as good habits, and there are as

few chronic offenders who really reform as there are really decent citizens who succumb to crime.

At the same time, parole may be the instrument by which a first offender may be diverted to useful living through the friendly counsel and supervision of a parole officer.

A certain, definite value must be given to the various factors which comprise the "description" of the prisoner; if the good factors predominate it indicates a good risk. It is something similar to a physician diagnosing a case: he does not base his decision on the cut of the clothes or the color of eyes. He analyzes each separate symptom and then builds them into a syndrome which to his trained reason indicates the presence of a specific disease which calls for certain specific treatment.

To do this, naturally, necessitates the removal of Parole work from the realms of politics and diletantism. It means the placement of Parole work on the same level with other lines of professional endeavor having a constructive purpose with well defined methods of accomplishment.

It is well to remember that Boards of Parole are clothed with tremendous power—the power to keep men behind gray prison walls for years, or the power to release them back to society to become good citizens or hungry scavengers preying on their fellow-men. Their responsibilities are second in gravity only to our courts, and far overshadow other state bureaus and departments that have merely to do with material things such as the construction of roads or conservation of forests. Boards of Parole deal with human lives! They hold in the palm of their hand the future of thousands of young men and women who are now behind prison walls.

For the most part, we overlook the importance of the work of Parole Boards; we think of them only when we read of some crime being committed by a paroled convict, and then our feelings are tinged by resentment at their "stupidity" in making such an error. Our legislators may grant scanty, inadequate appropriations, and our archaic laws may make no provision for manning these Boards with experts, specialists who devote their life to this problem. And our individual judges may deal out such widely differing sentences that they called by competent authorities to be "inchoate," but in spite of these difficulties, Boards are expected to function efficiently.

No state highway department can be operated without the services of skilled technicians and engineers. How much more im-

portant it is that these Boards of Parole who are daily making their decisions affecting the life of their fellowmen, should be equipped and staffed so that they may take advantage of all the technical and scientific skill available.

This would mark the end of this dreary era of hit or miss, it would eliminate the "three ring circus," the automatons and the sentimentalists. It would remove the entire problem of parole from the hands of the groping amateur and place it where it belongs as a scientific problem, with the scientist.