

CRIMINALS AND CITIZENSHIP

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THIS second centenary of John Howard (1726-1790) raises many questions. Why was the world so slow in perceiving the need for applying the elementary features of Christianity to the treatment of those who had broken the law? Why did the world cling so tenaciously and ignorantly to methods of handling criminals which had so completely failed to bring about the elimination or even the adequate reduction of crime? What progress has the world made since John Howard's day in dealing efficiently with the fundamental problems faced by him? Why has this advance been so hesitating and limited?

It does not come within the scope of this article to attempt detailed replies to these questions; but, as a basis for what follows, answers may be briefly indicated in outline.

The leaven of wise humanitarianism and human goodwill works slowly. Its progress has been slow and uncertain in every human institution and activity. The worship and persistent practice of empty and hopelessly ineffective customs and methods are by no means confined to those relating to crime. Advance in wise methods of dealing with crime and criminals since Howard's day has been greater than in all the preceding centuries put together. The slowness of progress has been due partly to carelessness, partly to a stubborn confidence in vindictiveness, partly to the natural immobility of established usages and institutions, and partly to the necessity for caution in travelling even toward the light through uncharted regions. Law and order are essential in every civilized land. Sentimentality must not be mistaken for humanitarianism. Weakness and fanatical revolt against apparently ineffective institutions must not be mistaken for kindness and for the slow, experimental and constructive substitution of something not only better but practicable. The public order must not be too greatly risked by too drastic and sweeping changes, which might sweep away not only customs and institutions which were cruel or stupid, but some which were fundamentally for the public good and in the real interest of a well-ordered society.

The basic principles on which Howard rested were that the good of society could not possibly call for the barbarities which

he witnessed, and that to ameliorate the lot of prisoners could by no sound deduction be interpreted as necessarily encouraging the infringement of reasonable law or the sentimental promotion of crime by taking away its penalties. We are still in the process of accepting these principles, though their proper application is by no means agreed upon by good citizens, nor will there be such agreement for many a long day, if ever. Since the 18th century, but especially in the last fifty years, the progress of Howard's idea and its application has been greatest in the various units of the British Empire and in the United States of America. This article will be confined to Canada, and will deal with some features which, while he could not actually foresee the full development of his work, are essential outgrowths of Howard's ideas and efforts.

Though I have been in nearly every penal institution of any size in the Dominion, I am most familiar with those of Ontario and with the criminal problem of that province. Most of my references will, therefore, be made to Ontario conditions, though readers of these lines in other parts of Canada will, I believe, agree that—with the exception possibly of the cities of Montreal, Winnipeg and Vancouver in certain limited respects—the problem of the criminal in one part of the Dominion is essentially the same as in any other part. The cities mentioned have a measure of foreign-born, non-English speaking, population greater than any other cities. They naturally face, to a greater degree than other cities, the task of handling persons who have difficulty in adjusting themselves to our Canadian conditions, or to our conceptions and practice of law and order. In every province this difficulty is met with, but not everywhere to the same extent. Only a person who has himself been a "foreigner" in lands the language of which was largely strange to him, and the customs and laws of which were in many ways different from those of his own country, can adequately understand the psychology of the foreign-born immigrant into Canada or can sympathize with his bewilderment at our restrictions and statutes. He must be taught the necessity of keeping our laws, but he is not always the deliberately vicious and deliberate anti-social offender one sometimes take him for, even when he breaks one of the sections of our criminal code.

Our criminal problem is, however, principally that of native born Canadians, or of those who have been born in countries whose customs and laws are very similar to those of Canada. I need not here take space to state the long list of various crimes committed in this country. The causes of these crimes and an adequate discussion of them would also be too long to be included here.

In a book soon to be published by the Ryerson Press, Toronto, on the re-establishment of the criminal as a citizen, I deal with these at some length. Unwillingness to submit to proper control; physical or mental defects or subnormality; lack of harmony between restrictive measures and constructive social agencies; ignorance; the overwhelming temptation; deliberate, persistent, or vicious defiance of the will of society;—these are the main causes of crime throughout the Dominion. To cope with these we have the largely successful preventive institutions of the home, the church, the school, good sport, literature, and other like agencies. We have also incorruptible and just courts; increasingly vigilant, intelligent and effective police; and many kinds of penal and reformatory institutions. The percentage of criminals in Canada is small, but it is very expensive, and crime causes fearful suffering and damage. Its reduction is of the utmost importance, and is as difficult as it is important. I deal here with only one feature of the question. When you have caught the criminal, what should be done with him? Few are to be quarantined permanently. The rest will sooner or later be turned loose in society as free citizens. What kind of citizens they will be, is surely of interest and concern to us all. Can we take any steps, farther than those already taken, so that they will then be good citizens, and become assets instead of continuing as liabilities to the country?

Strange to say, this question is a distinctly modern one, so far as constructive measures are concerned. The formerly accepted theory was, that if you gave an offender an adequately severe time while you held him under sentence, you were in that way insuring his good behaviour for the rest of his life. Facts were strongly against this theory, but it persisted largely because it was not entirely fallacious, and also because society had nothing to substitute for it. The scientific point of view also was essential before such a question could or would be given serious consideration. With our present knowledge of the psychological and physiological effects of punishment, we wonder at the persistence of the old theory. Our forefathers, however, were quite determined to make the theory work out. Any who have seen the actual dungeons and instruments of torture used in various countries of the Old World have had a quite adequate proof of the extent to which the authorities went, even in the not very olden days, in order to abolish crime. But probably every reader of this paper is more or less familiar with the extremely brutal treatment that was given to offenders in the past;—the thumb-screw, the rack, living burial, drowning, and other tortures of various kinds, which

make the familiar penalty of execution or even hanging a very gentle and moderate affair. They tried these things for years and centuries before it was realized that there was something wrong with the theory and practice. These methods did not stop crime, and it is doubtful whether they seriously interfered with it. A little over one hundred years ago in England, it was deliberately decided to give a drastic cure to an epidemic of forgery by hanging the convicted persons. Over two hundred men, women and children were hanged in a dozen years. Forgery was not lessened by this means. It even increased, and did not decrease till after the penalty was reduced.

It may be frankly stated that in the case of intelligent professional criminals adequate penalties have perhaps an effect in decreasing crime, but the great majority of our criminals are not professionals. Their crimes are the result of folly or impulse or overwhelming temptation, and few of them know anything about the penalty which is provided against the particular crime which they are committing, nor has this any relation whatever to the action as a deterrent. Furthermore, if our forefathers could not succeed in dealing adequately with crime by penalties so frightful and extreme that they would not be for a moment allowed in any modern civilized State, how can we hope to succeed with our gentler measures and with our much softer interpretation of the word punishment? We still use the words and the gestures of the olden time, but they do not mean at all what they meant to our forefathers.

Crime, of course, must be lessened if this be at all practicable, and society must be made as safe as possible from prospective offenders. There are some persons who need an extended quarantine from society, in order to give protection to others and to be themselves treated. There are some offenders who would seem to need permanent quarantine for the sake of all concerned. But in the case of the majority, is not the only real protection to the public that there should be a change in the point of view of the offender, so that when he is released from prison he will, of his own free will and accord, make an adequate effort toward good citizenship?

To this end the principal factors are:

1. Just laws and fair trial of the alleged offender.
2. A wise and fair decision as to the disposal and treatment of the guilty party.

(a) Shall he have non-institutional treatment, and how long?

(b) Shall he have institutional treatment? Of what kind, and how long?

(c) Shall he have post-institutional treatment? Of what kind, and how long?

For half a century the statement has been reiterated that if they are to be adequately dealt with, criminals should and must be classified. This is doubtless true, and it is being done to some extent. But intra-mural classification has been chiefly in mind. Only those who have practical custodial knowledge are aware of the difficulties of classifying inside an institution. To the uninitiated it looks simple. "Separate the young from the old", they say. Experienced custodians will reply that often this should be done to protect the old from the young. "Keep the repeater or recidivist from the first offender", they say. Custodians know that many a first offender is far more vicious and intractable than certain persons having half a dozen convictions to their discredit. "Keep those guilty of lighter offences from those guilty of graver crimes", they say. But custodians know that a defaulter of large sums or one guilty of manslaughter is often a far better man than many a pickpocket or signer of a small N. F. cheque.

Classification is a most complex and difficult problem. It must be solved, but this will take much time and thought, and the road is by no means cleared, nor is it all even charted to the desired objective. Part of our present classification in Canada is good. Part is very defective. We have our jails, provincial prisons or reformatories, and our penitentiaries. By placing offenders in one of these, classification is made according to length of sentence,—a very inadequate basis in many respects. Inside these institutions, the superintendents or wardens classify as they are able, but the practical problems quite prevent a division of inmates based on the real need of the inmate and his possible and best preparation for future citizenship. At present, the only classification on this basis which is effective and with future promise is that which detains certain persons inside institutions, and allows others to go outside to separate points and under conditions suited to the common need of the prisoner, his family, and society. The application of this is not yet what it should be, but the idea is sound.

Our laws in Canada, while by no means perfect, are excellent, and generally speaking there are no better in the world. Alleged offenders are given fair trial before just and trained judges and magistrates. We can thank heaven that these are appointed for life and good conduct, and are not elected as in the United States of America. Whether a court should do more than register

the guilt of the offender, is a question. Few courts would seem to have the necessary knowledge of the complex facts relating to the offender to do more than make a recommendation to other trained officials, who after investigation will be far better able than the court to know what is in the common interest. At present the decision still rests, as in the past, with the court as to length of sentence. The Criminal Code of Canada and previous decisions guide the court, though much is left to the discretion of the judge.

Sentence may be suspended, and the offender placed on probation. Or the sentence may be such as decides the sending of the guilty party to the penitentiary, (from two years to a sentence for life). Or it may be a reformatory term which in Ontario may be up to 28 months, with a maximum indeterminate sentence of two years less one day in addition.

The basis of suspending sentence or placing on probation is generally a very sound one. A person has been found guilty. But his interests and those of society, his future reformation and reestablishment in citizenship, demand that, without any institutional treatment, he be at once placed outside among free citizens again, under certain limitations and the guidance of certain persons named by the court. The practice is increasingly followed in Canada and, with the inevitable occasional exception, is justified by results.

If the offender is to spend a term in an institution and this is to be a county jail, the only thought as to his future reestablishment is that the unpleasantness of the experience will "teach him his lesson not to break the law again." That the experience will be unpleasant, no one familiar with our jails would question. But it may be contaminating and discouraging. The lesson learned may be anything but helpful toward his good citizenship. In other words, by protecting itself from this offender for a certain term in this way, society may be in the end causing itself grave harm.

But he may be sentenced to the penitentiary,—Prince Albert, Dorchester, Kingston or some other. So far as his surroundings are concerned, he is then much more fortunate than in a county jail, except for the longer period of incarceration. Canada can be proud of these institutions in many respects. No one would claim that they could not be improved, but improvement through the past years has been marked in nearly every particular. This has been due to the development of public opinion, the personnel of the wardens and their staffs, and to their departmental superiors. Walls, bars and other custodial precautions have to be maintained,

and there is strict discipline; but there is productive employment, sanitation, the privacy of individual cells of adequate size, libraries and other non-punitive and reformatory agencies which may assist future citizenship. You cannot make citizens in a prison, of course, and the longer the detention after adequate discipline and change of heart and mind are assured, the more difficult is the task of civil reestablishment. But there has never before been as much thought expended on the problem as now, and while an immense lot remains to be done, our penitentiaries are in a better position than ever in the past.

When a prisoner is discharged, he is in a most perilous position. If the country realized the pathos, the tragedy and the peril of the newly discharged prisoner, and appreciated its opportunity as well as its responsibility, it would do what it has not yet done. The Salvation Army does a fine work for these men, but its officials would be the first to acknowledge that—while the Army is doing all it can under present conditions—it is necessarily limited, and that there are measures which will have to be taken by the nation before it can be said to have really touched the problem. Society has taken it for granted that when X has served his sentence, its responsibilities for him are completed. The facts are wholly against this. Has the incarceration fitted him or unfitted him for citizenship? This is one question. But there is another. Do the interests of the man and the public demand guidance and assistance of him in any way after he leaves prison, so that most speedily and effectively he will get on his feet? Or by neglecting to help him will we continue to allow him to run the grave risk of becoming a further liability and menace?

The foregoing applies not only to penitentiary prisoners, but also in many ways to the cases of those sent to provincial prisons, reformatory or industrial farms like Oakalla in British Columbia, Bordeaux in Quebec, and Guelph or Burwash in Ontario, though the terms are generally shorter. These institutions are widely different. If Bordeaux and Guelph for example, are compared, it will be seen that one has double walls and the other has no walls at all. One has many bars, the other has few. One has cells and the other dormitories, though it has cells also. The primary object of Bordeaux is custodial safety, that of Guelph is reformation through productive work and the development of honour. The former trusts that fear of return will lead its inmates on discharge to keep the law in the future. The other endeavours through discipline, work and other agencies to arouse in the inmate the desire to become a good citizen upon discharge. These statements

need modification of course, but they give the essential idea. Possibly nowhere else in Canada is such progress in penology seen as the change from the old Central Prison in Toronto to the Ontario Reformatory at Guelph, the Tile Plant at Mimico, and the Industrial Farm of 35,000 acres at Burwash.

But while institutions can do much to hamper or prepare an offender in his advance to good citizenship, the greatest work in this respect can be done only if he is outside under supervision. This may be by probation, with no prison term, or the Minister of Justice may issue a Ticket of Leave or Dominion Parole. These give a prisoner the chance to get upon his feet and make a new start, and many have been reestablished through such means. The Parole would be much more effective and trusted if operated by an independent Board, but much good has already been done.

In Ontario two other systems are in operation through which prisoners may be guided into citizenship and its responsibilities and privileges while still undergoing sentence. There is the indeterminate sentence (Sec. 44, Cap. 148, R. S. C.) and there is the Board of Parole (Sec. 41A, Cap. 148, R. S. C.) which has power to administer this sentence. This Ontario Parole System has been in operation since 1916, and is now accepted as permanent by the whole public in Ontario, with the exception of the few hopelessly mistaken persons who in every community class all reformatory and humane methods as sentimental coddling. Many thousands of offenders have been permanently reestablished as citizens by this Board of Parole, which consists of citizens of high standing who serve without remuneration.

There is also the Extra-Mural Permit System of Ontario under which non-penitentiary prisoners, while their status is not in any way changed, may be placed outside "on permit" to work under supervision. This has saved innocent wives and families of many prisoners much suffering, and has guided offenders so that on their discharge they are already reestablished as citizens. In five years nearly 1,200 were so handled, with less than 5% custodial failure. This Permit System saved the province in that time \$100,000.00 in the cost of maintenance, and the men working outside on permit earned \$245,000.00, all of which went to the prisoners and their families. If any reader wishes further information about these systems and will address a letter to Dr. Lavell, 46 Richmond St., West, Toronto, the information will be given.

In the reestablishment of the offender as a citizen, there is one ever present obstacle,—the character of most of the material. Mahogany suites cannot be made from jack pine. There is also

the traditional attitude of the public toward the "jail bird", but this is changing. Sometimes, indeed, the public goes too far, and we are troubled with the foolish and well-intentioned sentimentalist. Neither sentimentality nor vindictiveness will solve the problem. Here are the facts. What is the common sense and scientific thing to do in the light of the facts? We have the criminal as he is. What are we going to do with him, so that Canada may be permanently protected by turning him from a liability and a menace into an asset, so far as he has it in him to be changed? Is not this well worth attempting?

A BROTHER OF ST. FRANCIS

MARY E. FLETCHER

Lord, when the hour comes and Thou shalt say,
"Yield now the tools with which my work was wrought;
By the young shepherds shall my lambs be sought
In the far wildernesses where they stray.
Close thou the book; another voice shall pray
In the cold hour of dawn." When I have brought,
And laid before Thy feet that which is naught,
Yet is my all of service; in that day.

Knowing my weariness, O Master, then,
Grant me to lie untroubled, still and deep,
Folded in silence broken by no breath
Of heavenly music, nor the griefs of men;
Yea, till I wake as children wake from sleep,
Let not Thy glory light that house of death.