

THE TREATMENT OF YOUNG OFFENDERS

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WITHIN the limits of a short paper it is possible to deal with no more than a single aspect of juvenile delinquency, if one makes an effort beyond mere generalities. I propose to say something about the punishment of young offenders after their conviction in the criminal courts. To justify and to explain what I say on this matter I shall assume therefore the truth of two statements: the first, that the amount of crime committed by young people to be very serious, and the second that the character of their offences is often very grave.

I am by no means one of those who takes the view that the young offender is almost always the victim of circumstance, for whom punishment in the old-fashioned sense of the word is either useless, unjust, or inappropriate. Nevertheless, the most modest experience of the juvenile courts teaches one immediate lesson. It is that delinquents vary so widely in intelligence, as also in material circumstances, that in any decision as to the selection of punishment a court must consider carefully every individual offender. This is a matter not of sentiment or of mercy but of the plainest expediency. If this rule is disregarded, real efficiency of a bench is impossible. It is quite impossible for a court either to do real justice or to get the best results if it measures out punishments by rule-of-thumb methods. Two defendants may have committed precisely similar wrongful acts, but it may well be wholly unjust and absurd to award them the same penalty. I labour this point advisedly because it is the basic principle upon which rests the wise administration of criminal law. Again I emphasise that to accept this principle does not mean in the least that one rejects all severe and painful punishment as necessarily wrong. It means only that an instructed judge regards all punishment as a form of treatment. For some offenders severe punishment may be justified by the gravity of their offence, and may be more likely than any other treatment to give successful results, or may alone be capable of protecting the community: in such cases it should be given. But when this is not so, and if equally good, or even better, results may well be obtained with only slight punishment, or

even without punishment at all, then it would appear to be foolish and wrong to insist that painful punishment must be inflicted for the only reason that a crime of sufficient gravity has been committed. So stated such a proposition may seem to be self-evident. It is, however, even today by no means universally agreed. There are those who still maintain that the law must be vindicated and that this can be done only if courts insist that every grave crime is itself not only a justification but an adequate and proper reason for a severe penalty.

Some such simple explanation of the right approach by a court to the determination of sentence is necessary if one is to make clear one's view of the actual punishments—which, as I say, I prefer to regard as treatments—available to a court whose duty it is to deal with young offenders in this country today. One hears from time to time complaints that the treatments at the disposal of such a court are inadequate. For special classes of delinquents, such as those of impaired mentality, I think the complaint is well founded. Moreover, as I shall have occasion to explain, there are certain types of small boy for whom no existing penalty is really satisfactory and sufficient. Broadly speaking, however, I think it is true that the serious criticism which can be levelled at the administration of criminal justice in the trial of young offenders is not that insufficient treatments exist but that courts are ignorant and unskilful in the use of those available.

For our present purposes we may divide delinquents into two ages, those of Approved School age (up to a maximum age of sixteen), and those of Borstal age (from sixteen to twenty-one). At any rate for those in the first of these divisions it is surely clear that the prime purpose which a court should have in mind in its approach should be to find the best means of help, the treatment most likely to effect a reshaping of a young life which has gone adrift. Let me illustrate this by a story told by Mr C. A. Joyce, the very wise and experienced headmaster of the Cotswold Approved School. It is his excellent custom to enlist the aid of local ladies who are charitable enough to come into the school in the evenings to make friends with small boys recently committed to the school, woefully ignorant as they are of almost everything with which in happy homes parental care surrounds little boys. One such lady had for an hour or more talked with a new boy of thirteen, and listened to him as he described his life,

his habits, and friends. She was quite appalled. In the end she could bear it no more. 'But this is awful, Jimmy,' she said. 'Don't you know what good, decent behaviour is?' 'No, Miss', he replied quite simply and sincerely, 'what good is it?' It is through no fault of theirs that such pathetic children are what they are. There can surely be no one who wishes merely to punish them for whatever wrong thing they have done. There can surely be no one who does *not* wish to give them a decent chance in life.

For what are technically called 'children and young persons', then, the juvenile courts have armoury enough, save that there is a dearth of suitable institutions and schools for boys and girls who are mentally incapable of benefit from the régime of an ordinary approved school. For them there is a very great scarcity of accommodation, and the problem they present is a serious one. It is true, too, that some part of this armoury exists at present only on paper. Thus, certain new types of remand centres and detention centres provided by the Criminal Justice Act of 1948 have not yet been built and there is little hope that they can be built until this or some succeeding government makes a better showing in its building programme than the lamentable chaos since 1945. It is not reasonable to expect labour and material to be diverted for the provision of prisons, Borstals, and approved schools so long as millions of decent citizens clamour in vain for the promised homes for which they have already waited for years. Apart, however, from these special classes of mentally retarded young offenders and these new institutions provided by the 1948 Act, the general position is that the juvenile courts have remand homes and a probation system which enable them to make adequate enquiries into the individual needs of convicted young people, and to place them under lengthy supervision in proper cases. There is no punitive element in such control or 'treatment' by the courts as this: it is wholly reformatory. In different types of cases, where something more than a mere verbal warning from the bench is necessary, but no long supervision is required, a useful check can be administered to the older boys who are already earning wages by the imposition of a fine. Finally, in this brief and incomplete synopsis of sanctions most commonly used, there are approved schools and, for boys who have reached the age of sixteen, there are Borstal institutions.

I myself make no pretence to be an expert on juvenile courts. For what it is worth, therefore, my own strong opinion is that sufficient alternative treatments are at the disposal of juvenile court justices, and the real trouble is that so large a proportion of justices use these punishments with the utmost stupidity. I have been led to this view not, as I frankly admit, by any particularly wide experience as a member of a juvenile court panel, but from a detailed and fairly extensive examination of the subsequent criminal records of prisoners who in their early years have been sentenced by justices of almost unbelievable ineptitude. I remember the remark made to me by the headmaster of a very large approved school a few months before his retirement. I asked him what circumstance, if any, stood out as the most remarkable in connection with the work which he was leaving after so many years. He replied at once that he was in no doubt at all. It was that he was quite sure that his work would have been of far greater value if the boys committed by justices to his school had been chosen with greater skill and knowledge. 'Speaking figuratively', he said, 'half my boys ought never to have been sent to me at all, and the other half ought to have been sent far earlier'!

Again and again one finds different evidence that confirms this opinion of the ignorance and lack of skill of justices in the choice of treatment. Thus, probation ordered time after time upon the same offender so that the only effect was to induce in his mind a contemptuous belief that he could commit crimes with virtual impunity. Or the imposition of useless and unconstructive fines when what a boy *needed* was the wise control and guidance of a probation officer. I have been told by more than one Chief Constable that his police almost refused to interest themselves in the detection of young offenders, so surely had they come to expect foolish action by the justices when they were convicted.

It remains to say something of the older lads of Borstal age. These, of course, are sentenced by superior courts for their major offences. In their case, too, grievous mistakes in their treatment are made. Lest it may be thought that I exaggerate the evils and extent of this judicial ignorance, I refer anyone who may doubt the accuracy of my criticism to each official annual *Report of the Commissioners of Prisons* published of recent years. In each *Report* the Commissioners record their distress at the number of young offenders committed to the contamination of an adult prison

rather than given a Borstal training, as also to the large numbers of adolescents committed to prison for very short terms of a few months, and indeed sometimes of a few weeks. Such sentences familiarise young men with prison and destroy its deterrent influence, while being too short to allow any useful training to be done. Once again, for my own part, the lesson to be learnt is not to demand new types of punishment but to take trouble to understand and to use wisely those which already exist.

One melancholy fact is undeniable. The worst young prisoners of today of the twenty-five to thirty years of age group are a very terrible problem. I have been told by prison officers who have worked with offenders all their adult lives that they are meeting today in prison men in their late twenties and early thirties apparently more wicked than any whom they have ever known. Not long ago I heard a curious confirmation by older prisoners of this judgment. The manner of it was odd enough to provoke a smile but the substance was tragedy. I was talking to the Catholic priest of Dartmoor prison about these saddening young men, and he told me that he had recently asked an elderly inmate of Dartmoor with many convictions what he thought of these problem cases. 'Well Father', he replied, 'they're real bad. In fact', he said, 'I'm worried about it. The other night, Father, some of us older ones were talking about it and we were all agreed that just now *we're getting a very bad class of man into prison.*'

The relevance of all this to the subject matter of this article is that it is so frequently the mistakes made by the criminal courts in their formative years which produce these insoluble problems a few years later. But I must not be taken to suggest that unskilful treatment by courts of justices is the main cause of further crime. It is *one* cause, and since I have been writing of punishment I have made clear that side of the matter. But the biggest causes are deeper and still more powerful. To-day clever psychologists are confident that they can tell us not only what causes crime but how to cure it. Perhaps in some small proportion of cases they are right. But I am an old fashioned man. I do not think this great stream of wrong doing will be halted by any tricks or slogans. To stem it we shall need the barrier of principles. Is it too late to suggest that our legislators might consider if there is not something to be said for Christianity and the Ten Commandments?