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TREATMENT
OF
CRIME

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TREATMENT OF CRIME

IT is the duty of the courts so to deal with persons found guilty of offences against the laws that they will be less likely to offend again, and that others will be less likely to commit similar offences. Sometimes both these considerations point to the same method of treatment. A severe sentence may be imposed both for the purpose of checking the criminal propensities of the offender and for the purpose of reducing the risk of similar offences being committed by others. Sometimes the method of treatment will vary according to the weight given by the court to one of these considerations rather than to the other. A lenient method may be adopted because severity is unnecessary for the purpose of preventing future offences by the individual before the court, or an exemplary punishment may be imposed because the court thinks it necessary to give a warning to others.

As regards offenders under the age of 17 the Children and Young Persons Act of 1933 provides that every court 'shall have regard to the welfare of the child or young person'; but as regards older offenders, especially those found guilty of serious crimes, the dominant consideration may be not what is the best method of turning this particular offender into a law-abiding citizen, but what sentence is necessary for the purpose of checking the commission of similar crimes by others.

The administration by the courts of the penal law is only one amongst a number of causes which contribute to the checking of crime and to the maintenance of a law-abiding spirit in the community; and however well the penal law is administered by the courts, the effect of their decisions may be small if few offenders are brought to justice and the risk of disobedience is slight, or if there is widespread failure to recognize that compliance with the laws of the community is a moral duty.

Of the various forces which contribute to the creation and maintenance of habits of obedience to the law, several are stronger and more important than the force exercised by the penal system. Positive inducements to obedience, including religious influences, moral training, and general education in the duties of citizenship, are more potent forces than negative checks on disobedience. Nevertheless, these negative checks are indispensable to the maintenance of law and order. Penal methods are not of themselves sufficient to secure obedience to the laws, but the absence of such methods would make the laws ineffective.

Deterrent Punishment

The normal method of checking offences is to subject offenders to some treatment which they will fear and dislike. Unless conviction of an offence against the law is liable to be followed by some disagreeable consequences to the offender, the courts cannot carry out their duty of discouraging the repetition of offences. But the question What should these disagreeable consequences be? raises moral and practical problems of extreme difficulty. Punishments which are markedly deterrent are liable to create or stimulate a sense of resentment in the offender, so that he becomes not less inclined, but more inclined, to anti-social conduct than he was before. Moreover, they are liable to injure him mentally, morally, or physically, and make him less capable than he was before of rendering useful service to the community.

The more deterrent the punishment, the greater is the risk of impairing the offender's usefulness to society. If the treatment takes the medieval form of cutting off the offender's hand, the impairment is obvious. If it takes the more modern form of a long term of imprisonment under rigorously repressive conditions, the impairment, though less obvious, may be no less real.

The history of penal methods has been largely a history of the failure to find any escape from the dilemma that

methods of treatment adopted for purposes of deterrence are liable to harm the person punished and, therefore, liable to harm society when he returns to the community after his punishment. Punishments which worsen the character of the person punished are open to attack not only by the moralist, who realizes the sinfulness of injuring a human soul, but also by the practical man, who realizes that, if the criminal becomes worse as the result of his punishment, the chances of his committing fresh crime or causing in some way harm and expense to society are increased rather than diminished.

Social Reforms

So troublesome is this dilemma that in modern discussions of penal methods there is often a tendency to divert attention to other methods of checking crime. It is argued that crime is frequently a symptom of ill-health in the body politic, and that it is more important to deal with the cause than with the symptoms of the disease. It is said that if social conditions were improved, many crimes would disappear because there would be no temptation and no occasion for them; that if the more obvious injustices of our social system were removed or lessened, it would be easier to foster in all sections of the community a proper sense of the obligations of the individual to society; that crime is largely the result of circumstances, environment, and upbringing, and that more can be done to reduce the volume of crime by improving the circumstances, environment, and upbringing of potential offenders than by any penal methods.

For the argument that the treatment of offenders should begin long before they commit offences there is much justification. Crime, in this country at any rate, is an unimportant problem compared with other social problems. The sum of the harm resulting from crime is insignificant compared with the harm resulting from such social evils as poverty and unemployment, and if a solution were found

for the major social problems, the question of how to treat offenders might take a different, and perhaps a less difficult, character. Whether the difficulties would disappear is doubtful. Social reforms involve new laws, and such new laws need sanctions. Offences against the laws intended to introduce a new social order might raise problems similar to those raised by offences against the Larceny Act.

In any case, social reform is a long and slow process. Legislators, magistrates, and administrators who are responsible for the working of the penal system cannot wait for a new social order. They have to decide here and now how to deal with offenders under existing conditions.

If the question is to be treated as one of an immediate and practical character, the first step is to consider what offences are commonly committed in this country and how they are dealt with at present.

Statistics of Offences

The Criminal Statistics show that of recent years the total number of persons found guilty each year of offences of all kinds in England and Wales is over three-quarters of a million, but over half of these offenders are guilty of traffic offences, mostly offences connected with motor-cars. Offences against the Highway Code are eight times more numerous than offences against the seventh commandment. Amongst the remaining offenders there are over 50,000 found guilty of drunkenness; about 40,000 of offences against by-laws and police regulations; about 30,000 of failing to take out licences for dogs or cars; about 26,000 of keeping their shops open on Sunday; 20,000 of betting and gaming; and there is a great number of offences against all kinds of Acts passed for the preservation of industrial order, social health, and social amenities, including such Acts as the Public Health Acts, the Factory Acts, the Weights and Measures Acts, and so on.

In all 91 per cent. of the offenders are found guilty of 'non-indictable' offences, i.e. offences for which there is

no right of trial by jury. The remaining 9 per cent. are some 70,000 persons—children, adolescents, and adults—who are found guilty of indictable offences. A small proportion of these 70,000 persons are guilty of serious violence against the person, or of sexual offences, and the remainder are mostly guilty of thefts, frauds, and false pretences. Amongst these cases are some serious robberies and frauds, many offences by habitual criminals, and many minor thefts, such as the stealing of bicycles or bicycle-lamps, abstracting coins from gas-meters, thefts of small articles from shops or stalls.

Of these 70,000 offenders, 25,000 are boys and girls under 17, 9,000 are adolescents between 17 and 21, and 36,000 are adults. Of these 70,000 persons found guilty of indictable offences, about 7,000 are dealt with at Assizes and Quarter Sessions and the remainder are dealt with by the magistrates.

In the course of a year the magistrates deal with 700,000 persons found guilty of non-indictable offences, with 25,000 boys and girls under 17 found guilty of indictable offences, and with over 37,000 of the adults and adolescents found guilty of indictable offences. If the whole mass of offences—indictable and non-indictable—is considered together, the higher courts deal with less than 1 per cent. of the cases and the magistrates with over 99 per cent. Of the persons over 17 found guilty of indictable offences, the higher courts deal with 15 per cent. and the magistrates with 85 per cent.

The Magistrates

These figures make two things clear—first that the crimes which are sufficiently serious to call for trial in the higher courts constitute a very small proportion of the total, and, secondly, that the persons who have the main share in deciding how offenders are to be treated are the lay magistrates.

Outside London there are only 18 districts in England and Wales where the lay magistrates are assisted by

stipendiaries. There are about 1,000 Courts of Summary Jurisdiction in England and Wales where justice is administered by unpaid Justices of the Peace. The methods adopted by the Judges, Recorders, and Chairmen in the higher courts influence the practices of the magistrates, because the justices have a proper respect for the superior courts and because their decisions are liable to review by the higher courts in the rare cases where there is an appeal; but the main burden of responsibility for the treatment of crime rests on the Justices of the Peace.

The Methods of the Courts

By what methods do the courts at the present time deal with these numerous offenders?

Of the 700,000 offenders found guilty of non-indictable offences, the great majority are dealt with by fines, and most of the remainder by a warning, or a warning accompanied by an order binding the offender over to be of good behaviour. Only in a small fraction of these cases is there a sentence of imprisonment. The threat of imprisonment is in the background, but this penalty is only used occasionally for the purpose of dealing with some persistent transgressor, or for the purpose of enforcing the payment of fines.

Of the 70,000 offenders who are found guilty of thefts and other indictable offences, 25,000 are boys and girls under the age of 17. About half of these boys and girls are put under the supervision of a Probation Officer. About 10 per cent. are sent to schools approved by the Home Office, and the remainder are mostly dealt with by warnings. Of the 45,000 offenders who are over the age of 17, less than one-third are sentenced to imprisonment. The remaining two-thirds are dealt with by fines, by probation, or are dismissed with a warning.

During the last twenty-five years there has been a continuous tendency for the courts to make less use of imprisonment and more use of other methods, particularly

the method of probation. Twenty-five years ago nearly half of the adult and adolescent offenders dealt with by the Courts of Summary Jurisdiction were sentenced to imprisonment: now the proportion is about a quarter.

Binding-over or Dismissal after a Finding of Guilt

For a substantial proportion of the offenders the courts find it unnecessary to adopt any method of treatment, or any method other than the exaction of an undertaking to be of good behaviour. Many of the people found guilty of crimes are not addicted to crimes. The actions which bring them before the courts are exceptional incidents in their lives. To call them 'criminals' is like calling a man who only goes to church to be married a 'churchgoer'. For such offenders exposure to the shame of a trial and conviction is in itself a severe penalty and warning, and it is frequently sufficient to discharge them with or without an undertaking to be of good behaviour.

Fines

The extensive use made by the courts of fines must be noted. The fine is used not only as a method of dealing with most of the 700,000 persons guilty of non-indictable offences, but also as a method of dealing with a large proportion of the adults found guilty of indictable offences. Of the offenders aged 17 and upwards dealt with by the Summary Courts for indictable offences nearly a third are fined.

Provided that the fine is adjusted to the means of the defendant and time is given to poor people to pay by instalments, this method of dealing with minor offences has obvious advantages.

It is true that the effects of a fine on different individuals may be markedly inequitable. To the well-to-do a fine means little more than the trouble of writing a cheque. To a poor man it may mean that he and his family go short of the necessities of life.

An attempt has been made to mitigate these inequalities by a provision in the Criminal Justice Administration Act,

1914, that a Court of Summary Jurisdiction in fixing the amount of any fine 'shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the court'; and a circular letter issued by the Home Office in November 1935 to justices called attention to the importance of a wise use of this provision.

'For a man who is keeping a family on a labourer's wage', said the circular, 'a comparatively small fine may entail for the offender and his dependants far severer deprivations than much bigger fines entail for persons with larger incomes. For the more serious offences or for repeated offences, it is right that the penalty should be substantial, but a fine which is comparatively small in amount may nevertheless be a substantial penalty when regard is had to the circumstances of the defendant.'

Imprisonment in default of Fines

The common method of enforcing a fine is to commit the defaulter to prison, and the history of the use of imprisonment as a method of enforcing fines is an illustration of the unfortunate time-lag in the adoption by the courts of new methods. As long ago as 1879 the Summary Jurisdiction Act of that year gave the courts power to allow time for the payment of fines and to direct that fines might be paid by instalments, but little use was made of these powers until 1914.

In 1914, when Mr. Churchill was Home Secretary, he secured a mandatory provision in the Criminal Justice Administration Act of that year requiring Courts of Summary Jurisdiction, when fines were imposed on poor defendants, to grant them time to pay, unless there are good reasons to the contrary. The result was an immediate and very large reduction of imprisonments.

There were, however, still many cases in which the courts imposed fines in the full anticipation that the offender would escape imprisonment, but, nevertheless, imprisonment automatically resulted because the offender failed to

pay within the prescribed period. Further legislation was introduced by Sir John Simon in 1935,¹ providing that as a general rule the magistrates before issuing against a defaulter a warrant of commitment to prison should have the defaulter before them and make inquiry as to his means. The figures for 1936 show that as a result of the new Act imprisonments for failure to pay fines imposed for offences other than drunkenness have decreased by 43 per cent., and even as regards persons fined for drunkenness the imprisonments in default have fallen by 23 per cent.

There were 667,000 fines imposed in 1936, and the imprisonments in default were about 7,000 or just over 1 per cent.

Probation

Since 1908 the courts have had power to suspend sentence on offenders and place them under the supervision of a Probation Officer, whose duty it is to guide, assist, and befriend them. This method of treatment must not be confused with a mere dismissal or 'letting off'. By placing the offender under the supervision of a Probation Officer the courts subject him to a form of tutelage. The order involves some restriction on his liberty, though the restriction is exercised in a friendly spirit. Conditions can also be attached to the Probation Order which limit in various ways the activities of the offender. In particular, use can be made of such conditions for the purpose of placing the offender temporarily in some suitable home or hostel.

The Probation Officer is given a measure of control over the offender with the intention that such control shall be exercised in a constructive effort to bring about rehabilitation and reformation.

Probation is not limited, as is sometimes thought, to young offenders, or even to first offenders. It can be used in any case where the court, having regard to all the circumstances of the offence and of the offender, thinks such treatment suitable.

¹ The Money Payments (Justices' Procedure) Act, 1935.

In many districts wide, wise, and highly beneficial use is made of the services of skilled Probation Officers, who not only by their personal influence and personal activities do much to help and correct the offender, but also utilize for this purpose the many agencies which exist for guiding and helping different classes and types of people.

In some districts, however, the courts are still far from realizing the full meaning and possibilities of the Probation Service. The Probation Officers are sometimes overburdened with work; sometimes they are part-time officers with little training or knowledge; sometimes the justices think that they have done all that is required if they pay a small fee to some local resident so that he may be available to supervise any odd case which may be placed under his care.

The Probation Service was reviewed by a recent Departmental Committee on the Social Services of the Courts of Summary Jurisdiction, and their report¹ sets out fully both the possibilities of Probation and the defects in the present administration of the system.

There are wide variations in the proportion of offenders who are placed in different districts under the supervision of Probation Officers. In several districts the proportion is as high as 30 per cent. or higher; in other places it is as low as 6 or 7 per cent.

If the best use is to be made of the Probation system in this country, much has still to be done. Probation can only be fully effective if the justices have a sympathetic understanding of the purpose and principles of the system, if they take time and trouble to investigate the character and circumstances of offenders with a view to deciding what cases are suitable for Probation, and if all courts are provided with an adequate staff of Probation Officers. The work of a Probation Officer is highly skilled work, for which men and women should be carefully selected, properly trained, and adequately remunerated. Given a sufficient staff of such officers—who are not overburdened with

¹ Cmd. 5122, 1936.

cases and have time to give to each of their probationers the individual attention required—there is no doubt that a much wider and more successful use could be made of this system.

Of all the methods hitherto devised for dealing with offenders the Probation system—if wisely used—is the most hopeful. In the development of this system lies the most promising line of future progress.

Imprisonment

But whatever may be the future extension and development of the Probation system, it cannot cover the whole ground. There are offenders whose criminal tendencies cannot be checked by this method of treatment and there are crimes which the community regards with such alarm or indignation that the courts cannot take the risk of leaving the offenders at large. Moreover, all the methods of treatment hitherto mentioned—binding over, fining, probation—are dependent on the existence of some severer penalty available for use if the offender fails to comply with his undertaking to be of good behaviour, fails to pay his fine, or refuses to accept the guidance of the Probation Officer.

For adult offenders this severe punishment is imprisonment. The essential features of imprisonment are segregation and close restriction of personal liberty. When a man steps down from the dock under a sentence of imprisonment, the threads of his social life are snapped. He is cut off from his family, friends, and all those who have been associated with him both in his work and in his leisure. During his sentence he lives within the narrow bounds of an institution an existence which is controlled in almost all its details by the authorities in charge of the institution. He loses liberty of movement, liberty in choice of work, liberty in choice of society and recreation. He has no personal belongings and is clothed and fed as others direct.

The degree to which these restrictions and deprivations may be made irksome or painful will depend on a number of details in the prison régime; but however humane the régime may be, the segregation from society and the loss of personal liberty constitute in themselves a serious punishment—if extended over a long period, a severe punishment. For the normal man confinement in a cage is a painful experience, even if the cage is not made designedly uncomfortable.

The English prison system, however, was founded on the tradition that mere incarceration was not a sufficient punishment for offenders. Imprisonment was regarded for centuries not as a method of punishment, but as a method of detaining the offender in custody to await trial and the decision of the judge as to his punishment. The judges came round on Assize to empty the prisons by ordering that the prisoners should be condemned to death, or transported, or set at liberty. To this day an Assize is called 'an Assize of jail delivery', because the original function of the Assize was not to sentence offenders to imprisonment, but to deliver from prison those who had been awaiting trial.

Hard Labour

When transportation became no longer practicable and the use of the death sentence was restricted, the alternative method of punishment adopted was that the offender should be kept 'to labour of the hardest and most servile kind in which drudgery is chiefly required' (Hard Labour Act of 1779). The mere deprivation of liberty was not in itself regarded as a punishment; the punishment was 'hard labour'; and in the next fifty years much ingenuity was expended in devising forms of hard labour. After the invention of the treadmill this was regarded as the ideal method, but there were other approved methods. One was the crank. Whether the crank drove an engine and effected any useful purpose was immaterial; the important point was that the prisoner should turn a handle round so

many times a day. Another was shot drill—that was a system by which prisoners walked round and round a yard lifting heavy shots off one pile and depositing them on another pile.

All these forms of 'hard labour' were abolished before the end of the nineteenth century. The Gladstone Committee on Prisons in 1895 recognized the objections to useless forms of exertion adopted merely to occupy and fatigue the prisoners. They laid down the principle that prisoners should be employed so far as possible on productive work.

It is, however, important to recall these nineteenth-century practices because the conception of 'hard labour' as a proper method of punishment has not yet entirely disappeared from the mind of the public, and because the 'hard labour' doctrine provides a striking illustration of the demoralizing results which may follow from punishment. If an offender is set to do a task which is chosen for him not because it is necessary or useful, but because it is hard, tedious, and distasteful, the inevitable consequence is that as little as possible will be done, and effort, interest, and application will be discouraged. This fundamental objection to the hard-labour system was pointed out by Jeremy Bentham when the method was originally introduced. He denounced the policy 'of thus giving a bad name to industry, the parent of wealth, and setting it up as a scarecrow to frighten criminals with'. He said that in a prison where prisoners were sawing wood he had found the jailer blunting the saw in order to 'plague' the prisoners, and he pointed out that the jailer was only giving logical effect to the Hard Labour Act.

It took about a hundred years for the truth of Jeremy Bentham's criticism to be recognized, but to-day all prison administrators agree that one of the most poisonous elements in a prison system is a suspicion on the part of the prisoner that a task has been invented or chosen with a view not to its useful result, but for the purpose of 'plaguing' or merely occupying the prisoner.

The doctrine endorsed by the recent Departmental Committee on the Employment of Prisoners¹ is as follows:—

‘The spirit in which work is regarded both by the prison officer and the prisoner is more important than the nature of the work. However laborious or disagreeable a task may be, if the worker feels that he has been set to do it because its accomplishment serves a useful purpose, and performs it in a spirit of stoicism or service, he will profit from the experience. On the other hand, if the prisoner feels that the task is of an artificial character invented by the Prison Authorities either for the purpose of punishing him or merely for the purpose of keeping him occupied, he will perform it in a resentful or in a listless spirit, and the effect both on his character and on his usefulness as an industrial worker will be bad.’

Whatever methods may be chosen for the purpose of introducing punitive elements into prison life, work ought not to be selected as an instrument of punishment. The object of prison employment should not be to ‘plague’ the prisoner, but to develop the sense of pride and satisfaction which comes when endeavour, application, and endurance are crowned by achievement.

Separate Confinement

When hard labour was first devised as a method of treatment for offenders it was hoped that ‘solitary Imprisonment, accompanied by well-regulated Labour, and religious Instruction might be the Means, under Providence, not only of deterring others from the Commission of the like Crimes, but also of reforming the Individuals, and inuring them to Habits of Industry’ (19 Geo. III, Chapter 74). Later, when emphasis was laid on the reformatory side of prison treatment, largely under the influence of Elizabeth Fry, it was found difficult to reconcile the ideas of solitude

¹ Cmd. 4462, 1933.

and ‘hard labour’ with reform. Elizabeth Fry thought that prisons should be ‘busy hives of cheerful industry’. Her desire that prison employment should have a salutary moral effect coincided with the desire of the local authorities that prison industry should be profitable. For a time many local prisons were run like factories. The governor got a bonus on the turnover and various inducements were given to prisoners to increase their output. There was subsequently a reaction against this system on the ground that it was insufficiently punitive, and that the association of prisoners at their work led to contamination.

Prison reformers in the first half of the nineteenth century favoured the cellular system not only because the isolation of each prisoner in a separate cell provided a deterrent method of punishment, but for other reasons. First, it was thought to solve completely the problem of classification. The difficulty of all schemes of classification is that no two prisoners are exactly alike. It therefore seemed strictly logical to treat each prisoner as a separate class and shut him up in a separate compartment. Secondly, cellular confinement gave each prisoner ample opportunities for meditation, and it was believed that as a result he would think about his sins and come to a mood of penitence.

The solitary system was never carried in England to the extreme lengths to which it was carried in some other countries. It was applied only to short sentences and to the early months of long sentences. After a term of separate confinement prisoners were employed in workshops in association with others. The term of separate confinement was reduced from time to time as humanitarian ideas prevailed, until in 1919 it was limited to a fortnight, and in 1931 it was abolished entirely.

The objection to the system of cellular confinement is not merely that such confinement, if rigorous and prolonged, is injurious to mental and physical health, but that the system is incompatible with reformatory treatment. The tendency of the ordinary prisoner is not to meditate on his sins, but to brood on his wrongs. Egoism,

self-pity, lack of consideration for others are his common failings, and to cut such a man off from association with others is a sure method of strengthening his anti-social tendencies.

Reformatory Treatment of Prisoners

Throughout the nineteenth century the prevalent view was that prison treatment must in the first place be deterrent, but that reformatory influences might be introduced, provided they did not modify the deterrent character of the treatment. The hopelessness, however, of reconciling any idea of reformatory treatment with the old conception of imprisonment as a rigorously repressive treatment was well expressed by the Home Office witness¹ before the Gladstone Committee of 1895:

'I regard', he said, 'as unfavourable to reformation the status of a prisoner throughout his whole career; the crushing of self-respect; the starving all moral instinct he may possess; the absence of all opportunity to do or receive a kindness; the continual association with none but criminals, and that only as a separate item amongst other items also separate; the forced labour and the denial of all liberty. I believe the true mode of reforming a man or restoring him to society is exactly in the opposite direction of all these. But, of course, this is a mere idea. It is quite impracticable in a prison. In fact the unfavourable features I have mentioned are inseparable from a prison life.'

How far is it true that these unfavourable features are inseparable from prison life?

The Gladstone Committee held that imprisonment ought to be both deterrent and reformatory, and since 1895 the history of the English prisons has been a history of continuous effort to evolve a system of treatment which shall not worsen, but so far as possible shall improve, the character of the prisoner.

¹ Sir Godfrey Lushington, who was Permanent Under-Secretary of State from 1885 to 1895.

The degree of success achieved is limited. It is most marked in certain special prisons to which are sent selected prisoners who seem likely to respond to reformatory treatment.

'In these prisons a better pace can be set in the working parties and a better standard of work maintained, more prisoners can be allowed to work without continuous supervision, more association can be permitted at meals and for recreation, educational schemes can be more fully developed, voluntary helpers can be used more freely, and more use can be made of methods of discipline which invite the co-operation of the prisoners and create in the prison community a feeling that the privileges of all depend on the good behaviour of each.'¹

The policy of setting aside special prisons for special types of prisoners can only be applied to a portion of the prison population. The ordinary 'local prison' receives all prisoners committed by the courts in the district which the prison serves, including those on remand or awaiting trial, those committed for failure to pay fines or sums due under Affiliation or Maintenance Orders or County Court Orders, and those convicted of offences and sentenced for periods varying from a week to two years.

In most prisons there is a mixed population containing persons of varying ages, of varying degrees of criminality, and serving sentences of varying length. More than half the people sentenced to imprisonment have sentences of less than three months. In these prisons the prison authorities have done much to remove or mitigate those features of the old system which are most calculated to destroy self-respect, to starve the social instincts, and to create resentment and bitterness. But in prisons where there is a mixed and floating population 'there must be a régime of restriction and prohibitions chosen to keep under proper control a population which includes many constantly changing elements, many unknown characters and

¹ Report of the Committee on Persistent Offenders. Cmd. 4090, 1932

some specially bad characters. In the administration of such an establishment the Prison Authorities are always faced with the dilemma that precautions which are needed to prevent opportunities for harm are liable to curtail opportunities for good.'

The various steps taken to mitigate the bad effects on character which imprisonment is liable to cause are set out in the Reports of the Prison Commissioners. The cumulative result of these changes is substantial. Imprisonment is far less harmful than it was and there are in prisons certain positive influences for good. Prominent among these influences is the work of those public-spirited men and women who by coming into the prisons as voluntary visitors and voluntary teachers show the prisoners that, though they have been thrust out of the community, the community has not forgotten them and is still willing to befriend and help them.

It is no longer true that there is an absence of all opportunity for a prisoner to receive a kindness, but it is still true that he has little opportunity to do a kindness. It is still true that prison cells and prison workshops provide very poor soil for the growth of social virtues. 'The obvious evils of imprisonment', said the Committee on Persistent Offenders, 'are that it dulls the mind, deadens the sense of responsibility and power of initiative and starves the social instincts. If these evils are to be diminished, it is necessary to create conditions in which the prisoner has some liberty of action and some kind of communal life.'

Communal Training for Adolescent Offenders

Before considering what progress can be made along these lines, attention should be given to the communal methods of training provided for adolescent offenders. Each year a large number of persons aged 17 to 21 are sentenced to imprisonment, but it is widely recognized that this method of treatment for adolescent offenders is most undesirable and ought so far as practicable to be avoided.

Many young offenders can be dealt with by the use of probation. In some cases where it is desirable to remove the offender from bad associations he is required as a condition of his probation to live in one of those valuable hostels whose inmates go out to work during the day, but during their leisure hours are subject to friendly supervision and guidance.

When the character of the young offender is such that he must be deprived of his liberty, it is open to a Court of Assize and Quarter Sessions to send him to a Borstal Institution 'for such instruction and discipline as appears most conducive to his reformation and the repression of crime' (Prevention of Crime Act, 1908). The order of court sending the young offender to such an institution has a deterrent effect because it deprives the offender of his liberty for a substantial period. Indeed, a Borstal sentence which involves detention for a long period—most of the inmates are released on licence after about two years—is more deterrent than a sentence of a few months' imprisonment: but the régime of a Borstal Institution is not designedly punitive. The object of the régime is to provide education, industrial training, and character training. Life in a Borstal Institution is a communal life. The necessary classification for the avoidance of contamination is effected by assigning youths of different types to different institutions. Within each institution the inmates mingle as freely as in an ordinary school. The work they are given to do is often hard, but it is not chosen because it is hard. It is chosen because it is educative and suited to the capacity of the workers and, so far as possible, it is made interesting and attractive. As the inmate progresses through his training course he earns various privileges, and in proportion as he shows himself trustworthy he is given increasing responsibility and liberty. The purpose of the discipline is to develop self-discipline.

The Borstal system is open to various criticisms, and those who know it best and value it most highly are fully conscious of the need for improvement in many directions.

But whatever defects there may be in the working of the Borstal system, the system has the merit of enabling the courts to pass a sentence which, though it is deterrent, is nevertheless calculated to have a reformatory rather than a deformatory effect on the character of the individual sentenced.

Every one who knows both the prison system and the Borstal system must feel that the Borstal system is a far more hopeful method of dealing with offenders. Its general effect on character is good; and this good effect is achieved because the methods of treatment are not designed to make the offender suffer for his transgressions. They are remedial methods designed to make him a better citizen.

Persistent Offenders

Is it practicable to extend to older offenders a system of treatment based on similar principles? The Committee on Persistent Offenders thought that for such offenders systems of detention based on these principles would be practicable. Their view was that for such offenders the Courts of Assize and Quarter Sessions should be empowered to pass sentences of which the length would be determined not by the character of the particular offence of which the accused has been convicted, but by his need for training or his need for care and control and the need of providing protection for the public: and that in establishments set apart for persons serving such sentences communal conditions could be developed such as are impracticable in prisons where there is a mixed and floating population.

Sentences of detention in establishments of this kind could only be made available for those whom the courts are prepared to subject to training or custody for substantial periods. Under the Committee's scheme the courts would be able to order for a persistent offender a term of detention which might be much longer than the term of imprisonment to which he would be liable under the

existing law. As under the existing law a youth who is of criminal habits or tendencies may be sentenced to three years' Borstal training for an offence which would warrant a few months' imprisonment, so the Committee proposed that for an offence which under the existing law might entail a sentence of, say, nine or twelve months' imprisonment, a persistent offender should be rendered liable, because of his record of previous offences, to detention for several years.

The recommendation of the Committee, however, is that the conditions under which such sentences are to be served should be designed for remedial and not for deterrent purposes. The element of deterrence would lie in the length of the sentences; and the régime of the detention establishments should be directed to the training and rehabilitation of the offenders. Such a system would, the Committee suggest, provide for society improved protection against those offenders who at present constantly prey on the public between their terms of imprisonment, and would at the same time provide a more hopeful method of treatment for those who are susceptible to reformatory influences, and are capable of profiting from systems of training directed towards changing the habits and outlook of the offender.

The scheme would also have the advantage that if the local prisons were relieved of the numerous persistent offenders who at present return again and again on sentences of eighteen months or a year or less, it would be possible to make further progress in improving prison conditions and modifying many of those restrictions which are at present needed to prevent opportunities for harm, and are liable to curtail opportunities for good.

This brief review of a large subject omits many points of importance,¹ but one of its objects is to show that the

¹ There has been no space for comment on the treatment of offenders under 17 years of age. For information on this subject see the Fifth Report on the Work of the Children's Branch of the Home Office, published in January 1938.

treatment of offenders is a subject calling for study and research. Very little is being done to guide public opinion. More thought ought to be given to theories and principles, and more information ought to be compiled about practices and results. Is it not desirable that the University of Oxford should take some steps to promote study and research? Many of the Justices are anxious for help and guidance. There is a widespread desire amongst the public for improvement in our methods. If Oxford would give help towards the study of these problems, that help would be appreciated by large numbers of people and would facilitate progress. Progress in this field, as in many others, is hindered not by lack of goodwill but by lack of knowledge.