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OBSERVATIONS ON THE CRIME PROBLEM*

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The old practice of an eye for an eye and a tooth for a tooth as a legal method for handling crime was discarded for all practical purposes some centuries ago, and yet the basic native desire to exact it is still prevalent in the human breast. The one who is injured clamors for quick retribution to the full extent of the law. Many are impatient with the law's delays. Mob violence is easily aroused if the crime is particularly vicious. Others are against probation, for that does not satisfy their desire that the prisoner be punished. Society, generally, places the criminal in a very low and separate class and keeps him there. He is an "ex-con," and we shudder a little when we come close to him.

We are inclined to feel that the criminal had a free choice, that he committed the crime deliberately in the full possession of his mental faculties, and that he has no one to blame but himself. He knew it was wrong when he did it, and he deserves the punishment which the law provides. This attitude is often based on the presumption that the criminal's impulses, emotional makeup, and ability to make a free choice are similar to our own. These are some of the premises which should be examined.

Dr. Walter Bromberg, nationally known psychiatrist and author, says in his recent book *Crime and the Mind*:

The psychiatrist, observing how antisocial psychological drives affect the individual, cannot wholly endorse the doctrine of free will in human behavior. It is equally difficult for the sociologist to form this concept when he notes man's struggle in a frequently overwhelming environment. . . . Many persons concerned with the functioning of criminal law have perceived the force of unconscious determinants in individual criminal behavior, but the majority still believe that an individual has complete power to decide between good and evil conduct.

There is a growing tendency among all students of crime to consider the criminal as a sick individual. This situation led Wayland F. Vaughan, Professor at Boston University, to say in his recent text on social psychology:

What does the student of criminology learn that causes him to become more lenient in his attitude toward the criminal? He learns that crime results from the impact of certain environmental influences upon the personality of the malefactor, that unwholesome habits are acquired under unfortunate conditions of life, that the criminal is a sick person in the same sense that an individual is said to be ill when he is suffering from a mental disorder. The criminologist does not see the criminal as one who has exercised his free will to choose the path of law violation just for the sake of being anti-

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social. Rather he interprets the misconduct in the light of the individual's past—his family background, economic circumstances, physical deficiencies, mental aberrations, his motives, and the like.

It is recognized that society must be protected from the deprivations of criminals, and pending reformation they must be confined in prison. Our short-sighted policy, however, limits our efforts to apprehending the criminal and getting him behind prison bars. We seem to fail to realize that he will some day be out among us again with the same warped personality and emotional complexes that caused his anti-social conduct in the first place. Yet we are doing nothing to correct these basic troubles while he is in prison, thinking that punishment will "teach him a lesson."

PUNISHMENT WITHOUT TREATMENT NO CURE

It was agreed among all of the experts at the Crime Conference held in August, 1949, at Boulder, under the sponsorship of the University of Colorado, that punishment is ineffective as a cure or preventive of crime. Professor John B. Waite, a recognized authority on crime and its treatment, said:

Nobody here is trying to get rid of punishment, but the fact is that punishment alone—punishment in and of itself—does not effectively prevent crime. I don't need to go into that. We all know it. . . . Any pretense that the will to abstain is strengthened by the experience of punishment is proved by time and observation to be nonsense.

As Dr. Bromberg says, "Confinement may be necessary, but of itself, punishment without treatment has no permanent effect on the ego of the wrongdoer."

The Criminal Justice-Youth Committee of the American Law Institute formulated a model Youth Correction Authority Act which has been adopted by several states. In their introductory explanation of the Act they say:

Traditionally the criminal law has relied upon punishment and the threat of punishment as the only method of building up resistance to criminal inclinations. But with increasing knowledge of the causes of human action has come a general realization that reliance upon "punishment" as the only means of control is logically unsound. Moreover, as a practical matter, punishment as the primary method of control is not only logically unsound but obviously ineffective. It is not a satisfactory means of social protection against crime because it does not sufficiently prevent crime. In the first place the threat of punishment does not notably prevent the commission of first offenses.

Reason alone will support these opinions. The criminal's personality is already warped with hostility of varying degree as the result of an unhealthy family relationship or other environmental conditions, and punishment tends to increase this hostility. In other words, hostility begets hostility just as friendliness begets friendliness. A balky horse never was cured by hitting him over the head with a single-tree. Only kindness and sympathetic under-

standing can do that. We do not seem to have learned that lesson about human beings.

We have not yet reached the place, however, where we can eliminate punishment. No one advocates that. Nor does it mean that criminals need be pampered. However, scientific knowledge has advanced to the point where it is known that the criminal's emotional makeup forms the basic cause of his conduct. Also, the scientific methods of treatment are known. Great advancement has been made in the administration of many state prisons in the matter of humane treatment of prisoners and their employment in worthwhile activities both inside and outside the prison walls. While this improved treatment may have some therapeutic value with certain prisoners, yet we are doing practically nothing to apply the scientific knowledge which we have directly to the correction of the emotional ills. Consequently, the prisoner when discharged comes out with the same basic troubles he had when he went in. If he is what is known as an occasional or "accidental" criminal, he will probably get along all right, but if his trouble is more deep-seated and serious, he is almost sure to be back in prison again before long.

L. E. Laws, for many years warden of Sing Sing, gives his idea of the approach to the problem: "Why not say to the boy or man charged with crime, You have done wrong. Let us find out about you. We are concerned with your particular act, but also with your personality. Perhaps we can ascertain the exact nature of your delinquency. Are your home influences bad? Would teaching you a trade help? Is there something wrong with your physique? Or is your mentality so warped as to necessitate your permanent segregation?"

THE CRIMINAL IN US ALL

There are many people outside prison walls who have emotional troubles and criminal tendencies as great as those on the inside. There is no such thing as dividing all human beings into two classes: criminals and law-abiding citizens with distinct characteristics of each. If you were to visit the state penitentiary and find the men engaged in the construction of a new cell house or other structure, you would be unable to distinguish them as a group from any construction gang on the outside; and the fact is that there is surprisingly little difference between them.

It is well known that we all have criminal impulses. "There is larceny in everyone" is a common expression. Dr. Bromberg says, "Experience with large numbers of complaints of larceny brought against those convicted of crime leaves no doubt of the presence of a larcenous impulse in the average person." This is known to every confidence man. It is the victim's desire and willingness to accept easy and illegitimate gain that causes him to fall an easy prey to the wiles of the unscrupulous swindler. Often these

impulses are not buried as deeply as is sometimes thought. It is not unusual that a man who is normally considered honest will take a towel or two from his hotel room or a piece of silver from the cafe. In the trial of a certain case against a bus company depot agent for embezzlement, the auditor referred rather flip-pantly to a practice of agents deliberately overcharging the customer and pocketing the difference as "an old Spanish custom." The defendant was acquitted.

A desire to do away with an individual who obstructs one's purpose is not uncommon. We may not be fully conscious of the impulse and naturally do not give it serious consideration, but the impulse is there nevertheless. There is considerable significance in common expressions such as "I'd like to murder him;" "He ought to be shot;" "This will slay you." Children enjoy Indian and bandit games in which they pretend to kill and get killed. When they become adults they put away childish games, but the impulses are still there—perhaps buried a little deeper—perhaps not, depending on the child's training and experience in the meantime. How many today would be guiltless if they were prosecuted for all of their violations of law? Surely not many, perhaps none. How many men are strictly honest when they prepare their income tax returns?

THE SOURCE OF ALL CRIMINAL TENDENCIES NOT TRACEABLE

It is undoubtedly true that there are some criminals whose criminal tendencies cannot conclusively be traced to emotional difficulties. Some are born mentally deficient; others are what are known as psychopathic personalities or constitutional psychopathic inferiors. Quite a substantial number of criminals belong to the latter class; a larger part of the repeaters come from this group. Psychiatrists are not in agreement on the basic source of their trouble. Some believe that they are born moral imbeciles and cannot be changed. Others believe that their difficulty arises from very early and severe emotional conflicts. Whichever is right, they are considered as incurable for all practical purposes. However, in either case it is almost certainly true that environmental influences have an important bearing on their condition.

Of course, it would be impracticable if not unwise to attempt to treat individually the many thousands of prisoners now behind bars. In the first place, there are not enough trained personnel available for that. Furthermore, some of the prisoners are mentally deficient, while others are psychopathic personalities and may be considered incurable. Still others have such deep-seated emotional difficulties that it would take many months, if not years, to get effective results. The prisoners should be screened, and those offering the best prospect for response to therapy could be treated first.

However, the treatment of persons who are already in prison

is only a stop-gap method. The real long-range solution for the crime problem lies in preventing the development of serious emotional disturbances in the first place or by correcting it while the child is still young.

IS CRIME CRADLE-BRED?

It is no exaggeration to say that the basis for delinquency and crime often begins in the cradle. Almost always the real cause can be found in the family relationships before the child is ten years of age, and usually much younger. There may be other contributing causes such as evil companions, economic stress or neighborhood environment, but they are only contributing causes.

Dr. Rabinovitch, Chief, Childrens' Service, Neuropsychiatric Institute, University of Michigan, says:

There are children who have spent perhaps . . . their first eighteen months or three years without ever having the experience of mothering; they have never had the stimulation that a mother's contact gives them. In later life we know that these children are almost doomed to failure to appreciate social conceptions, and these constitute a fair number of our seriously delinquent children. There is nothing that can be done, or very little to be done, when we see them at the age of ten or twelve.

Most parents understand the physical needs of a child such as plenty of good food, suitable clothing, exercise, fresh air and sunshine, but too few understand the general principles of mental hygiene and the emotional needs of a child. If a child is to become a normal, happy, contented and successful adult, he must grow and mature emotionally as well as physically. If he is to grow emotionally, his emotional needs must be satisfied. If they are not, he will be stunted emotionally just as he will be stunted physically when his physical needs are not supplied.

What are some of these emotional needs? The first and most important is plenty of good old-fashioned love and affection. The importance of love in human relationships is emphasized in I Corinthians, Chap. 13, Revised Version, the second verse of which reads, "And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not love, I am nothing." Virgil, writing still earlier, said, "Love conquereth all." There is no doubt about the transforming power of love. It is the *sine qua non* in family relationship. This does not mean the sentimental, unintelligent, undisciplined type which anticipates every wish of the child, which cannot refuse a request or restrain undesirable conduct. Every child needs discipline, and sometimes firmness is necessary. He will respond well and favorably if he senses that it proceeds from a kindly heart and that the parent really and sincerely loves him. In fact, many mistakes in training can be made without serious results if the parent's attitude toward the child is one of true love and affection.

A newborn baby needs lots of fondling and devoted attention. If the mother is too busy or indifferent and allows the baby to cry for long periods, he develops a state of anxiety which, if continued, becomes hostility. Love for parents is an acquired drive, and if it is not acquired because of the relationship existing between parent and child, then the child as he matures will lack normal capacity to love others, including his spouse and his own children, and, of course, will have little regard for others generally. The baby may respond to indifference of parents by negativism. That is, he may just give up, sleep a great deal and not eat enough. He may become stunted both physically and emotionally. This type of child is very apt to grow up to be apathetic, lacking energy and ambition and may develop antisocial tendencies.

It may be thought that an adult cannot be affected by family relationships which he cannot remember, or that no matter how a child is treated before he is three or four years old, he, of course, will have no memory of it later on, and consequently no lasting harm will result. However, everyone is a total aggregate or composite of all of his experiences from the time of his birth. In fact, it is not so often the things in the conscious memory that cause the most trouble but rather the experiences that have been repressed into the subconscious. Consider a child of two or three who bites his nails down into the quick—a very common symptom of emotional disturbance. It is not necessary for that child when he becomes 16 or 18 to remember the experiences which gave rise to that emotional disturbance in order that he suffer from the consequences of those experiences. The most serious part about this early emotional disturbance is that the earlier it occurs the more difficult it is to correct later on.

OTHER EMOTIONAL NEEDS BESIDES AFFECTION

The child has many other emotional needs. He needs to have a feeling of security in his home. The foundation of this is affection, and yet it is more. He needs to feel that his home is stable, a place of refuge free from disrupting quarrels; that his parents will always be there and will guard him from danger and supply him with necessities; that he is wanted and approved as a child; that his individuality is respected. He should be allowed to progress at his own pace and not be pushed or over-stimulated. He needs to feel his own worth and establish his self-confidence in response to praise or rewards promptly given for good conduct or things well done. His activities should not be unnecessarily restricted by "don'ts" if he is to develop naturally his abilities and skills in comparison with other children of his own age with whom he should have an opportunity to associate. As he grows older he should be given more independence within the limits of safety and the rights of others. But he must know that there is a general pattern of proper conduct beyond which he cannot go. This au-

thority must be consistent and reasonable, never arbitrary. He has a right to know why he cannot do certain things. Effort should be made to teach him to do what he wants to do in an acceptable manner. That is, if he wants to hammer, he cannot hammer the piano but he can go out into the back yard and hammer as much as he wishes. He is not like a piece of clay to be moulded after a parent's own pattern; he is a separate and distinct personality with his own particular likes, dislikes, interests, skills and abilities. He should be allowed to form his own pattern and design while living within the general rules approved by human society. If these natural inclinations and desires are blocked in order to fit the child into the parents' pattern, trouble will ensue just as surely as if a child who is born naturally left-handed is required to change to right-handedness.

Within these simple rules lies the road to happiness, contentment, and success; provided, of course, the child is normal physically and mentally. Herein also lies a distinct contribution toward the solution, not only of a major portion of the crime problem but also of many other social and personal problems such as divorce, alcoholism, gambling, insanity, suicide, and even unpleasant dispositions, all of which are or may be symptoms of emotional disturbance.

There are some parents who believe in a rugged type of discipline with much exercise of authority and a liberal application of the old woodshed type of technique. A young mother was walking down the street with her small son about three years of age. He was allowed considerable freedom, and when they came to a corner, he started down the wrong way. She shouted at him: "Jimmie! Come back here. Do you want me to twist your ear again?" His chubby hand went up to his ear as if in remembrance of a previous twisting. It worked like a charm. The little fellow stopped and came running back. Such a little child is entirely dependent upon its parents, and as long as that dependency exists, physical punishment or fear of punishment will usually secure obedience.

Assuming that this method is followed by both parents until this boy gets to be 12 or 14 and they then try this ear twisting stunt or apply other corporal punishment, what is going to happen? By that time he will have developed a deep seated hostility toward them without a normal tie of affection and understanding. He will fight back or openly rebel and perhaps run away. He goes out into the world, and what does he have in the way of training for self-discipline? The answer is "nothing." He has only fear of punishment, which, as he matures, becomes less and less effective as a deterrent. As he grows older, the hostility which he feels toward his parents is transferred toward other individuals such as employers or law enforcement officers representing authority or toward society in general. From here it is a short step to crime.

THE DESIRE FOR PARENTAL AND SOCIAL APPROBATION

When there is love and affection in the home, obedience is secured by the desire on the part of the child to please the parent in order that he may continue to have the love and affection and approval of the parents. Thus the parent and child are drawn together with a mutual bond of love and affection, whereas the punishing, threatening method drives them apart and builds up a wall of hostility between them. Much the same principles apply to the relationships between the adult individual and society. It is the desire of the individual to retain the respect and high regard of his friends and acquaintances in the community which offers the greatest deterrent to antisocial conduct.

In the international situation, Albert Einstein, in despairing of armaments and even international courts, says:

In the last analysis every kind of peaceful cooperation among men is primarily based on mutual trust and only secondarily on institutions such as courts of justice and police. This holds for nations as well as for individuals.

Over-strict and over-indulgent attitudes toward children are equally bad. While a too strict attitude tends to build up in the child a feeling of hostility toward his parents, a too indulgent attitude either anticipates or immediately supplies the wants and demands of the child so that he never learns to postpone pleasure, but expects and demands immediate satisfaction. He never learns to face reality so cannot meet and solve frustrations of any kind. He lacks self-discipline, and as he grows older he naturally comes into collision with the rather rigid rules of society. He is totally unprepared to meet the issue.

Paradoxical as it may seem, it is well-known that certain individuals have a subconscious emotional need for punishment, so that the risk of punishment is not only no deterrent to their criminal impulses, but it actually impels them to commit crime in order that this need may be satisfied. Sometimes this is caused by a subconscious feeling of guilt—perhaps because of a feeling of hostility toward the parents or a sibling or perhaps because of something more personal such as masturbation, which they have been taught to regard as essentially wrong.

It is too much to expect, however, that anyone can grow up under ideal conditions; hence everyone has some emotional problems. Some parents are unfamiliar with the general principles of mental hygiene and child culture, and for that reason cannot or do not apply them. Perhaps the greatest difficulty, however, is that the parents are themselves either neurotic or at least emotionally disturbed so that their children suffer from the parents' symptoms, and the children in turn become emotionally disturbed. This vicious circle has gone on for centuries, and there is abundant

evidence that the circle is ever widening and that we as a nation are becoming more and more emotionally immature and unstable. This condition is aggravated by our modern way of life with its tremendous speed, keen competition, and the impact on the individual of everything that is happening in the world.

MENTAL HYGIENE BEGINS AT HOME AND IN SCHOOL

It is hoped that there will never be developed a system whereby bureaucratic "experts" will go into homes and instruct the mothers on how to raise their babies. That problem can be attacked only through education and teaching the general principles of mental hygiene in the schools—even beginning in the elementary schools, in order to catch those who drop out early. Thus, in a few generations it may be hoped that this vicious circle can be broken.

Teachers must be trained to spot problem children, and child clinics with psychiatrists and trained psychologists should be established in connection with the schools to treat these emotionally disturbed children soon after they enter school, for then they are most responsive to treatment. We have done much to care for their physical needs, but their emotional needs have been almost entirely neglected, although the schools in some of the larger centers are beginning a child clinic program.

In searching for the causes of crime, it is sometimes thought to be a result of failure to teach good moral principles in the home by precept and example. All rules of society are artificial and must be learned. When a man commits a crime, he breaks at least one of these rules. It isn't because he doesn't know what they are. What the parents have failed to do is to develop self-discipline in the child—a happy, satisfied desire to live within the rules. This cannot be done by force, threats of punishment, or in a spirit of criticism; but only in an atmosphere of love and affection where the emotional needs of the child are given first consideration.

Crime does not always indicate a lack of moral training. There is a popular belief that preachers' families contribute more than their share. This has been shown to be false, but it does happen often enough to be worthy of some note. Even preachers themselves are not entirely immune from criminal offenses. An embezzler is usually a trusted employee whose record for honesty is clear. He seldom starts out with a thought of stealing, but rather of borrowing to relieve a temporary emergency and with a sincere intention of paying it back. A murderer may be strictly honest in all of his business transactions, but his pride perhaps has been wounded beyond endurance. Boys, in response to a restless urge, steal things they do not want and for which they have no use.

The following case history will also serve to illustrate the point. A boy of seventeen was the son of a successful and well-to-do farmer who dominated the family and thought that the children should be content to spend their time at home away from the

evils of the world. This boy was not allowed to attend school functions at night nor to go on school picnics nor attend the moving picture shows in town.

He wanted to go to high school, but the father refused to let him go. This boy had always been a "good" boy. He obeyed his parents and never seemed a problem in any way, although he had grown rather sullen and had no friends socially. He liked to drive the tractor on the ranch, but usually he did not handle it exactly to suit his father and would be required to turn it over to his older brother after a short try. The days and nights were very monotonous during the winter months.

One night after the family had gone to bed, he got up and took his father's .38 automatic and about sixty dollars in money and started down the road. As he passed a neighbor's house he saw their late model car in the driveway. He went over to it. The keys were there so he got in and started off up the road at a high rate of speed. He had scarcely been away from home before and did not know just where he was going. He only knew he was getting away. Several times he almost went off the road. Finally when he was about two hundred miles from home he ran into a guard rail and completely wrecked the car, though he himself was unhurt. He was apprehended immediately and brought back to face a serious charge of car theft.

ABNORMAL PERSONALITY DEVELOPMENT SPELLS TROUBLE

Here was a boy who had been well-cared for physically and had been raised in a good moral environment and taught to work, but his emotional needs had not been met, probably through ignorance of the parents who were of foreign extraction. He was not treated with sympathetic understanding, much less affection; his likes and dislikes, interests, skills and abilities were not respected, nurtured or cultivated. He was not made to feel his own worth, nor given an opportunity to express himself. He was allowed no independence of action, even as he was approaching maturity, but was treated more as a small child, which he remained emotionally. The restrictions became so unbearable that he tore the bonds asunder and escaped.

Some may think that it was not necessary for him to commit a crime. He could have merely left home and obtained a job somewhere, but that would have required facing reality and solving his problem in a logical and approved manner. That would have required self-confidence and some experience in doing things on his own. He had never done that. He could steal a car and run away—an immediate and direct solution, so he thought. He had always been told what to do and what not to do. He had never had any opportunity to face problems and solve them himself in a considered and reasonable manner. He could no more do that

than he could love his father against whom he held a deep-seated feeling of hostility.

His reaction when he got away was to do just the opposite of anything his father had tried to thrust upon him. For an explanation we must return to our first general principle. As Dr. Guttmacher, psychiatrist and chief medical officer, Supreme Bench of Baltimore, puts it, "Psychiatric investigation has confirmed what has been long believed, that deep and secure affection in early life is as necessary to normal personality development as sunlight is to the growth of a seedling."

The annual cost of crime in the United States is said to exceed \$10,000,000. Unless we are willing to spend some money for an intelligent and scientific approach to the problem, that cost is sure to increase as it has increased in the past. Every other method has been tried and has failed. While the expense would be large at first, it might be confidently expected that the favorable results would soon reduce the crime bill so that the savings would more than offset the costs of the program. Furthermore, the by-product of added happiness, contentment and satisfaction among the individuals would be immeasurable in dollars and cents.

THE UN COMES OF AGE

October 17 to 24 is United Nations Week in Colorado and throughout the world. Due to the Korean conflict, it is hardly necessary to set aside a special week or day to call attention to our first fumbling experiment with real world government. It has become a reality in these last few months, even to busy lawyers, ordinarily too concerned with the battle for daily bread. Yet with our State Department even now proposing means of strengthening this machinery, Edward V. Dunklee, Denver attorney and chairman of Colorado's United Nations Week celebrations, feels that we should take increased devotion to the great principle of one world under law.

The theme of this year's observance of United Nations Week is the work of the Children's Emergency Fund. As befitting a state founded upon the gold and silver industry, Colorado will make a gold and silver collection to this fund. Collection centers will be set up all over the state, and all persons are urged to support this humanitarian work by contributions of jewelry, plate and other forms of our precious metals. Climax of the drive and UN Week in Colorado will be a pageant and rally at the Denver auditorium on Sunday, October 22.