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LAW OF PROBATION IN INDIA WITH SPECIAL REFERENCE TO UTTAR PRADESH*

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I

Introduction

Immensity of the crime.—While Penology is an interesting subject for study and thought, its practical importance is brought out by the fact that in the State of Uttar Pradesh, alone 2,82,156 persons were convicted and sentenced by the Magistrates and Sessions Judges in 1956.[1] The crime has also been on the increase in recent times, and to bring out this aspect one may only refer to the figures for two years. While 1,43,711 persons were convicted by trial courts in the same State in 1947, the number of such persons rose up gradually to 2,82,156 in 1956, and the figure for 1958, when it is finally calculated, may be higher.

The importance of the subject, which we have under consideration, is also emphasized by the fact that on October 1, 1958 there were 29,255 prisoners in different jails in Uttar Pradesh, and 16,718 undertrials in the jails awaiting judgment.[2]

Old theory of punishment.—Retaliation or retribution, deterrence, expiation, reformation and protection of the society from the wrong doer have been the prevailing theories of punishment in the distant past, and different aspects of these theories have swayed the minds of the jurists at different times. But with the growth of civilization and greater control of the society over its members, the ideas changed even in respect of the theory of punishment. The two basic principles which have, however, held the field through the ages have been[3]:

(*i*) making the offender feel that what he did was wrong and that he was making a penance for it; and

(*ii*) to create a sort of terror or abhorrence among the people generally, or, to give satisfaction to the feeling of revenge to the aggrieved person.

Revenge does hot pay, and fear of retribution has not been able to prevent crime, nor has extreme punishment been able to mitigate it. On the other hand, the heavier the punishment, the greater are the chances of a criminal likely to be a greater menace to the society, after he has served out his sentence. The real solution of the problem has, therefore, to be sought elsewhere.

The early twentieth century was busy discussing the science of human behaviourism —the location of the responsibility of human behaviour. In modern times, Bernard Shaw may have gone a little too far when he said,* "If crime were not punished at all, the world would not come to an end any more than it

*This paper was presented at the Seminar on Probation with Adult Offenders and Juvenile Delinquents organised by the Department of Criminology, Juvenile Delinquency and Correctional Administration of the Tata Institute of Social Sciences, Bombay in December 1958. Mr. Singh is a District and Sessions Judge, Kanpur.

[1]This is the latest year for which figures were available.

[2]Even these figures do not provide a correct reading of the immensity of the problem, as a fairly large number of convicted persons remain on bail pending the hearing of their appeals, and of undertrials, during the hearing of their cases in trial courts.

[3]Inaugural Address by the Hon'ble Sri H. J. Kania, Chief Justice of India, at the All India Penological Conference on 18th February, 1950.

[4]Preface to *English Prisons under Local Government* by Sidney and Beatrice Webb.

does now that disease is not punished at all. . . Punishment is a mistake and a sin." But it is now recognized on all hands that one of the functions of the courts which administer criminal justice is to make an attempt to reform or cure the criminals who come up before them. The old idea, 'Let the punishment fit the crime' or 'Nothing emboldens sin as much as mercy'[5] has long been obsolete. The U.P. Jails Enquiry Committee, 1929, points out on page 4 of their report that, "It is now accepted in all civilized countries that judicial punishment is justified to the extent that it aims at the reformation of the person punished."

Idea of probation.—The idea of probation is based on this new aspect of the principle of criminal justice, 'the reformation and rehabilitation of the offending party', which means the restoration of the diseased limb of the society by a more human and social treatment.

Law reports are full of minor incidents which ultimately became responsible for the commission of major crimes, or for converting an otherwise peaceful citizen into a dangerous outlaw. A recent case reported in *Tahsildar Singh v. State* (A.I.R. 1958 All. 255) presents a glaring example of the turn of events for the worse. "The history of Tahsildar Singh's family," observes James J. in the case, "unfolds a woeful tale of an ordinary village feud leading Singh who had the fire and venom of his ancestors in him was forced by the circumstances to adopt the life of an outlaw, resulting in large-scale banditry and murders, which in their own turn called for efforts on an unusually large-scale on behalf of three States, Uttar Pradesh, Madhya Pradesh and Vindhya Pradesh, to bring his activities to an end. And such cases are by no means few and far between.

A mere change in our outlook, however, towards the criminals, does not solve the problem. We are, on the other hand, led to face an indefinite number of new problems as to how the offender is to be rehabilitated, what kind of help he needs, and how are we going to deal with him.

'Reform of the criminal inside the prison' is one course open to us as a possible solution of the problem. This approach is regarded by some as a contradiction in terms and irreconcilable. But since some offenders of a hardened or chronic type will always have to be sent to the prison, and that too for long terms, the protection of the society against him will not be well served if he, since he must come out of prison sometime, comes out more unfitted "to earn an honest living, or as a deeply embittered man with a score against society that he means to pay off".[6] The imprisonment even has, therefore, been recognized *to* have two primary and concurrent aims, deterrence and reform, and the true design of all punishments being to reform and not to exterminate mankind, the aim even inside the jail should be to turn the prisoners out, to the extent possible, better men and women, physically, mentally and morally, than when they came in.[7]

The conception of imprisonment inside the jail has also undergone a complete change in outlook. Unwalled institutions like the Sampurnanand Gamp at Varanasi in Uttar Pradesh have sprung up and are coming into existence in increasing numbers. These open institutions are no longer in an isolated and cautious experimental stage, having already been accepted as an integral part of our penal system. They emphasize two aspects of jail reforms:

(i) absence of physical precautions against escape, such as walls, bars and other precautionary measures; and

[5]Shakespeare, *Timon of Athens,* Act III, Scene 5.
[6]L. W. Fox, *Journal of Criminal Science,* Vol. II, p. 12.
[7]*The Gladstone Committee Report* (England) of 1895.

(ii) self discipline and the prisoner's sense of responsibility towards the group in which he lives.

and encourage the prisoners to use the freedom permitted to him without abusing it. But offenders can be assigned to such institutions only after careful individual study and observation including their tendencies inside the jail. But this should be beyond the scope of this paper, except perhaps to the extent it affects the laws relating to the punishment and detention of the offenders.

Public feeling and sense of wrong to be respected.—A wrong which has already been done cannot be undone. The object of punishment being to make an offender feel the gravity of his misdeed and to impress upon him a sense of condemnation so as to prevent him from repeating the same, it cannot be abolished altogether. The public feeling and the sense of wrong entertained by the aggrieved person have also to be kept in view. As was pointed out by the Hon'ble Sri H. J. Kania, Chief Justice of India,[8] "The human mind desires a sort of mental satisfaction that a man who has done a wrong has suffered, so that he appreciates the gravity of the loss inflicted on the other party and thereby deter people from inflicting such loss to other". In a choice between the society and the offender, the society must be considered first.

The legislature may prescribe a fixed or an indeterminate punishment for an offence. In the case of a fixed punishment, the emphasis is on the relative gravity or harmfulness of the crime rather than the character or antecedents of the offender or the possibility of his reform. In the latter case the legislature names the maximum, and in some cases even the minimum sentence, and thus recognizes the principle of individualization. The Legislature expresses its view even in such cases about the gravity and harmfulness of the crime, but permits the actual sentence being passed having regard to all the attending circumstances, including the mental and emotional make up of the offender, the social background, and the possibility of recidivism.[9] The judge or the magistrate has thus to determine an appropriate sentence between the two extremes, with due regard to the prevailing conception of fair justice.

Origin of the idea of probation.—This is probably not the proper place to discuss how the idea of probation of offenders originated in the United States of America. Suffice it to say that the Probation of First Offenders Act was passed in England in 1887, and the first Federal Probation Act was passed in the U..S.A. in 1925.[10]

The opinion of Chief Justice Earl Warren of the United States of America may, however, be quoted here with advantage:[11]

"Years of experience in the field of law enforcement have long since led me to the conclusion that safety of society cannot be assured by putting all our trusts in maximum security prisons. We must increasingly place more and more emphasis on preventing our youth from gravitating toward a life of crime and upon salvaging a vast proportion of our delinquents through human institutions and enlightened systems of probation and parole."

II

LAW IN INDIA

In India the law relating to the release of offenders, either on probation or after due admonition, is contained in Sections 562 to 564 of the Criminal Procedure Code, but the

[8]The Inaugural address at the All India Penological Conference, Lucknow, 1950.
[9]Sheldon Glueck, "The Sentencing Problem", *Federal Probation,* December, 1956, p. 16.
[10]The State laws on the subject came into existence earlier.
[11]Quoted in "The Probation officer's task is not a small one", *Federal Probation,* June, 1958, p. 4.

provision for both is restricted in its operation to first offenders.

Under sub-section (1-A) of Section 562 such an offender may be released after due admonition, if

(1) he is convicted of theft (including theft in a building), dishonest misappropriation, cheating or any other offence under the Indian Penal Code, not punishable for more than two years' imprisonment;

(2) there is no previous conviction proved against him; and

(3) the court having regard to the age, character, antecedent, or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstance under which the offence was committed considers it fit.

It may thus be noted that a first offender can be released after admonition only in the case of minor offences. His age, character and antecedents, his physical or mental condition, the trivial nature of the offence and any other extenuating circumstance in which the offence may have been committed are to be the factors which will weigh in the mind of the judge or the magistrate at the time of passing the order.

The expression "any other extenuating circumstance in which the offence m,ay have been committed" should include the motive which prompted the offender to commit the crime. Failure on the part of his parents or guardian to give him proper correction at the proper time, and the environment in which the offender lived and which ultimately resulted in his lapsing into a life of crime are in fact important circumstances which resulted in the commission of the crime. The offender is himself, very often, a victim of circumstances, and may easily be an object of pity rather than resentment,

Sub-section (1) of Section 562 which provides for the release of a first offender on probation distinguishes between offenders under or above 21 years of age, and also on the ground of sex. He or she may be dealt with under this sub-section.

(1) In case of a male offender above 21 years of age,

if he is convicted of an offence punishable with imprisonment for not more than seven years;

(2) In case of a male offender under 21 years of age and all female offenders,

if he or she was convicted of an offence not punishable with death or transportation for life (which should now read as imprisonment for life).

A first offender m,ay be released on probation, if

(1) the court having regard to the age, character, or antecedents of the offender and to the circumstances in which the offence was committed considers it expedient that he should be so released;

(2) the court is satisfied that the offender or his surety, if any, has a fixed place of abode, or regular occupation within the jurisdiction of the court, or at the place where the offender is likely to live during the period of his probation (Section 564(1)).

If these conditions are satisfied, the offender may be released on probation on his entering into a bond, with or without sureties, to appear and receive the sentence when called upon to do so, during such period, not extending three years, as the court may direct and in the meantime to keep the peace and be of good behaviour,

It would be worthwhile to notice that sub-section (1) of Section 562 of the Criminal Procedure Code is wider in scope than sub-section (1-A) in the sense that it covers all offences whether punishable under the Indian Penal Code or any other law while sub-section (1-A) is applicable only to such offences as are punishable under the Indian Penal Code.

Judicial view under the present law.—The provisions of sub-section (1) have not been applied by the judges in cases which show a singular piece of design and ingratitude and a general character of craft and deceit,[12] or where an offence implies a good deal of preparation,[13] or if the offence is a hideous and reprehensible one calling for condignness and deterrent punishment.[14] The judicial view has been that where an accused is convicted of a serious crime, such as conspiracy to pass fire-arms and ammunition without a licence,[15] or for making a criminal assault on a woman with intent to outrage her modesty publicly and in broad daylight,[16] or where he deliberately committed perjury in order to screen an offender,[17] he is not entitled to the benefit of this provision. Magistrates have thus to be very careful in applying this provision of law and are not to allow themselves to be misled into its use by misplaced leniency and sympathy.[18]

It has on the other hand been pointed out that the section is meant to be applied to persons who are led astray for the first time by force of circumstances or by bad company or evil influence.[19] A young offender is to be given benefit of this section if the part played by him in the commission of the crime is not prominent and he was actually influenced by elderly persons in the commission of the crime,[20] or where he or she was a puppet in the hands of the other accused.[21]

The judges have also not failed to take notice of the evil effects a short term imprisonment, or indeed imprisonment at all, may have upon a young offender. It places stigma of prison upon him. It may remove the fear of prison from his mind, and, by bringing him into contact with offenders, may turn him towards the life of crime.[22]

Probation with supervision.—In India the principle of probation with supervision was first considered and recommended by the U.P. Jails Enquiry Committee, 1929, and in 1931 the Government of India took up the question of enacting an All India First Offenders' Probation Act, but the proposal could not make much headway. The provincial governments were ultimately permitted by the Government of India to take up legislation on the subject. The first province to do so, was Madras where the Madras First Offenders Act, III of 1937, became law on February 16, 1937. Other states followed suit. In Uttar Pradesh, the U.P. First Offenders' Probation Act, VI of 1938, came into force on February 1, 1938. But while part of the Act, *i.e.,* the portion of the Act relating to the release of the first offenders after admonition or on probation of good conduct was extended to the whole of the state, that part of the Act which relates to the placing of the first

[12]Darya Lal v. Emperor, 25 *Cr. L.J.* 1224 (Sind) ; Emperor v. **Allahdin, 35 *Cr. L.J.* 1149 (Sind).**
[13]Emperor v. Sujan Singh, 17 *Cr. L.J.* 310 (Punjab).
[14]Emperor v. Saidha Ram, 29 *Cr. L.J.* 1096.
[15]Nirmal Chandra De v. Emperor, 28 *Cr. L.J.* 241 (Lahore).
[16]Emperor v. Mohammad Khan, 35 *Cr. L.J.* 613 (Lah).
[17]Emperor v. Akbar, 29 *Cr. L.J.* 219 (Lahore).
[18]Superintendent and Remembracer v. Kiran Bali Dasi, 27 *Cr. L.J.* 409.
[19]Public Prosecutor v. Madathi, 43 *Cr. L.J.* 671 (Madras).
[20]Bhusan Chandra Hazra v. Kanai Lal Addisa, 28 *Cr. L.J.* 6(7) (Cal).
[21]King Emperor v. Kiran Bala Dasi, A.I.R. 1926 Cal. 531.
[22]**Emperor** v. **Nur** Mohammad **Kalu Khan, 41 *Cr, L.J.* 14 (Sind).**

offenders under the supervision of a probation officer was initially made applicable to only seven districts and gradually extended to eleven more districts by 1958. The text of the legislation in other States in India could no be available, but the Madras and the U.P. Acts are almost alike. While they re-enact the provisions of Sections 562 to 564 of the Criminal Procedure Code[23] with some amendments, provision is made for the first time for probation with supervision.

Release after admonition.—The provision for the release of an offender after admonition remains almost the same, with this difference only that a person might be released after admonition in case of all offences punishable with not more than two years' imprisonment under any provision of law, and not merely when he may have been charged with an offence punishable under the Indian Penal Code.

Release on probation.—Sub-section (1) of Section 4 of the U.P. Act repeats the provision for the release of a first offender on probation of good conduct which was formerly contained in Section 562 (1) of the Criminal Procedure Code with two important and some minor changes:

(1) If an offender, who is less than 21 years of age, is convicted of an offence which is punishable with imprisonment not exceeding six months, the court will have to take action under the Act unless for reasons to be recorded in writing, it does not consider it proper to do so.

(2) In the case of a first offender under 24 years of age, the court may, while releasing him, on probation, make an order for supervision by a probation officer.

The minor changes introduced in the law are:

(i) The provision has been made applicable to all offenders irrespective of age and sex.

(ii) The offenders are entitled to the benefit of this provision in the case of all offences which are not punishable with death or transportation irrespective of their age.

(iii) The mental and physical condition of the offender has been specifically mentioned as one of the circumstances which may be taken into consideration by the courts in granting an offender a privilege under this provision.

Continental system.—Under the Continental system about probation, which is in other respects the same, even the order of punishment is passed at the very time the offender is convicted and placed under probation, though the sentence remains suspended during the period of probation. If during this period he leads an honest life and does not get into bad society, the sentence is subsequently quashed. The U.P. Jails Enquiry Committee, 1929, recommended the adoption of that system, in India, but it has not been accepted and perhaps for good reasons. The idea behind probation is to rehabilitate the offender. If a sword of Damocles is to be employed for putting him on the right track, the very idea of probation would be lost. If he desists from the wrong path under the threat of the sentence already announced, he is likely to have a relapse, as soon as that threat is removed. The persuasive efforts, guidance and directions which he is supposed to have during the period of his supervision would become illusory. It is true that even in the present system there is the threat to

[23] These sections stand repealed in U.P. by Section 15 of the U.P. First Offenders' Probation Act, VI of 1938.

the offender that if he does not behave well during the period of probation, and is reported against by the probation officer, he is likely to be called to receive the sentence. But there is all the difference between the two types of orders. An important advantage, however, is that if an offender misbehaves during the period of probation, the magistrate would be able to keep the extent of the breach of the conditions in view at the time of passing the order for punishment, which would not be possible if the punishment has already been named.

U. P. prisoner's release on Probation Act, 1938.—The system of release on parole has been introduced in Uttar Pradesh under the U.P. Prisoners' Release on Probation Act, VIII of 1938, in the case of those prisoners who are not entitled to the benefit of the U.P. First Offenders' Probation Act, or to whom the benefit thereof has not been given. Under this Act the Government, though not the court, may release a convicted person on probation under a licence and put him, under the supervision of some official or non-official agency, if, having regard to his antecedents and conduct in the prison, it is believed that he is likely to abstain from crime and lead a peaceful life. The Government has under the rules provided that only those prisoners who have served one-third of their imprisonment or a total period of five years (including the period of remission earned by them) whichever is less, would be entitled to be released under the Act. The main purpose behind this Act, however, is to reduce the jail population.

Juvenile delinquency.—The idea of probation is closely connected with juvenile delinquency. It is at an early stage in one's life, when mind is yet immature, that a person is easily influenced by his surroundings, including privation, suffering, neglect of parents, uncongenial surroundings and evil examples set by others. As pointed out by the Gladstone Committee of 1895 in England, the age when the majority of habitual criminals are made lies between 16 and 21, and a determined effort is to be made to lay hold of these incipient criminals and to prevent them by strong restraint and rational treatment from recruiting the habitual class. But the child of tender age requires a special consideration. The seriousness of the crime committed by different offenders cannot be measured with the same yard-stick. Reformatory schools were, therefore, set up in England under the Reformatory Schools Act, IV of 1854, and the Reformatory Schools, Act, VIII of 1897, came into force in this country in March, 1897. The main object of this Act was to make provision for dealing with youthful offenders, which expression was defined as boys under 18 years of age, who may have committed an offence punishable with transportation or imprisonment. Instead of undergoing a sentence, he could be sent to such a school and detained there for a period, which is to be not less than three, and more than seven years.

U.P. Borstal Act, 1938.—In Uttar Pradesh the U.P. Borstal Act was also passed in 1938, but has not been enforced as yet. It provides for offenders between 15 and 21 years of age. If he is convicted of an offence or is required to give security for good behaviour and fails to furnish the same, and the court considers by reason of his criminal habits, or tendencies or associations with persons of bad character that it would be desirable to detain him, the court may, in lieu of passing a sentence of transportation or rigorous imprisonment, pass an order for his detention in a Borstal institution for a term which shall not be less than two years, and more than five years, if the order is passed by a court of sessions, and three years if passed by a magistrate.

III

THE LAW IN PRACTICE

Progress under Probation Law.—To what extent probation work has made a headway

will be a matter for opinion. The figures for the last two decades during which period the Act has been in force in Kanpur district in Uttar Pradesh indicate a steady progress.

Year	Offenders who completed the period with success	Offenders for whom report for misconduct submitted	Offenders whose period of probation terminated due to failure
1939	37	7	—
1940	3	2	—
1941	10	4	1
1942	33	6	8
1943	57	5	10
1944	46	10	4
1945	32	8	10
1946	38	4	4
1947	36	5	8
1948	26	4	2
1949	69	8	5
1950	75	3	—
1951	55	5	8
1952	64	18	12
1953	119	50	50
1954	102	9	9
1955	115	82	2
1956	384	36	3
1957	569	26	3

In Uttar Pradesh as a whole 2,82,156 persons were sentenced in the year 1956 (upto which year the figures are available) and out of them only 6,273 were dealt with under the U.P. First Offenders' Probation Act, and, 1,847 under the Reformatory Schools Act, 1897. But these figures do not give a correct picture of the working of the Act, as the U.P. First Offenders' Probation Act has been applied only to 18 districts out of 52. The figures for Kanpur district, which may be taken by way of an illustration for four years ending with 1957 give a more correct picture of the working of the Act.[24]

Year	Sentenced	Released after admonition or on probation under Sections 3 and 4 of the U.P. First Offenders' Probation Act VI of 1938	Youthful offenders dealt with under Section 31 of Act No. VIII of 1897	Discharged after admonition delivered to parents or guardians etc.	Total persons released
1954	22,478	366	77	—	443
1955	22,248	789	100	—	889
1956	21,443	955	188	11	1,154
1957	16,341	943	—	—	943

The report of the Child Welfare Department of the Government of Australia for the year ending 30th June, 1957, indicates the extent to which the subject of child delinquency is tackled there outside the courts. During the period of 12 months to which the

[24]The proportion of persons dealt with under the two Acts as disclosed by the above figures is not quite correct, in as much as a fairly good proportion of the sentences are set aside in appeal.

report relates 1,378 cases of neglected children were tackled by the department and 812 cases or 59 per cent. out of them were disposed of as follows:

Adjusted without court's action	..	537 or 39 %
Court's action	..	214 or 15.6 %
Private placement	. .	61 or 4.4 %

This may give us some idea of the sphere in which the problem of child delinquency may be tackled by us even in India.

Case-load on probation officers.—In 1957, in which year the U.P. First Offenders' Probation Act was in force in 17 districts, the Probation Officers had 1,739 probationers in the beginning of the year and 1,371 were placed under their supervision during the year. These probationers were handled by 39 probation officers, thereby giving an average case-load of 80 probationers. Having regard to the fact that some of the probationers must have been placed under their supervision during the course of the year and some must have left out after completing their probation, the average figure for case-load per probation officer would even be lower. But the pressure on the probation officers was not uniform throughout the State.

In Kanpur and Meerut districts where the intensive probation scheme was in force the figures for case-load in 1957 were as below:

District	No. of probation officers	Probationers in the beginning of the year	Probationers at the end of the year	Average No. of probationers under supervision	Case-load
Kanpur	10	627	401	514	51.4
Meerut	4	139	246	292	48

The figures for another district during the year 1957 were:

District	No. of Probation officers	Probationers in the beginning of the year	Probationers at the end of the year	Average No. of case probationers under supervision	Case load
Bareilly	2	100	76	176	88

Having regard to the case-load in other countries, particularly United States of America, our probation officers cannot be said to be overworked, but there is one circumstance which may be kept in view in our country in expecting a certain amount of work from our probation officers. Most of the probationers may be living in rural areas and means of communication being not very convenient, it may not be possible for a probation officer in India to keep in touch with and supervise as many probationers as his counter part may be able to do in countries where conditions are better.

Probation system.—The advantage which the State Exchequer may derive as a result of the probation Scheme may be judged from the fact that, while the total expenditure on the probation scheme during the year 1957 came to Rs. 2,42,823.44, the expenditure which the State would have incurred on dietary and clothing alone, if these offenders were kept in jail, would have been over three lacs. In United States of America it costs less than 21 dollars a year to supervise a person on probation, but approximately 300 dollars to

keep him in confinement.[25] It is estimated that if the intensive probation scheme is introduced in all the districts in U.P., the financial strain on the state may be reduced by about 35 lacs every year. But this does not of course mean that we should go by cheapness alone. It only leads to our getting inferior counterfeit goods.

IV

RECENT ADVANCES

Persistent offenders.—It may have been noted that the provisions under Section 562 of the Criminal Procedure Code or under the U.P. First Offenders' Probation Act refer only to first offenders. The idea of probation has, therefore, been made applicable only to rather easier and simpler cases, and those who in fact needed reformation or rehabilitation have been put beyond their scope. There may be cases in which even a first offender may be said to be a habitual or a persistent offender, e.g., a pick-pocket, or a railway thief, a rash and negligent driver, a person who traffics in women or intoxicants, a black-marketeer, or a person who indulges in adulteration of medicines or food stuffs, or even a corrupt official. They may have been arrested and prosecuted for the first time and yet they are persons who must have been indulging in anti-social activities for sometime past. It is very rare that such an offender would be caught in his very first attempt. If the provisions of the First Offenders' Act or of Section 562 of the Criminal Procedure Code is applied to him, they would be applicable to him as a first offender in a very technical sense. He has been a persistent offender in fact. But there may be cases of offenders who are first offenders in the real sense. A person may have a momentary lapse on account of certain circumstances in which he finds himself. A sudden impulse may lead him to molest, or interfere with the modesty of a girl, or tempt him to commit theft. In a moment of excitement he may insult or intimidate a person or cause him simple or grievous hurt or even commit murder. As soon as the momentary impulse or excitement is gone, more often than not he will repent for his action and chances are that he would never repeat the same, whether or not he is brought to book.

A crime is sometimes committed without any settled will to do so even with no will at all. The inadequacy of physical moral on mental equipment results, just at the spur of the moment, so to say, in a certain thing being done, which when completed, turns out to be something which the society does not approve—a crime. Releasing such offenders on probation, or even after admonition, would, so far as safety or security of the society is concerned, be quite sufficient. It is hardly necessary to put him under the supervision of a probation officer. He is not the type of person who would commit a crime again. The shame and humiliation resulting* from the prosecution would by itself serve as sufficiently deterrent to prevent him from repeating the crime. These are of course, cases in which the offender may be released after admonition or on probation with or without supervision.

What is really necessary, however, is to make provision for the probation of even those offenders who may be convicted a second or third time. These are the persons who show a sort of lingering inclination to commit crime, in addition of course, to those first offenders of the persistent type, referred to above. They are the persons suffering from some disease, more moral and mental than physical, who require being placed under some supervision from that point of view.[26]

[25] *Federal Probation*, June, 1958, p. 4 (The figures given in *Federal Probation*, for December, 1956, p. 5 are 30 cents a day for a probationer, and $ 3.70 for a convict).

[26] The U.P. Habitual Offender's Restriction Act, XXXVIII of 1952 is an Act which deals with habitual offenders, but it is a provision mainly for the purposes of the police and does not provide for the aftercare of the offenders.

The Probation of Offenders Act, 1958.—It was in respect of them that Sir Evelyn Ruggles-Brise, who initiated the Borstal experiment in England said, "Our object was to deal with.. . the young hooligan advanced in crime, perhaps with many previous convictions, who appeared to be inevitably doomed to a life of habitual crime." An attempt has to be made to reform or rehabilitate offenders of this type. How this aim has to be achieved is of course a different subject. In other countries the law has already made provision for the probation of such offenders.

The Probation of Offenders Act, XX of 1958, which is another milestone on the long and weary road towards the goal of humane and sensible treatment of law breakers, takes even this aspect into consideration. This Act re-enacts, to a fairly good extent, the provisions of the U.P. First Offenders' Act, as also Section 562 of the Criminal Procedure Code, but also, at the same time, makes substantial changes in the law.

The new Act, as in the case of previous enactments, makes provision for the release of an offender under three heads, *viz.,*

(1) after admonition;
(2) on probation for good behaviour with personal bond, with or without sureties;
(3) on probation, but under the supervision of a probation officer.

Release of an offender after admonition continues even under the new Act (Section 3) to be permissible only in the case of a first offender. The law in substance remains the same though such defects as came to light from time to time have been attempted to be removed.

An offence "punishable with not more than two years' imprisonment" did not include an offence punishable with fine only.[27] An accused, therefore, who was charged with such an offence could not be released after admonition. This could not have been the intention of the legislature, as an offence which was punishable with fine only is definitely a much less serious offence than one which was punishable with 'imprisonment not exceeding two years'. This lacuna has been removed.

The use of the words "trivial nature of the offence" in Section 3 of the U.P. First Offenders' Probation Act, 1938, as one of the considerations for the exercise of the powers under the Act often resulted in undue emphasis being laid on those circumstances Omission of these words under the new Act would mean that such impression will no longer linger behind the mind of the judge or the magistrate and it will be easier for him to exercise his discretion, having regard to the circumstances of the case including, of course, the nature of the offence and the character of the offender.

Release of an offender on probation.—The most important change made in the law relating to the release of offenders on probation is that this provision has been extended to all offenders whether it be their first or subsequent offence. The Parliament has, by making this change in the law, taken note of the fact that the necessity of an offender being released on probation with or without supervision is all the more greater in the case of offenders who are falling into a criminal habit.

The practical application of this amended law will, however, present ticklish problems. In U.S.A. 70 per cent. of the arrested persons have in recent years been found to have records of previous arrests. This does not encourage an extended use of the law of

[27]Jawahir V. Emperor, AIR 1945 All 206; Debi Das v. State 1953 *A. L. J.,* 466.

probation. While wrong doers who have learned the error of their ways should be restored to a useful place in society and helped to recognize the values by which they can live at peace with themselves and with others, ill-advised parole and probation reflects adversely upon the very method adopted for protecting society. A rotten apple taints the whole barrel. Parole upon parole and probation upon probation for those who have not reformed, may be considered unreasonable and unjustified. But there should not of course be a statutory bar against even such offenders being considered for probation.

Release of offenders on probation with supervision.—In addition to the changes indicated above which are applicable to all cases of release of offenders on probation, the law relating to the placing of offenders under supervision has been further amended in several respects:

(1) While under the present law in Uttar Pradesh offenders upto the age limit of 24 years only could be placed under the supervision of a probation officer, this restriction has now been removed.

(2) The minimum term for which an offender may be placed on probation with supervision will have to be at least one year.

As has been discussed in this paper earlier, if the supervision of a probation officer is to be effective, this is obviously necessary, for no probation officer can bring about a substantial change in the mentality of an offender during the probation of a lesser period.

Offenders under 21 *years of age.*—Under the U.P. First Offenders' Probation Act, a court is bound to pass an order for probation, if

(i) the offender is under 21 years of age, and

(ii) the offence for which he is being convicted is punishable with imprisonment not exceeding six months.

unless for special reasons to be recorded in writing, it is not considered proper. The law in this respect has been substantially changed in two respects:

(1) While under the U.P. First Offenders' Probation Act, the court is required to pass an order for probation only in the case of offences punishable with imprisonment not exceeding six months, such an order will have to be passed now in the case of all offences, punishable with imprisonment, excluding imprisonment for life.

Barring, therefore, cases which are punishable with death or imprisonment for life or with fine only, the offender in respect of all other offences will have to be placed on probation with supervision, unless of course for reasons to be recorded in writing, the judge or the magistrate decides otherwise.

(2) Under the U.P. Act, the court is not bound to call for a report from the probation officer. Rule 12 of the U.P. First Offenders' Probation Rules, 1939, only provides that the court may require a probation officer to make preliminary enquiries as regards the character, etc., of an offender. Under Section 6(2) of the new Act, however, the court shall, for purposes of satisfying itself whether it would not be desirable to deal with an offender below 21 years of age under"the Act, call for a report from him and take his report into consideration.

In addition to these changes, the Probation of Offenders Act, XX of 1958, has introduced some new provisions, which should go a long way in improving the position relating to the

administration of the Probation Law in the country. They are:

(1) Formerly only magistrates of the First or Second Class, specially empowered in that behalf, could take action in respect of first offenders, but under the new Act, this power may be exercised by all magistrates, whether of the First, Second or Third Class.

(2) If an offender below 21 years of age is not given the benefit of the probation law and no appeal lies or no appeal is preferred by the offender, the appellate court may revise the order sentencing him to imprisonment either suo moto, or on the application of the convicted person, or the probation officer. The probation officer has thus been given a right to intervene on behalf of a convicted person.

(3) As release of an offender either after admonition or on probation may create an impression in the mind of the person wronged that the injury caused to him has not been redressed, the court may now award such person such compensation as it considers reasonable for loss or injury caused to him and also pass such orders as to costs of the proceedings as the court thinks reasonable.

(4) A person released either after admonition or on probation shall not, after the new Act comes into force, suffer from any disqualification, on account of his conviction for the offence, provided, of course, nothing is done by him after his release which may necessitate an adverse report by the probation officer.

This new provision is important from the point of view of completing the rehabilitation of the offender, if he improves his conduct and shows promise of good behaviour. But the provision appears to go a little too far inasmuch as the disqualification is removed irrespective of previous history and the nature of the offence committed. The Mississippi Law is perhaps better. Under the Mississippi Probation and Parole Act, which came into force on 1st July, 1956, the probation officer has, on discharge of a probationer, to send a written report about his record to the Probation and Parole Board, and the Board transmits a copy of the same to the Governor, who may, in his discretion, restore his civil rights.

(5) Under Section 7 of the Act the report of a probation officer would be confidential, though the substance thereof may be communicated to the offender. This will protect him against the undue publicity of an adverse information or comments regarding his antecedents, including family circumstances, and also entitle the probation officer to speak about him with some frankness.

If we have reached a stage in the advancement of our civilization at which it is no longer open to the society to despise an offender—even a habitual one—and treat him with contempt, and if we agree that an attempt is to be made to rehabilitate those who, under force of circumstances deviate from the right path, there is no reason why any discrimination should be made between offenders of one place and another. The U.P. First Offenders' Probation Act has been in force for over 20 years, but it is a little discouraging that it has so far been extended only to 18 districts. Even the Probation of Offenders Act, XX of 1958, provides that it shall come into force in the State on such date as the State Government may by notification appoint and different dates may be appointed for the different parts of the State.

I would venture to suggest that steps may be taken to see that the new Act is enforced throughout the country at as early a date as possible. Some difficulty may be experienced in providing suitable probation staff, but it should not be an insurmountable one.

The provision in the law for pre-trial investigations is, however, one which requires some consideration. Under the existing law the reports submitted by the probation officers are placed on record, while under the new Act they will be kept confidential, though relevant portions of the same are to be communicated to the offender and opportunity given to him to explain or rebut them. But is not such a report, however useful information it might give to the judge or the magistrate, likely seriously to prejudice the court on the issue of his guilt. Under Section 54 of the Evidence Act, the fact that an accused person has a bad character is irrelevant, unless evidence is given of his good character. Even evidence of previous conviction is evidence of bad character, and may not be produced unless he is liable to enhanced punishment under section 75 of the Indian Panal Code, or where previous conviction may be relevant within the limited scope of explanation II to Section 14, or as evidence of motive under Section 8 of the Evidence Act, or in security proceedings under Chapter VIII of the Criminal Procedure Code. It is questionable, therefore, to what extent pre-trial investigations which may even adversely affect the case of an accused and influence the subconscious mind of the judge or the magistrate at the time of convicting an offender should be allowed to come on record. In any case, therefore, these reports should, upto the time the conviction of the offender is recorded, be kept confidential in the sense that even the judge or the magistrate should not have access to them, and may be looked into only at the time of passing the sentence, when the court has to consider whether the provisions of the Probation Act are to be applied to an accused.

Law on Juvenile Delinquency in England.— In England the first effective step in respect of child delinquency was taken in 1908 in the form of the Children Act of that year, which prohibited the imprisonment of children under 14 years of age and placed restrictions on that of children under 16, which limit has been raised to 17 under the Children and Young Persons Act, 1933.

Juvenile courts have been established in England by the latter Act, and 'child' defined as a person below 14 years and a 'young person' as one who is above 14, but under 17. Special provision has been made for the hearing of cases against children and young persons for all indictable offences, other than homicide. Elaborate provisions has been made for avoiding the juvenile offender coming in contact with undesirable influences after his arrest and during the hearing of the case. If he is not admitted to bail, he is not to be sent to jail, but detained in what has been termed as a Remand Home. The court has discretion to require the attendance of the parents or guardian of the child or the young offender during all stages of the proceedings. But no person who is not connected with the trial of the child or the young offender may remain inside the court room, where the trial proceeds, except bona fide representatives of newspapers and news agencies. All undue publicity of the child or the young offender even in the press is to be avoided.

Punishments which may not be suited in the case of adults have provided for these juvenile offenders. They may be sent to approved schools and committed to the care of some person (who may or may not be a relation), with or without being placed on probation, or detained in a detention centre, or sentenced to Borstal training, or required to attend at an attendance centre, depending

upon the age of the offender and nature of the offence charged. The parent or the guardian may in certain cases be required to give security for the good behaviour of the child and may even be asked to pay the fine, damages, or costs imposed on offenders under 17. The "detention centres" are places in which persons between 14 and 21 years in age may be kept for short periods under observation suitable to persons of their age and description. The "attendance centres" are places at which offenders between the age of 12 and 21 years may be required to attend on such occasions and at such times as will, so far as possible, avoid interference with their school work or working hours to be given appropriate occupation or instructions under supervision.

Similar law in U.P.—More or less similar provision has been made in Uttar Pradesh under the U.P. Children Act, 1951. The Act provides for the custody, protection, direction and rehabilitation of children and for the custody, trial and punishment of "youthful offenders", which expression has been defined under the Act as a 'child' who has been found to have committed an offence punishable with imprisonment including imprisonment for life, and a 'child' means a person under the age of 16 years.

The Act makes provision for offences committed by or against children and also provides for the attention which is to be paid to them not only after they have committed an offence, but even at an earlier stage where there may be possibility of their falling into bad habits. The purpose behind the estab--lishment of Juvenile Courts is not to provide merely lenience or rehabilitation to deserving cases, but also to enable specialization in the handling of young offenders with the wide diversity of problems which individuals of this group of offenders present. Under Section 1(4) of the Act, the State Government is authorised to make its provisions applicable in part or in whole to such areas as may be specified. Although the **Act** has been on the Statute Book since 1952, it has so far been applied only to the districts of Agra and Varanasi and even there only in part. Similar legislation is, however, in force in Bombay and some other parts of India, but I have not been able to get enough information about the same.

V

SOME SUGGESTIONS

Probation and child delinquency Law.—If the law for the rehabilitation of offenders and the protection of children from evil effect has to be brought in line with other countries, our ideas about punishment should undergo a material change. A convict may be sent to the prison "as a punishment", but not "for punishment". Law must take notice of public opinion. The Probation of Offenders Act, 1958, such as it is, makes a good advance on the existing law and it would be highly desirable to enforce it in all the states at as early a date as possible, and that too in all the parts of every state. Child delinquency (which has been dealt with in Uttar Pradesh) in the U.P. Children Act, 1951, may also be the subject of a central legislation at an all India level and the law enforced throughout the country.

In order, however, that this may bear fruit, special attention will have to be paid to

(i) segregation of delinquents at an impressionable age from those with a mature mind;

(ii) specialization of court personnel in the handling of the cases of such offenders;

(iii) reducing the extent of unnecessary detention during the trial; and

(iv) expeditious disposal of all such cases, and avoidance of unnecessary delays;

Period of probation.—While release of offenders, particularly the juveniles, on probation, with or without supervision, is one way of dealing with them, we have to consider if the supervision of a probation officer for short periods, such as three or six months, or even more, likely to bear any fruitful results. Placing the delinquent under the supervision of a probation officer or sending him to a Reformatory School for a short period is not likely to achieve the object at all. It would in a way be a waste of the energy of the Probation staff to devote attention on short term offenders. While 'probation with or without supervision' need not be regarded as a sort of punishment, as appears to have been done in a reported case,[28] nor need the notion whether or not placing of an offender on probation, with or without supervision, would be adequate sentence for the offence committed by him, disturb the mind of a judge or magistrate, the period fixed should, within the four corners of the law be such as may be sufficient, at least to some extent, to bring about a change in his habits or mental attitude towards his behaviour in society. If fixing the period of probation at such a length is considered disproportionate to the offence committed, the offender may, with advantage, be let off with admonition or only on probation of good behaviour, but without an order for supervision. Probation with supervision should not be regarded by courts as a sort of imprisonment whose term may vary from a day (till the rising of the court) to the maximum period prescribed.

Under the existing law, while the maximum period for which a delinquent may be placed under probation with supervision is three years, no minimum period has been prescribed for it. Under the Probation of Offenders Act, XX of 1958, however, there is some improvement, in as much as the period of probation with supervision will have to be at least one year. The period will of course be fixed by the judge or the magistrate, having regard to the antecedents of the offender, his social upbringing and education, the back ground under which the offence was committed and even the nature and seriousness of the crime.

Exercise of sound judicial discretion.—The application of the law of probation calls for the exercise of a sound judicial discretion. Justice will be undermined and respect for constituted authority would become a mockery if hardened criminals escape with undeserved probation. But the exercise of a sound judicial discretion by judges and magistrates would very much depend upon the thoroughness and care with which the pre-trial investigations are carried out. Judges and magistrates should not be handicapped by not having complete details of all circumstances material to the exercise of their discretion. Probation officers may sometimes feel that the judge or the magistrate does not have a thorough understanding of the philosophy and technique of the correctional system or the technical skill of the correctional worker, but this is, if I may be permitted to say so, not quite correct. Whether as jurists or as correctional workers, we all have a responsibility to promote mutual understanding, as also the well-being of the society, within our own spheres, of course.

Judge's task.—The task of a judge or a magistrate who has to pass the final order as to how an accused person, after he has been convicted, is to be dealt with, is also by no means easy. He is to keep in view conflicting interests and then arrive at a decision which should satisfy all standards with which his decision may be judged. In passing the sentence he has to keep in view a number

[28]Emperor Vs. Sardha R m, 29 *Cr. L.J.,* 1096.

of circumstances, such as what the offender has done and why, what his previous record has been, what effect the decision is likely to have over justice and the community's respect for it, what will be its effect on the offender himself, will he after the order is passed go straight or be a menace to the society if he is not sent to jail and what resources are available to us to reform the offender or to help him to help himself. The last consideration is by no means the least important, but it is the resultant conclusion of all these considerations which take the shape of the orders passed against the offender. Courts should, therefore, have the confidence that the material which will be placed before them is such as would aid them in arriving at their conclusions as to what is best, both for the society and the individual offender.

Administrative control of the department. —This brings us to another question, the touch which is to be given to the administration of the Probation department. Is it to be regarded as a part of the administration of prisons or as that of administration of justice? Outwardly it may only affect the control of the department at the top, but inwardly it may, directly or indirectly, influence its actual working. Probation is essentially a judicial system.[29] It is the judicial mind which finally decides whether or not a particular case is to be governed by the probation law, though the grant of probation with or without supervision depends to a great extent upon the investigations of the probation officer, and his presentence report, as it is termed in the U.S.A. The work of the probation officer is thus complementary to that of a judge or magistrate. However much, the administration of our prisons be carried out with the idea of the reformation of the prisoners, there is a clear distinction in the functions of a superintendent of jail and a probation officer. The former merely carries out the orders of the court in detaining the prisoner inside the prison for a specified period and the manner in which the prisoner is to be treated is entirely the concern of the executive Government. Not so however with the work of a probation officer, whose main job lies in providing material for the correct exercise of judicial discretion by the court. He has been rightly described as the 'eye of the magistrate'. The investigations and study of the offender by him and the granting of probation by the judge or the magistrate are so much a part of the judicial process that one cannot tell where one begins and the other leaves off.[30] The responsibilities of the judge and the magistrate and the probation officer are so much interconnected that it has been said in respect of their relation that,

> "it is the function of a criminal court to be the stern father. The Probation Officer should in effect be the kindly mother."

Chief Justice Earl Warren (U.S.A.) while addressing the National Conference on Parole[31] said, "I congratulate all of you on your high-minded attachment to this important facet of the administration of justice". This speaks of the true character of the work of the probation officer. The link between the probation work and administration of justice in U.S.A. has been established to an extent that even whole day forums are sometime held between judges and the probation officers. One such forum was recently held at Trention on 20th March, 1956. They are regarded as of invaluable assistance to the probation officers and make them realize the role which they have to pay in the administration of the work of the court. This

[29] U.P. Government, *A Handbook for Probation Officers,* 1939.
[30] *Book of National Probation Association,* 1932-33, New York, P. 234.
[31] Held at Washington on 9th April, 1956.

inter-connection between the working of the courts and the probation system is suggestive of a common administrative control at the Governmental level.

Detention for indeterminate period- Connected with this is the question whether the present law provides sufficient protection to the society as a whole against the anti-social activities of the offenders whose records indicate that they are not likely to reform themselves. In passing a sentence the judge or the magistrate has to guard against two dangers, danger to the public and danger to the accused himself. The public must not be led to suppose that juvenile offenders may commit any crime that they like without any fear or punishment, as they may be an incentive to criminal parents to initiate their children into a life of crime, and even children themselves being immune from the fear of punishment might be tempted to go astray from an unpleasant path of virtue into a path of crime.[32]

But since every sentence has to be for a fixed period, and as at the time of passing the same the courts have to be guided purely by judicial considerations, it is not open to them to impose a longer sentence than what is warranted by the accepted standard in relation to the gravity of the offence. If experience shows that this punishment fails to bring about a change in the mentality of an offender, does not the society expect that the law would be a little stringent in this respect, particularly when we find that the crime has gone up almost cent per cent during the last ten years? While every consideration may be shown to the offender of an immature mind, or occasional offenders, or those who in committing a crime have merely been victims of circumstances, there is no reason why a more serious view may not be taken of those who probably have thick hides and short memories, and find it impossible to curb their criminal tendencies. When it is clear that the likelihood of violence exists, there should be some legally recognized machinery whereby such individuals can be isolated from society to receive preventive treatment. It is, therefore, time to consider the question of detention of such persons for an indeterminate period. This idea has already been recognized to some extent under Criminal Justice Act of 1948 in England and the Federal Youth Correction Act in U.S.A., and I suggest that even in India those interested in the subject may consider to what extent we can introduce it in our law. By suggesting detention for an indeterminate period I do not mean that the offender should be the inmate of a jail for an indefinite period. But what I do mean is that having regard to his age, his antecedents, his mental, physical and moral equipment and his vocation in life, he may be detained either in jail or such reformatory institutions as may be established for the purpose for a term, which may be indeterminate in the sense that unless those to whose care the offender is entrusted are satisfied that there has been a real change in his mentality, he may not be given another opportunity to subject innocent his craft.
members of the society to be the victims of

If a person suffering from a contagious disease is removed from contact with healthy persons until the danger is past, there is no reason why there should also not be a quarantine for such mentally ill criminals, who should be allowed to come out only when their illness is cured—cured to the satisfaction of those who are qualified in this branch of

[32]Darya Lal V. Emperor, 25 *Cr. L.J.* 1224. Also Emperor Vs. Akbar, 29 *Cr. L.J.* 219 (People should not be suffered to understand that a perjurer, if convicted, which is very seldom, has still a chance of escape on probation).

study. The lives of the potential victims should not be lost sight of in our endeavour to rehabilitate and reform an offender.

Moral standpoint.—There is another aspect of the problem which is probably beyond the scope of this paper, but reference to it cannot be altogether avoided. However deterrent a punishment may be and however much energy may be directed towards the prevention of crime, it may not be possible to be somewhere near the desired goal unless the problem is tackled from an ethical point of view as well. Offenders seldom realize, while indulging in crime, that they are doing something wrong.

Infringement of the law is sometimes supported by public opinion, however restricted in its scope that opinion may be. Those who infringe the laws with a daring at times even receive public applause, at least from that section of the society in which they move. Unless, therefore, the commission of a crime is attacked from the moral standpoint and ground is prepared at that level, it may not be possible to attain appreciable success in this respect.

It was from this point of view, perhaps, that our ancient law givers and sages laid emphasis on the distinction between crime *(apradh)* and sin *(pap).* It may be easier for a person to desist from committing an act, if he realizes that the commission of the same amounts to a sin, than when he is merely told that it is a crime. Religion has a unique value as a channel as it cuts across so much of the life of each individual, his thought, his behaviour, his motivation, and his relationship with others. What I mean to emphasize, therefore, is that an attempt should be made to improve the moral background of the society, so that one may desist from doing certain acts not merely because commission of the same would amount to a crime, which may result in his being sentenced, but because to do that wrong amounts to a sin. There is a provision in England and United States of America and probably in other countries as well, for the reformatory schools and remand homes being visited by chaplains. Those in authority in the United States are considering over many sound and constructive programmes for enlisting the youth in religious activities as a method of combating delinquency. This is one way of dealing with the problem, but it is very much limited in scope. The significance of our actions which may be termed as 'sin' should be brought home to a young mind at an early stage of his development, so that as he grows up, he may have a clear picture in his mind as to what is proper for him to do or not to do. This may in its due course lead us to a greater success.

Conclusion.—I have now come to the end of my paper. These are days of development of ideas and research. Considerable experiments are going on even in the Science of Penology in the United States of America, United Kingdom and the Continent and new theories are coming in and replacing the old ones to an extent that our outlook towards an offender has now completely changed from what it used to be sometime back. An offender is now, more often than not, regarded to be the victim of a disease, and the more habitual the offender, the greater perhaps the malady from which he suffers.[33] An offender is not reformed merely by being told, 'Go

[33] *Chalis Din ki Kahani,* Sri Paripurnanand Varma narrates an interesting case.

The case of a person who was after his 18th conviction subjected to an expert examination, places before us a striking example of the same. Investigations and enquiries into his previous antecedents disclosed that he was struck with a splinter 40 years back from a bomb. A very fine piece of that splinter entered the veins in his brain and whenever that fibre would have a slight movement, it would cause some irritation in his nerves and put him in a fit of violence. He was subjected to a fine surgical operation by which that fibre was removed, and when he recovered, he was as much a normal man as any other.

thou and sin no more'. We have to strive and strive hard to add to our understanding of man, and perhaps much more than what we are doing to understand the physical world. Bull Waugham has said, "Outer space is like Juvenile delinquency the more we investigate, the more of it there seems to be".

I may be permitted to say, "Juvenile delinquency is like outer space the more we investigate, the more of it there seems to be".

One may hope that our knowledge will soon reach that stage of perfection when it may be possible for us to reform and rehabilitate the so called habitual or persistent offenders by subjecting them to such mental, moral or physical cure as may be available to us and turn them into good citizens entitled to their proper place in the society.