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Our national disgrace: crowded prisons - mounting crime - justice
frustrate, 1930.

.....
"OUR NATIONAL DISGRACE: CROWDED PRISONS--
MOUNTING CRIME--JUSTICE FRUSTRATE."

RABBI ABBA HILLEL SILVER.

THE TEMPLE, SUNDAY MORNING,

JANUARY 26, 1930, CLEVELAND, O.

.....



Within the last year this country was startled by a series of grewsome and bloody outbreaks in a number of prisons,--in Kansas, in Colorado, and lately in the Auburn prison of the state of New York, the second outbreak in five months. In this last prison the convicts succeeded in gaining control of the prison for more than six hours, and only a detachment of state militia with machine guns finally succeeded in quelling the riot, but only after eight convicts had been killed and the principal keeper of the prison himself was slain, and some twenty convicts and guards wounded.

This series of outbreaks in our penitentiaries called attention of our people sharply to conditions within our prisons, and it was found that these outbreaks were not the results of plots on the part of some incarcerated individuals, but rather the result of unendurable conditions which drove men to desperation. It was found upon investigation that in some of these prisons the prisoners were jammed into overcrowded and miserable quarters, poorly fed, in many instances denied the opportunity to work, and in some instances, as in the state of New York, under the Baumes law, denied any chance of ever regaining their freedom.

Some of these prison houses were found to be a hundred years old, and men were compelled to live in

cells seven feet long, three and a half feet wide, seven and a half feet high,--to live in them, and sit in them, idle, like caged animals. And it was a shock to many of us to have these facts brought to our attention, because we believed that in our enlightened country, with the advance which we had made in theoretic penology, these things were no longer in existence.

But, clearly, they are in existence, and, clearly, we have not yet passed from the penal phase of the treatment of the criminal to the corrective phase. We still think in terms of punishment rather than in terms of redemption. The idea of vengeance is still the dominant idea in our entire punitive justice; and the country at large seems still to be laboring under the delusion that increase in crime can be checked by increase in the severity of punishment. This delusion is as old as mankind is. It has not yet dawned upon many people that what is done inside of the prison walls to the prisoner by way of punishment has little to do with the decrease or increase of crime outside of the prison walls.

In contrast to these conditions, which have driven inmates of prisons to desperate outbreaks in our country during the last year, I should like to call your attention to the new penal code which was recently adopted by Prussia, and a similar code recently adopted by Mexico. The keynote of the new code of Prussia is

this: that the offender in prison should be treated like an individual, and not like one of a horde, or a mass, subjected to a uniform punitive justice. No two criminals are alike; no two criminals perpetrating the same criminal act are alike. There is the first offender. To place him in prison with hardened criminals is simply to advance him along the road of crime. There is the young criminal,-- the boy of sixteen or eighteen or twenty, who commits an offense against the law. To place him in a prison with hardened sinners and repeaters is simply to destroy him. There is the mentally deficient and abnormal criminal. To punish him is simply to be brutal and beyond shame.

So that the Prussian system is a diversified one,--different institutions for different criminals, sentenced to different terms. The criminal is far from being pampered. The discipline is rigid and hard; the work is hard and difficult, but no opportunity is lost under this new system to recondition the prisoner, to reconstruct his life, to rebuild him if it is possible to rebuild him. The prisoner is constantly under the surveillance or observation of an expert psychiatrist. The case of the prisoner is studied as the family case is studied by a social worker; not the particular crime for which the man has been imprisoned, but his whole past history, his environment, his health conditions, his education, his personality,--they are all studied by an

expert, who is there to guide, to reeducate this prisoner, if possible.

And it is interesting to note that under this new penal code of Prussia, the suggestion which was advanced not long ago by ex-Governor Smith, of New York State, is actually incorporated into this code. You will recall that Governor Smith made the suggestion that the judge shall never pass sentence. The guilt or innocence of the party shall be discovered by the judge or by the jury; thereupon, if found guilty, the individual is turned over to a committee of experts,--a psychologist, a socialist, a criminologist; and that committee thereupon enters into the whole history of this man, trying to understand what drove this man to commit the crime, if he did; what made him an outlaw in society. And after diagnosing the individual objectively, it then prescribes for him the kind of treatment that is most likely to help him, if he can be helped, and to restore him to society after his period of correction is ended.

And the same plan is incorporated into the new Mexican penal code,--this backward country of Mexico has adopted a penal code far in advance of our own. There too the offender is turned over to a supreme council of social protection and prevention, which studies the man as an individual and which tries to prescribe for him a treatment which will help him. The prisoner is not

treated like a leper, to be cast out from society, but as a man who has erred and sinned, as a man who may be saved.

A state, my friends, which feels no responsibility for a man who has sinned, after placing him behind prison walls, is an immoral state. Inhumanity to a criminal is just as sinful as inhumanity to an innocent man. A law such as was passed in New York State under the emotional hysteria due to what was looked upon as a crime wave,--a law like the Baumes law, which prescribes life sentence without any possibility of pardon or restoration to freedom to a man convicted for the fourth time, is, to my mind, one of the most vicious and brutal and stupid of laws. To deny a man any hope of freedom is worse than to electrocute him. As long as life is left in a criminal there must be left also the chance of freedom. To deny the man that one chance is to drive him to any and every measure of desperation within the prison that is likely to come within his reach.

The solution of crime, my friends,--and I speak now as a layman and not as an expert criminologist,--the solution of crime waves and crime increases lies elsewhere, and not in increase in severity of punishment. It lies in a complete overhauling of our entire judicial machinery and in a reeducation of the American people into a deeper sense of social control and responsibility.

Our record of crime, of course, is a shame

and a disgrace. It is perfectly appalling. Annually there are 12,000 murders committed in the United States,-- more than fifty times the amount in the whole of Great Britain. The annual murder rate in the United States has increased 350% since 1900. There were some 300,000 robberies and burglaries and holdups committed in the United States during the past year. There are close to 100,000 inmates in our federal and state prisons and reformatories, and goodness only knows how many tens of thousands of criminals are at large. In the state of Ohio between the years 1910 and 1927, that is, in seventeen years, the number of prisoners rose from 53 per 100,000 of the population to 93, an increase of over 75%. The New York State Crime Commission estimated that the general crime cost in the United States amounted to the staggering sum of 13 billions of dollars. There are more crimes committed, first degree crimes committed in the city of Chicago than in the whole of Canada.

I could give many more statistics, but I have indicated sufficiently the appalling extent of lawlessness in our land. Now the cure is not a simple one, and there is no single cure. I indicated a moment ago that the hope of checking crime by intensifying punishment is a vain hope. Similarly is it vain and futile to institute vice crusades in this city or in that city. That is simply driving the criminal from one town to another;

that is not solving the national problem.

First and foremost, it seems to me, the solution lies in the direction of bringing about more sure and speedy justice,--sure and speedy; not necessarily severe. It is the certainty, the implacability, the swiftness of justice which drives terror into the hearts of criminals. English justice is less severe than ours, but it is far more sure,--sure almost as fate. Seven out of ten who commit murder in the city of London are hung. One out of 160 who commit murder in the city of New York is ever electrocuted. The criminal in this country has a twenty to one chance to escape, and he thinks that it is worth while to take such a long chance.

Ex-President Taft, now Supreme Court Justice Taft, said not long ago: "The administration of criminal law in the United States is a disgrace to civilization. The trial of a criminal seems like a game of chance, with all the chances in favor of the criminal; and if he escapes, he seems to have the sympathy of a sporting public."

The criminal always can count upon delay in justice, upon appealing and appealing again and again, and as a last resort he can always count upon some influential politician intervening and obtaining for him a pardon or a parole. This is perhaps one of the chief factors in the increased lawlessness in our land.

What is the solution here? Here the

solution lies in revamping our entire judicial administrative machinery, in seeing to it that we have in every locality more competent, more aggressive and more honest prosecutors, better paid prosecutors; in seeing to it that we have a higher type of judiciary, and not judges that have to keep their ear constantly alert to what the public is saying, because they have to next year or the year after stand for reelection; a higher type of mentality in our judiciary. We must surround the office with much more dignity, even with much more ceremony. There ought to be something of what the Rabbis called "the awesomeness of law" around our courts. You get it when you step into an English court the minute you pass the threshold. A sense of reverence, almost of fear, overcomes you.

We ought to get a higher type of individual into our juries. And that can be brought about; that is not beyond the reach of our possibility, if the citizenry of every community will organize itself into associations of vigilantes,--associations which will be on the alert to prod the sluggish prosecutors, to strike the hands of intervening politicians in justice, to drag down from the bench the politically-minded judge, or to repudiate the all too easily pardoning governor,--an alert association for criminal justice which will warn the citizens against the slobbering sentimentalism which very frequently spreads through a community, and which seems to be more concerned

with the welfare of the criminal than we justice to the victim of his crime.

To check crime, my friends, there must be built up in the public mind belief that justice in America is even-handed. And that has not been built up. The rich in the United States need never fear the law. The rich escape the penalties of the law. The rich are above the law in the United States. This is not my assertion; this is the assertion of the American Bar Association. The American people was dumbfounded and amazed when one within the last fifty years, perhaps,--Harry Sinclair--was sent to prison. It hasn't gotten over its amazement yet.

Justice can be outwitted in this country by highly paid and cunning attorneys, by judges who are not incorruptible. Laws are frequently passed by legislatures to help favor the rich, and as long as that condition prevails the average man will have no particular regard for law. The Biblical injunction which I read this morning is still the foundation of any system of jurisprudence and of social morality: "Thou shalt not respect the person of the poor, nor favor the person of the rich, but in righteousness shalt thou judge thy neighbor." And until that is done there will be rampant lawlessness in this country. In England recently a rich stock manipulator was sentenced to fourteen years imprisonment; and that is not unusual in England. Out of all the miserable stock

manipulators who fathered the last stock crash, not one of them has even received fourteen days punishment.

Another contributing factor, to my mind, which will in the long run check violation of law, is a greater reluctance on our part to pass laws. We are altogether too hasty in making laws. The ease with which we make laws in this country is proportionate to the ease with which we break them. We are the speediest law makers and the speediest law breakers in the world. In the state of Ohio alone we have twelve thousand laws on our statute books, many of them enacted in response to some local emotional flareup. We have many laws hastily enacted to correct the evils resulting from other laws equally as hastily enacted.

There is a growing tendency,--to my mind, a condemnable tendency,--to pass more and more responsibility to the state. There is more and more the tendency to achieve salvation through legislation. The increasing demand in all parts of our country for laws,--sumptuary laws, prohibition laws, censorship laws,--all kinds of laws, are indicative of the abdication on the part of the individual of so much of social responsibility. We are forcing our state and our government to become more and more paternalistic, more and more bureaucratic, and we shall soon rue the day.

President Hoover became aroused with the

crime conditions in the United States some time ago, and appointed the national committee on law observance and enforcement, which recently submitted its preliminary report. The report deals largely with the violation of the prohibition law. It is not the final report. The work of the commission,--the major part of its work, is still to be done. It recommends certain preliminary means of giving effect to the prohibition law, recommendations with which no thoughtful citizen can have any quarrel.

The commission recommends that the law enforcement of the prohibition law be transferred from the Treasury Department to the Department of Justice, where it rightfully belongs. It suggests a codification of the federal laws touching prohibition, the tightening of the padlock injunction, and particularly suggests the way of relieving the congestion in our federal courts by empowering the United States commissioners to deal with crimes of lesser magnitude.

President Hoover seems to be the first president since the prohibition law was enacted to have aggressively undertaken to enforce the law. He is tremendously in earnest about it. He has launched what amounts to a drive, a concerted drive for every department of our government to see that the dry law is enforced.

It seems to me that every assistance should be given to the President of the United States to enforce

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this law, because it appears to me that this coming period under Hoover's administration will be the last and final test period for the prohibition law. If it succeeds, there is no doubt in my mind but what it will be a blessing to the whole country; but whatever your opinion about the prohibition law is, every right thinking man will agree that a nation or an individual, if they can get along without liquor, is so much the gainer by it.

But if it fails under the next period of trial, the law should be repealed or modified, if possible. For it is distinctly harmful to keep on our federal statute books an unworkable law. An unworkable law is an object lesson to everybody in lawlessness. It trains people to circumvent the law and to hold in light regard government and legislation. It drags public officials into a silent conspiracy against the very government which employs them. It is a spreading disease.

Ten years have gone by since the prohibition law was enacted, and these last ten years have not at all demonstrated that the law is workable or useful. Now it may be---I am inclined to think that it is so---that one decade is not a long enough period to test a law which makes such a radical change in the social habits of the people. It may be that the next five years will show a marked improvement in the enforcement of the law. As it stands today, the record is not an encouraging one. The prohibition law has not given us a more sober citizenry.

It is doubtful whether the total consumption of alcohol has been diminished in the United States. Deaths through acute alcoholism increased from 96 in 1918 to 700 in 1929. In the city of New York the persons treated at Bellevue Hospital for alcoholism rose from 2000 in 1920 to 7000 in 1928. In New York City,--and of course New York City may not at all be typical of the United States,--there has been an increase of 30% in arrests which were made for drunkenness.

It is true that prohibition has given us the bootlegger, the racketeer, that prohibition has corrupted government officials, enriched the underworld, forged links between our police and our criminals, crowded our courts and our prisons. More than one-half of the total arrests by the government of the United States--to be exact, 80,000 arrests, were due to violations of the prohibition law; and in the process of enforcement in the last ten years 190 people were killed, including fifty-five dry agents.

Now this is not a pleasing picture to contemplate. It seems to be indicative of a tremendous resistance on the part of our people to this law. Perhaps it was inevitable that the first ten years would yield such results; perhaps improvements will follow; perhaps better conditions already prevail in some parts of the country. Certainly, the next few years ought to tell the story; certainly, the present conditions are intolerable,

and certainly, the present administration ought to be given every conceivable encouragement in seeing to the enforcement of this law, so that it may have a final, honest trial. If it fails it should be repealed.

One of our Rabbis was fond of saying, "One should not impose a law upon a community unless the majority of the community is able to obey that law." A true law must take cognizance of the traditions of a community, of its habits, of its convictions, of its attitudes; otherwise the law defeats itself.. And this fact is brought out very clearly in one of the paragraphs of this preliminary report of the national commission on law enforcement,--the Wickersham commission. It states, among other things: "It is impossible wholly to set off observance of the Prohibition Act from the large question of the views and habits of the American people with respect to private judgment, as against statutes and regulations affecting their conduct, the divergence of attitudes in different sections of the country, and as between groups in the same locality. We must not forget the many historical examples of the widespread public disregard of laws in our past. To give proper weight to these things is not a matter of a few months."

I repeat again, my friends, the Prohibition law, if found unworkable, should be repealed or modified, but until repealed or modified, it should not be ignored. A people such as ours living under a democracy has within

it the power to repeal any law. We have the instrumentality to make our wills effective. The prohibition amendment can be unmade; the Volstead Act can be modified. We have that power, and only through the exercise of that power through legal channels are we working for the moral betterment of our people.

It seems to me, my friends, that all of us, young and old, ought to go to school again to learn the fundamental, the basic respect for law. There has gone on in this country, I am afraid, in the last decade or two, a general loosening of moral ties, a general breakdown of social discipline, a laxity, which bodes ill for the moral progress of our nation. No people can long enjoy freedom that is unwilling to submit itself voluntarily to the control of laws by them fashioned. Freedom without law leads inevitably to anarchy and to tyranny. The safeguard of freedom is law.

"Upon three things does the world exist," said one of the great sages of our people,--"upon truth, and upon law, and upon peace; and all three of them are one. If the law is observed truth is established, peace is won." No people in the world has ever had such a reverential regard for law as our people. Our text book, our religious text book, is called Torah--law.

Unfortunately, in the general demoralization which has set in in this country, our people too has begun to lose that sense of supreme regard and respect for law.

It was a proud boast of our people that prisons did not know the Jew, and it was rare for a Jewish criminal to find himself in the penitentiary; and the juvenile courts never received Jewish boys and girls. The Jews kept out of courts; and through centuries that was true. Instinctively we respected the law; instinctively we were law abiding. Unfortunately, my friends, that is not the case today. It is not true that the number of Jewish criminals is larger than our population would warrant. It is less; but it is not less enough. There are all too many of our people who are finding their way into the prisons and reformatories of our country; all too many of our young boys and girls are coming up before the juvenile courts; all too many delinquents; all too many bootleggers; all too many Jewish racketeers.

I think our homes are breaking down; I think our schools are not doing their job; I think our synagogues and our temples are not fulfilling their role in the community. There needs to be a stiffening all along the line, a training of people almost from infancy up. "The law of the country is the law." We have a right to change it, not to break it.

I should like to see our people, trained in centuries of law observance, take the initiative in this country,--to bring about a reformation in the attitudes of people towards law observance.

"Upon three things the world exists: truth,

law and peace; and all three are one. Given law, truth
is won, and peace is established."

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The **TEMPLE BULLETIN**



THE TEMPLE
East 105th St. and Ansel Rd.
CLEVELAND, OHIO

Abba Hillel Silver, D.D.
RABBI

Rabbi Leon I. Feuer
Minister of Religious Education

SUNDAY, JANUARY 26TH

RABBI SILVER

will speak on

**"Our National Disgrace: Crowded Prisons—
Mounting Crime—Justice Frustrate"**

With special reference to the preliminary report of President Hoover's
National Commission on Law Observance and Enforcement.

Friday Evening Service
5:30 to 6:10

Saturday Morning Service
11:15 to 12:00

THE PUBLIC IS WELCOME

The Temple Bulletin, published weekly from the middle of September to June, by Tifereth Israel Congregation, E. 105th Street at Ansel Road, Cleveland, Ohio. E. E. Wolf, Pres.; Emanuel Einstein, Treas.; Rabbi Leon I. Feuer, Editor. Subscription price, 50 cents per annum.

Entered as second-class matter, Dec. 11, 1925, at the Post Office at Cleveland, Ohio, under the act of March 3, 1879.

Music for Sunday Morning, January 26th

Organ

Prelude (10:15 A. M.)

Finale (Seventh Sonata)....

..... Guilmant

Will o' the Wisp Nevin

Andante Cantabile. Tchaikowsky

Postlude

Prelude and Fugue in F. Major
(Little) Bach

Paul Allen Beymer

Anthems

Praise the Lord Schlesinger

Hearken unto Me Sullivan

Next Sunday

The address which Rabbi Silver was to have delivered last Sunday and which he postponed on account of the visit of Count Michael Karolyi, will be delivered this coming Sunday morning.

Rabbi Silver will discuss the report of President Hoover's Commission on Law Enforcement, and will dwell particularly on America's experience with prohibition during the ten years just ended.

Count Karolyi at the Temple

The great liberal statesman, Count Michael Karolyi, was welcomed to the

Temple last Sunday morning by a great congregation. There were present many of the leading citizens of our community, friends and admirers of the Count.

Count Karolyi devoted his address principally to the condition of the Jews in Hungary and to the causes of Hungarian anti-semitism. His discussion was frank, thorough and fearless. He did not spare the wealthy and influential Jews of Hungary for the role which they played in helping to bring to pass and in maintaining the present reactionary regime in that country.

The Count appealed to the rich Jews of the world to withhold financial support from Hungary as long as the present dictatorship and its anti-Jewish program last.

The Count's message made a tremendous impression, and will long be remembered. It was his first extended public utterance in America on the Jewish question in Hungary.

"Mazel Tov!"

The entire membership of the congregation rejoices with Rabbi and Mrs. Silver in the happy arrival of a second son last Saturday evening, January 18th. May God grant him long life and health and bless him abundantly with all good things.

Temple Religious School

Report for the Week

Total enrollment, including the High School, 1,296.

Number of pupils, kindergarten through ninth grade, 1,143.

Average attendance for the week, 88½%.

The following classes had 100% attendance: 3B, Miss Baum; 7C, Mrs. Lyman; 9B, Mr. Landin; 9E, Mrs. Cole; 9F, Miss Rubin.

PARENT-TEACHER RECEPTION

for the

JUNIOR HIGH SCHOOL

(Sixth, seventh, eighth and ninth grades)

Sunday Afternoon, January Twenty-Sixth, Three-Thirty P. M.

Parents will first assemble in the homerooms of their children and visit with each of the teachers of their children. A short gathering in Mahler Hall with brief addresses by the Rabbis will follow, and then a social hour and tea.

It is important that parents and teachers become acquainted and thus create the spirit of cooperation which is so essential to the progress of a religious school. All parents of children in the Junior High School should therefore be present at the meeting this Sunday afternoon which will be the only one of its kind this year.

Father-Son, Mother-Daughter Dinner— Saturday Evening, February 8th

If you wish to give your children an evening of fine and wholesome enjoyment, if you wish to participate with them in an experience which will be inspirational, if you wish to join with other mothers and fathers in a few hours of congregational fellowship—then be sure to reserve the above date.

The program is the best that has ever been arranged at the Temple for such a gathering. It will be varied but not long. These are some of its features:

1. An excellent dinner in Mahler Hall and dinner music by the Temple Junior Orchestra.

2. A fifteen-minute concert by the

Temple Boy Choir with solos by William Sherman, a talented young Jewish singer.

3. "The Ghost Story," a brief and clever playlet by the dramatic group of the Temple High School.

4. A chalk talk by Don Palmer, noted cartoonist of the *Cleveland News*.

5. The main address of the evening, by Dr. William E. Wickenden, new President of Case School of Applied Sciences, an extremely interesting and eloquent speaker.

6. Brief talks by representatives of the various generations present at the dinner.

7. Songs, souvenirs, prizes, etc.

The price of the dinner is moderate, \$1.50 for adults and \$1.00 for children under fourteen years of age. Reservations should be sent to the Temple office PROMPTLY.

From Rabbi Silver's Address, "Healing by Faith and Miracles"

Faith-cures are among the oldest phenomena of mankind. Every historic religion boasts of its temples, relics or saints who performed miraculous healing. To call all reported instances of faith-cures in the past and present superstition is to take a dogmatic and uncritical position. There is no doubt in the world that many have been cured by faith. It is the task of critical research to discover the causes of these cures when they have been found upon investigation to be authentic.

Wherever investigation is made of the maladies which yield to faith-cures it is found that in almost every instance they are not organic but functional. Some psychic disturbance or maladjustment in an individual produces an hysteric contracture which manifests itself in some functional disorder. These disorders may take the form of deafness, dumbness, blindness or paralysis. They may resemble almost any organic disease.

It has been demonstrated that such functional maladies are curable without drugs or surgery. This is the underlying thesis of modern psycho-therapy. An overpowering suggestion, the dynamic impulse of a new hope or the sudden inrush of a great faith, will release the tension which has snarled up the psycho-physical life of the individual and will restore him to normal health. The agency which causes this curative stimulation is quite immaterial, just so the subject has an overwhelming faith in it. It may be a shrine, a relic, a living or a dead saint, a mystic theosophy or the strong personality of a physician. It is not the agency which cures, but the faith in it.

For the modern educated man faith in the healing power of relics, shrines, saints and theosophies is quite impossible. His scientific training is against it. His mind will not give that unquestioning assent which makes a faith-cure possible. What remains for the modern man as the most promising source of healing in the realm of functional disorders is psychiatry, and those mental sciences which try to get at the root of disturbances through the scientific technique of probing and laying bare the sub-conscious life of the individual where the roots of much of the trouble lie. Beyond that there is nothing but implicit faith in God.

One should not, however, confuse religion with the art of healing. Religion is intended as much for the normal as for the abnormal and sick. Religion is a way of life and has to do with problems of human conduct. The primary function of religion is to teach men how to conquer those vices which are common to all people—selfishness, greed, lust, hate and bigotry. Were all men physically sound, religion would still have its chief objectives to attain. A church is not a sanitarium. It is a place of ethical guidance and inspiration.

The Temple Gratefully Acknowledges the Following Contributions:

To the Floral Fund

- | | |
|---|--|
| Mrs. Jacob Singer and Mrs. Leontine Gluck | In memory of sister and daughter, Marjorie Gluck |
| Mrs. Harry Arnstine and Mrs. Simon Klein | In memory of Mrs. Lester I. Miller |
| Mr. and Mrs. George W. Furth | In memory of Mrs. Lester I. Miller |

To the Library Fund

- | | |
|-------------------------|--|
| Miss Bertha Goldsmith | In memory of Edith Weglein |
| Mr. and Mrs. L. Weglein | In memory of daughter, Edith Weglein |
| A friend | In memory of Henry Simon and Jerome Schwartz |

Abstract of the address

"OUR NATIONAL DISGRACE: CROWDED PRISONS - MOUNTING CRIME - JUSTICE FRUSTRATE" by Rabbi Abba Hillel Silver at the Temple, Sunday, Jan. 26th.

The series of gruesome and bloody outbreaks which occurred in the prisons of our country in recent months is a national disgrace. Investigations have revealed that in many instances prisoners were crowded into wretched quarters, badly fed, denied an opportunity to work and in some instances as in the State of New York under the Baumes Law deprived of a chance to earn their freedom. ~~Penitentiaries were found to be inadequate, some a hundred years old with cells seven feet long, seven feet high and three and a half feet wide where men were compelled to sit idly day after day like caged animals. Evidently we have not yet passed from the penal phase in the treatment of crime to the correctional. Punishment is still the dominant purpose instead of redemption.~~ We are still laboring under the ^{ancient} ~~age-old~~ delusion that the best way to check crime is to make punishment severe and the life of the prisoner unbearable. ~~We have not realized fully that what is done to the prisoner inside the prison by way of punishment has no effect on the increase of crime outside of the prison.~~

We may well take a lesson from the new penal codes adopted in countries like Prussia, Mexico and Russia. Under these systems the prisoner is not pampered but every opportunity is utilized by the state to recondition the offender, to rebuild him and to restore him, if possible, to society.

The suggestion which was made some time ago by Gov. Alfred E. Smith that the judge should not sentence, has been incorporated in the penal code of both Prussia and Mexico. When found guilty the offender is turned over to a board made up of expert psychologists and criminologists who diagnose the man's history, mentality and personality and then prescribe the kind of

~~treatment which will best serve the interests of real justice.~~

A state which feels no responsibility for a man who has sinned and who is paying the price is an immoral state. Inhumanity to criminals is as abhorrant as inhumanity to the innocent. ~~The Baumes Law of New York State which prescribes an irrevocable life sentence without hope of pardon to a man convicted for the fourth time is one of the most cruel and medieval laws on our statute books. To deny a man a chance of freedom is worse than to put him to death. As long as a man lives he ought to have a chance.~~

The solution for our increasing crime lies ~~elsewhere~~ ^{not in increased severity of punishment but} in an overhauling of our entire judicial administrative machinery and in re-educating our people into stronger habits of social discipline and responsibility. ~~Our record of~~ crime is a standing indictment of our civilization. 12000 murders are committed annually in the United States - 50 times the number in Great Britain. Since 1900 our murder rate has increased 350%. Close to 100,000 prisoners are found in our Federal and State penitentiaries and reformatories. In the State of Ohio during the years 1910-to 1927 the number of prisoners rose from 53 per hundred ~~thousand~~ of the general population to 93 - an increase of over 75%. It has been estimated that general crime costs our country the staggering sum of thirteen billions of dollars a year.

There is no single cure for the situation. Increase in the severity of punishment meted out has never worked a solution. Local crime crusades simply drive the malefactor from one community to another and do not solve the national ~~problem.~~ What is needed more than anything else is a form of justice which is sure and speedy. It is the certainty, dispatch and implacability of justice which strike terror in the heart of the criminal. The criminal in the United States has a twenty to one chance to get away. He can always count on delays and appeals and, as a last resort, on political intervention to obtain parole or pardon. We need a higher type and better paid prosecuting attorneys in our country, and a higher type of judiciary which will not be subjected at short intervals to the necessity of popular election.

We need more intelligent and less sentimental citizens on our juries. Above all we must break the hold of corrupt politics over our police departments and courts. Every community ought to express its vigilance through some organization which will prod up sluggish prosecutors, strike the hands of meddling politicians, drag down the politically-minded judge, rebuke the too easily pardoning governor and educate the citizens against a slobbering sentimentalism which frequently has greater regard for the criminal than for his victim.

Respect for law will increase when our people are convinced that in this country even-handed justice is meted out. Unfortunately this is not the case. In our country the rich escape the law. They need not fear it. They can defeat it. Our people are made constantly aware of the fact that the law of the land can be outwitted by cunning and high priced lawyers and that the rich culprit seldom, if ever, gets behind prison bars. As long as this condition prevails men will hold law cheaply.

The ease with which we make laws is perhaps responsible for the ease with which we break them.

As a people we are the speediest law makers and the speediest law breakers of the world. We hastily enact laws in response to some emotional flareup in one locality or another and then as hastily we enact other laws to correct the evils which resulted from them. Altogether there is too marked a tendency in our life to obtain social salvation through legislation. We are forcing the state to become more and more paternalistic and bureaucratic and we shall rue the day. President Hoover's National Commission on Law Observance and Enforcement has recently made public its preliminary report. Its major investigation is still to be made. Its immediate recommendations for a more adequate enforcement of the Prohibition Law can not but meet with the approval of every right-minded citizen. Every assistance should be given to the President to test the Prohibition Law completely. Mr. Hoover is the first president who has

undertaken aggressive action for its enforcement. Under his administration the Law will have its surest test. If it succeeds in an appreciable degree it will prove a blessing. For everyone will agree that a nation or an individual that can get along without liquor is tremendously the gainer by it. If it fails of enforcement during this administration it should by all means be repealed or modified.

It is distinctly harmful to keep an unworkable and an unenforcable law on our Federal Statute books. It is an object lesson in venial lawlessness. It trains men to circumvent law and to think lightly of government. It drags public officials into a silent conspiracy against the very government ^{which} ~~whom~~ they have sworn to support. It is a spreading disease.

Ten years of prohibition have not demonstrated the workability of the law. Perhaps a decade is too short a time to evaluate a law, which aims to affect such a radical change in the social habits of a people. Perhaps the next five years will show a marked improvement. Let us hope so and let us give the government the fullest support in this effort to work an improvement. As of today the record is not an encouraging one. The Prohibition Law has not given us a more sober citizenry. The total consumption of alcohol in the United States has probably not been diminished. The Prohibition Law has given us the bootlegger and the racketeer. It has corrupted many government officials, enriched the underworld, forged links between the police and the criminals and crowded our courts and our prisons. This is not a pleasing picture to contemplate. We are inclined to think that many of these abuses are due entirely to the fact that no honest and concerted effort has been made by the authorities to enforce the law. Certainly the next few years under the Hoover policy will tell the story.

If enforcement is honestly tried and the law is still found inoperative then it should be repealed. It will be proved that the traditions, habits and ~~and~~ convictions of our people are against it.

The American people may be justified in repealing the Law. It is not justified in violating it as long as it is the law. It has instruments at hand by which to remove the undesirable amendment or to change the Volstead Act. This is the legal and democratic way. Every other way which aims at frustrating or sabotaging the law is, in the long run, disastrous to the moral life of a people.



1. Within last year Country startled by series of prison & bloody outbreaks in various prisons & country. In Kansas, in Colorado, elsewhere. Latest was in Antenn Prison, state, 11.9. - 2nd in 5 months. Prison in control of dr. command for 6 hrs. & took detachment State Troops & militia with machine guns to quell outbreak. When closed, both left & no prison - 8 convicts had been killed; as well as principal keeper, prison. & 20 guards & convicts wounded.

① Series turned attention, country to prison conditions. It was found that these outbreaks due to no plots but rebellion in part, men driven desperate by intolerable conditions. An investigation revealed that in many instances that prisoners were jammed into over-crowded & wretched quarters, badly fed, denied the opportunity to work and in case, 11.9. State under Prisoners law deprived of a chance to earn their freedom Pen. anti-trust, some 100 yrs old, with cells 7 ft long, 3 1/2 ft wide & 7 ft. high. Men were compelled to sit idle in these cells day after day, like caged animals.

② It was a shock to many who believed that in this enlightened country, when so much, then, progress had been made in penology the such conditions still prevailed.

③ Evidently, in progress at least we have not yet passed from the penal phase, the treatment, crime. to the correctional. Punishment is still dom. note instead, redemption. The old notion, State taking vengeance for violations & laws instead, State rehab. the wrong-doer where possible & restoring him to society. We are still labouring under delusion that way to check crime is to make punishment severe & life of prisoners utterly unbearable. We have succeeded, however what is done inside prison by way of punishment & is too

effect on inmates, crime outside of prison.

- ④ Four contrast - it is, interest to note what other countries are doing in this regard. Prussia just introduced a new penal code. Key-note, treat every prisoner as individualized - not as one of a mass subjected to a uniform punishment justice. Criminals are diff. ① Young - first offenders. To place him with hardened, ^{habitual} criminals is to ~~betray him~~ ② advance him along road of crime ③ Young, under 25. - to destroy him ④ Mentally deficient, abnormal. to punish him for conduct for which he is not entirely responsible is brutal and shameful. Prussia accordingly has a differentiated system, prisons, diff. custod. for diff. criminals & for diff. terms. Each criminal is under constant observation (prophylactic) his mental life is studied. His early environment. An attempt at re-education is undertaken. He is not punished - therapeutic work is done. But every pr. is obliged to correct, to rebuild, to restore -

- ① Prussia - my friend Alfred E. Smith ad. phd. Judge does not sentence. If found guilty turned over to a "sentencing board" made up of 9 pr. who study his case, his nature, his history, his personality, speculate. ③ Back was (Mexico) similarly - Suprem Court, Social Protection & Prevention - 5 members - study social hist. & offenders, medical exam, psych, Educational. and Russia too.

- ⑤ A state which feels no responsibility for a man who has committed crime is paying the price, is an immoral state. Prussia to criminals is as much a gain as income to them outside prison walls. Prussia being low - most cruel &

stupid laws on record. Thoroughly weaker in spirit, & to
deny a man a chance, freedom is worse, to put him
to death. As long as a man lives, he ought to have
a chance.

- ⑥ The solution for Communism lies elsewhere, in our hands as entire judicial reach, not in re-education measures, in ideal, moral control & responsibility.

① Our ~~second~~ ^{record} & crime is appalling. A disgrace.

— (2) 12,000 murders comm. annually. 50 times the no. in ft. Brit.

② murder rate has increased 350 per cent since 1900
300,000 robberies, burglaries & hold-ups -
close to 100,000

Close to 100,000 prisoners in with Fed. + State pen. + reform.
and abt 30,000 criminals at large.

2. In State, Ohio, in year 1910-1927, num. of prisoners rose from 53 per 100,000, gen. pop. to 93. an increase of 75%.

↳ ⑥ N.Y. State Barman Com. Estimated that gen. crime
is costing from financial crime costs the country
13 billion a year

- ⑦ There is no single cure: ① Severity - no cure
② Total ~~home~~ crusade - mandatory

① Sure + Speedy justice. (Unplacably similar term.)

Chrysothrix (apt) part 7 to 10 being in (under) 1

out \$160 in h. y. City — Criminal has 10 to 1
chance to escape — 1 state (the chance — Delay sent James

appeal - politics - pardon -

(2) An alert juvenile under their by vigilant - prod
off surprise presentation, thick hands, muddy

on pardoning governors
 whether they drag down the pol. minded judge, or swim against
 lobbying & rent-a-mentality which make him go against
 ③ How even-handed justice. Rich escape the law. Am. High
 It was an amazing phenomenon to eye, Am. that Standard went
 to jail. Masses lose respect for law which respects
 them rich. Can when law can be outwitted by
 cunning lawyers, when judges are amenable to outside
 personal influence, when law is perverted by eg. to gain rich interests
 Law will be held in contempt by
 all. Rich then defect respect for the law etc.
Exhibit State Wants in law to 14 years not en including
to hurry in making laws. The law with which we
 make laws is in proportion to the case with which
 we break them. We, the Am. people, are the speediest law-
 makers & the speediest law breakers in the world. Stat
 & Ohio alone has some 12000 laws. Hastily enacted
 & enacted in response to some worst flay-up in one
 locality or another. Some laws are hastily passed to
 correct the evils & other laws pass hastily enacted.
Tendency to pass resp. to that & to obtain social
rehabilitation than legislation. The demand to have state
control social conduct, demand for all form of
prob. occurrences, is an evidence of abuse
and resp. and institutions. We are passing the
 into to become paternalistic, benevolent & shall
 me today. -

⑧ Pres. Hoover has been aroused. Appointed ^{Prof} Com. on Law Observance & Enforcement. - Preliminary report. Altered largely to Prob. Law -

~~Certainly the answer~~. As of today the record is not
very encouraging. The Prohibition has not given us
a more sober citizenry, death from alcohol increased
from 96 in 1918 to 700 in 1929. Persons treated
for alcohol in Bellevue increased from 2000 in
1920 to 7000 in 1928. In N.Y.C. there has
been an increase of 30% in arrests for drunkenness
since Prohibition law — It is even doubtful whether total alcohol
sales have been diminished —

(1) Prohibition has given us the bootlegger, the rumrunner,
it has corrupted just government; enriched the
underworld, forced links bet. police & criminals,
created an organized crime business. Now 1/2
the total arrests made by the govt. last year were
due to violations of Prohibition law. There was one man
with 55 in arrest for being killed —
made many legitimate businesses —

(2) This is not a pleasant subject picture to con-
template — Perhaps inevitable in first year, perhaps
improvement will follow. Certainly the next few
years under it will tell the story — Certainly, the
present conditions are intolerable —
If it fails should be repealed or modified — On
R. declared: 1928 26 31616 1930 11 1938 1951 16

12 31101 11151

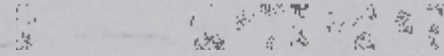
A law must take cognizance of traditions, habits and
character of a people. (Wetherham's Report Quoted)
(1) Am. people refused to abide by blind Prohibition.

Its major work still to be done. Pub. Secs.
Such as transparency, Codification of fed. ~~law~~ laws.
tightening padlock injunctions and releasing cooperation
in Fed. courts by empowering U. S. Commissioners
to handle minor violations - as we can
object to - Every effort should be made to
enforce laws until found abso. unenforceable.
Mr. Harbo just pres. to have institution agree
action for enforcement - He has Mark's greatest
doubt - Under his adm. Law will have its
most ~~favorable~~ must test - If it succeeds
a universal blessing. For it is ~~quite~~ will be
ack. by every right thinking man that a nation
^{a government} that can sit along without whiskey is ~~from~~ the
same by it - If it fails ~~down~~ ^{any} ~~even~~
under H's regime - it should be repealed or
modified -

① Unintentionally harmful to keep an unworkable
law on State books - It is an object lesson
in ^{vee} ~~law~~ ^{less} ~~ness~~ - It frustrates ^{men} ~~to~~ ^{think}
lightly, quit and legislation. It drags public
officials with a silent creep against
the ~~guilt~~ ^{guilt} which employs them. It is a
breeding disease.

* ② To go. & prove ^{10 yrs. & prove} ~~has not~~ ^{deserved} its utility. Perhaps the next 5 or 10 yrs. under ^{any} ~~any~~
more agree. & honest adm. - it will succeed.

a radical change in social habits to establish
itself.



Revised amend. or change violated apt
D Should be repealed, not ignored or violated. Am. people
has instrument at hand to repeal ^{undemocratically}
laws. This is legal, democ. way - the ^{only} way.

11) Respect for law

לפי חוקי המדינה - כל מי
לא עומד בהם אינו יכול להיות
אזרח מלא.



"The administration of criminal law in the U. S. is a disgrace to civilization. The trial of a criminal seems like a game of chance with all the chances in favor of the criminal, and if he escapes he seems to have the sympathy of a sporting public."



Prohibition Board Reports.

Making its first formal report to Congress, the Wickersham commission on law enforcement and observance has this to say:

It is impossible wholly to set off observance of the prohibition act from the large question of the views and habits of the American people with respect to private judgment as to statutes and regulations affecting their conduct . . . The divergencies of attitude in different sections of the country and as between groups in the same locality. We must not forget the many historical examples of widespread public disregard of laws in our past . . . to give proper weight to these things is not a matter of a few months.

In this philosophical manner the commission reports its discovery that the problem of observance of the prohibition law is not one for snap judgment. These remarks will probably lend comfort to those who contend that prohibition cannot be enforced. They should give pause to those who shout for "more law" as the panacea for all evils, liquor law violations included.

It is an enormous problem. The Wickersham commission knows it, and wisely avoids passing judgment of the merits of prohibition.

Turning from law observance to the other angle of its inquiry, law enforcement, the commission is overwhelmed by the magnitude of its task. It well may be.

As it points out, there are no reliable figures to show the size of the problem, but the "reported arrest in the last fiscal year of upwards of 80,000 persons indicates a staggering number of what might be called focal points of infection."

It cites the thousands of miles of unguarded border, the hundreds of possible routes for liquor runners. It asks four general legislative measures; transfer of enforcement agencies from the Treasury Department to the Justice Department, codification of liquor laws, strengthening of the padlock process to prevent technical evasions and the relieving of congestion in the federal courts by broadening the powers of the United States commissioners.

Most of these changes were urged by President Hoover in his message to Congress. In a brief message accompanying the report, the president adds a plea for law enforcement.

A congressional battle over the Eighteenth Amendment, unequalled in ferocity, is promised over this report.

If it helps to clear away some of the cobwebs of hypocrisy that have gathered on this part of the Constitution during the last ten years, it will not not have been fought in vain. More frankness and intellectual honesty will help in the solution.