

As soon as the electricity whirred into the man in the chair the rabbi left the room, holding the Old Testament firmly against his breast.

"All out," said a keeper. "Walk quietly."

The relatives still were huddled on the prison steps. They got up and stood in the shadows, aloof, as the witnesses departed. A woman among them was moaning.

One of the men drank the last whiskey in the bottle and threw it away.

The relatives were waiting to claim the bodies of the three men who helped kill a barfly for \$1,290. It took them a long time to kill Malloy. It took the State only sixteen minutes to kill them.

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H. L. MENCKEN

There was a period, from around 1910 to the early 1930s, when Henry Louis Mencken (1880–1956) exerted an enormous influence on American culture as a journalist, author, editor, book reviewer, and social critic. A relentless enemy of the American "booboisie" and gleeful slayer of sacred cows (he was known as "The Great Iconoclast"), he prided himself on his fiercely libertarian politics, radical freethinking opinions, and frankly held prejudices. "The plain fact is that I am not a fair man and don't want to hear both sides," he once wrote. "On all subjects, from aviation to xylophone playing, I have fixed and invariable ideas."

Mencken's intemperate style is fully displayed in the following piece from the December 3, 1934, issue of the Baltimore *Evening Sun*, his primary workplace and forum for more than 30 years. In his sneering assault on the "New Penology"—the emerging emphasis on the psychological and social roots of crime—the author sounds a note that, in subsequent decades, would be struck far more crudely by everyone from Mickey Spillane to the hosts of right-wing radio talk shows. Mencken's satirical use of honorific titles ("Baby Face Nelson LL.D.," "Dr. Pretty Boy Floyd") underscores his contempt not only for these lowlife outlaws but for anyone inclined to romanticize them.

More and Better Psychopaths

I

The criminal career of the late Baby Face Nelson, LL.D., covered twelve years. During that time he is known to have had a hand in the murder of three officers of the law, and in the intervals between these crimes he engaged in general practice as a thug and bully. The diligent cops first took him when he was only fourteen years old, but he was quickly rescued by the New Penology, which turned him loose on parole to perfect himself in his art. Taken again, he was paroled again, and thereafter he showed such rapid progress in technique that he was presently pushing Dr. John Dillinger and Dr. Pretty Boy Floyd

for first honors. When they fell, he became undisputed cock of the walk.

The astounding thing about such scoundrels is that they survive so long. Nelson was a notorious thief and black-leg from 1922 to 1933, but he was behind the bars barely three years of that time. The cops arrested him over and over again, but always he managed to get out. Twice, as I have said, he was paroled, and once he managed to procure a pistol while in custody, and with it overcame a prison guard. How he escaped punishment the other times I don't know, but always he escaped. Finally, growing impatient with the cops who so constantly retook him, he decided to shoot them at sight, and during the last six months of his life he and his friends disposed of three of them.

Of such sort are the abysmal brutes that the New Penology tells us ought to be handled more tenderly. They are not responsible, it appears, for their wanton and incessant felonies; the blame lies upon society. And the way to deal with them is not to butcher them, nor even to jug them, but to turn them over to "trained experts," that they may be rehabilitated. Simply stating such imbecilities is sufficient refutation of them. Society is actually no more to blame for a gorilla of that kidney than it is for a mad dog, and the bogus "experts" can no more cure him than a madstone can cure the dog. There is only one way to deal with him, and that is to put him to death as soon as possible.

II

This the cops now do with great industry, to the applause of all sensible people. It is a hazardous business and the mortality is not all on one side, but there is plenty of courage in the constabulary camp, and it seems likely to suffice for the job. The cops, in fact, are the only agents of justice who show any competence and resolution. They almost always bring in their man, but once he is brought in he is in the hands of his friends, and if he doesn't escape by one trick he is pretty certain to escape by some other. Either he fools a jury or his lawyer fools a judge. And if both devices fail, then he buys a jail guard, or

breaks out with firearms, or convinces a parole board that he deserves another chance.

An example of what all this amounts to was lately under our very eyes. Some time ago a professional criminal named Mais, wanted for various murders and robberies, went into hiding in Baltimore. The cops, getting his scent, tracked him down promptly, and took him into custody. He was heavily armed, and they risked their lives, but nevertheless they took him. Sent to Richmond to answer for a peculiarly brutal murder, he was convicted and sentenced to death. But in a few weeks he had broken out of jail, and on the way he had killed a policeman. Now he is at large again, and robbing and killing again, and other cops will have to risk death to take him again.

Dr. Mais' escape was a monument to the sentimentality with which such swine are now treated. Though he was known to be an incorrigible criminal, and all his friends were known to be of the same sort, he was permitted to receive visits from them in jail. Presently one of them slipped him a pistol, and the next day he was on his way, leaving one man dead and two wounded behind him. Suppose you were a cop, and met this Mais tomorrow? Would you approach him politely, tap him on the shoulder, and invite him to return to the deathhouse? Or would you shoot him at sight, at the same time giving thanks to God that he didn't see you first?

III

How many such men have been executed during the past year? I can recall but one—the Hon. John Pierpont, lately put to death in Indiana after two escapes. But the case of Dr. Pierpont was so exceptional that he must have been a victim of witchcraft rather than of justice. To his last moment he expected his lawyer to save him with some sort of posteros writ or other, or his colleagues to break into the jail and deliver him by force. He went to the chair a much surprised and disappointed man, and he well may have been, for he was the first public enemy to face Jack Ketch since the memory of man runneth not to the contrary.

All sorts of lesser felons are hanged or electrocuted—women who poison bad husbands for the insurance, drunkards who shoot their mistresses, country Aframericans who run amok, and so on—, but it is almost unheard-of for a genuine professional to be dispatched in due form of law. Always he and his friends can raise money enough to hire a sharp lawyer, and always the lawyer is able to delay proceedings long enough for psychiatry and sentimentality to save him. Two years ago, in Missouri, such a scoundrel was convicted of kidnapping and promptly sentenced to death. But he is still very much alive and very busy with writs, petitions and psychoanalysis, and he will still be alive long after most of us are no more.

Here in Baltimore we once hanged a Whittemore, but Whittemore, like Pierpont, ran in such extraordinarily bad luck that one can only suspect the intervention of magic. On form, he should have escaped not only the noose, but also the penitentiary. Jack Hart was better served by the powers and principalities of the air, for he made two separate escapes, once through the door and once through the roof. And Duker and the Norris murderers also ran more true to normalcy, for all of them save Dr. Allers, who succumbed to the stiletto of a colleague, are still alive, fat and full of hope, with the taxpayers of Maryland providing them with free board and lodging, and the procession of the seasons ripening them for their inevitable parole.

IV

But the real masterpiece of the New Penology is not to be found among such lowly brutes, but in the person of the Hon. Thomas H. Robinson, Jr., LL.D., who as I write is still being sought by the cops for the kidnapping and cruel bludgeoning of Mrs. Berry V. Stoll, of Louisville. The Hon. Mr. Robinson, if he is ever shot by Department of Justice agents or taken alive and hanged, should be stuffed by the psychiatrists and given the place of honor in their museum, for he is an alumnus of two of their plants for reconditioning the erring, and seems to have been a prize pupil. Not even Duker throws a more effulgent beam upon their art and mystery.

Like all other such rogues, Dr. Robinson was a bad boy, and got into trouble early. His natural destination was the hoosegow, with the gallops to follow, but he was lucky enough to encounter a judge who was also a fool, and so he was turned over to "trained experts." Two separate gangs of them had at him. One (I quote from Dr. E. W. Coker, State Commissioner of Institutions of Tennessee) diagnosed his malady as "dementia præcox (insanity)," and the other decided that he was a "psychopathic personality (not insane)." Between the two he wriggled out of custody, and was soon engaged in crime again, with literary endeavor as a sideline. His demand for ransom in the Stoll case was an eloquent argument for a literal carrying out of the New Deal.

If such deliberate and incorrigible criminals as Robinson are "psychopathic personalities," then what is a criminal? Obviously, the answer is that no such thing as a criminal exists, and that is the answer made by the more advanced wing of New Penologists. The felonious, they say, are simply sick, and the cause of their sickness is the faulty organization of society. Let wealth be better distributed, and the Robinsons will stop writing hold-up letters to the Stolls. And even though wealth continue to be distributed badly, the mysterious arcana of the "trained expert" can cure them.

How many sane people actually believe in this nonsense? Probably not many. Of one class I am pretty sure: the cops. I have never encountered or heard of one who thought of the Dillingers and Floyds, the Nelsons and Robinsons, as psychopaths, or as any other kind of paths. Nay, they think of these brethren as criminals, and when they go out to rope one of them they take their sidearms along. Certainly it is lucky for the rest of us that they do.

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