



BOOK REVIEW

Louise Settle. *Probation and the Policing of the Private Sphere in Britain, 1907–1962*

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The Probation of Offenders Act 1907 marked the beginning of a national, professional probation service, whose role was to provide a personal relationship which could, as the service motto stated, “advise, assist, and befriend.”¹ Louise Settle examines the first sixty years of probation, from the 1907 Act to the Morrison Committee’s Report of 1962, an era of undiminished penal optimism, and years in which probation was used most extensively to police the private sphere, which is the author’s specific focus. Her chapters assess the ways in which probation was used by the judiciary to mend marriages, and to deal with the offenses of domestic violence, attempted suicide, male sexual indecency, and female prostitution. Settle is well aware that previous work on probation has concentrated on the delinquent child. Instead, she wants to shine a light on adult citizens, including the domestic and emotional life of male probationers. Her extensive documentation includes records from the national archives of England and Scotland, from the local probation services of many of the largest British cities, and from newspaper coverage of criminal court cases. These records allow Settle to offer persuasive examples of how probation was used for the offense in question, and how probation only slowly shed its links with the Christian temperance movement, out of which the professional service uncoiled. The materials are rather less useful for assessing probation’s effectiveness in reducing recidivism, or the impact on the lives of probationers and their families.

A neglected aspect of research on probation has been that of marriage reconciliation, made possible in England by the Matrimonial Summary Jurisdiction (Domestic Proceedings) Act, 1937. If, as Settle observes, most probation officers still relied more on prayer than psychology in so-called marriage mending meetings, they could also provide practical aid with housing and employment. Any qualms about the state intervening in private married lives were silenced by the assurance that saving marriages reduced the delinquency associated with broken homes. Yet the thought persists that a magistrate who refused a separation order in favor of probation could have been mending a marriage at the expense of the wife returning to an abusive husband. Probation was also used instead of a fine or a short prison sentence in cases of domestic violence, frequently on condition of abstaining from drink. The examples Settle presents lead her to conclude that a sentence of probation meant the family did not lose the earnings of the breadwinner, and more importantly it could challenge men’s authority in the home and offer practical help to wives who had no other social welfare options.

¹ Source: 1907 Probation of Offenders Act.

Rarely were the people placed on probation for marriage reconciliation or domestic violence required to undergo psychiatric treatment. Those convicted of attempted suicide (before the 1961 Suicide Act decriminalized the offense) were commonly placed on probation with a condition in the bond of psychiatric treatment. Indeed, Settle concludes that probation “played an important, yet often overlooked, role in expanding the provision of psychiatric treatment to people who otherwise would not have received it” (14). Likewise, men placed on probation for gross indecency and for indecent assault (notably on victims under sixteen years of age) were also required to undergo medical treatment. This was especially the case in the 1940s and 1950s, when men convicted of gross indecency were afforded psychoanalysis, hormone therapy, or aversion therapy to cure their sexual activity. In contrast, women convicted of solicitation for the purposes of prostitution were more likely to be sent to a voluntary rescue home for moral guidance and domestic training as a condition of probation. If the 1957 Wolfenden Committee Report on Homosexual Offences and Prostitution led to the decriminalization of consensual sexual acts that take place in private between men over the age of twenty-one (in the 1967 Sexual Offences Act), the same report led to the 1959 Street Offences Act which increased the penalties for soliciting, with the explicit aim of encouraging women to accept being placed on probation.

At the close of each chapter, Settle turns to the evidence to be found in the annual reports of probation committees and probation officers’ testimonies to assess the effectiveness of probation. The evidence is inevitably shaky, since it comes from those who have an interest in demonstrating the success of their own work. There seems to have been no system in place to record whether probationers went on to reoffend after their probation period ended. Yet Settle concedes little to those who insist that the modern policing of individuals and families is conducted less by punishment and more by the normalizing agencies of social welfare, which use breaches of the criminal law as an opening for a disciplinary intervention. This approach, for Settle, obscures the positive aspects of probation—protecting people from domestic violence, sexual abuse, and self-harm—and probation’s “potential to bring about real, long-lasting change” (207), including change, moreover, in the standards of male behavior. Male probationers were expected to toe the mark of “domesticated respectable masculinity that required them to fulfil the role of a caring and responsible husband, father and breadwinner” (218).

This is all well said, and a valuable riposte to those who see only the disciplinary logic of welfare. Yet Settle’s argument that probation was effective, especially when psychiatric treatment was ordered, may convince in relation to attempted suicide, indecent assault, and indecent exposure. The argument is far less compelling when it comes to gross indecency, where probation sought to cure behavior that is not pathological, or domestic violence, for which probation was too often a reprieve for the inveterate wife-beater, or prostitution, for which probation sought to moralize women out of work that paid the bills.