Journal of Criminal Law and Criminology

Volume 1 | Issue 1 Article 8

1910

Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.[1]

The New York Police Court Bill. A bill designed to improve the administration of justice in police courts of the cities of New York, drawn by Justice Chas. F. MacLean, was recently introduced into the New York Legislature. The bill required an immediate hearing of all cases of persons arrested, the abolition of all police court records of persons discharged, and a simplification of the procedure of police courts.

The Indeterminate Sentence in England. The Prevention of Crimes Act in England, which went into effect August 1, last, in the judgment of many reformers, marks the beginning of a new era in the methods of dealing with habitual criminals. The act empowers the court in the case of offenders who have already been convicted three times, to impose an indeterminate sentence of from three to five years. Every such case is required to be brought at least once every twelve months before the Home Secretary, who is given the power to release the offender on probation.

Laboratory Study of Criminals. A laboratory for the study of criminals and defectives, according to the general plan advocated by Arthur MacDonald of Washington, has recently been established in Russia with a relation to the Russian Government somewhat similar to that which the Smithsonian Institution bears to the government of the United States. Seven hundred and fifty thousand dollars have been appropriated by the government for the establishment and maintenance of the laboratory. It will be remembered that several years ago Mr. MacDonald proposed the establishment of such a laboratory by the United States Government, the same to be under the jurisdiction of the Department of Justice. A vigorous propaganda in favor of the project was conducted by him, and it received the approval of many scientists and lawyers, but failed of passage. More recently he submitted his scheme to various European governments and its adoption by the Russian government is, we believe, the first fruits of his long and persistent efforts in the interest of the scientific study of the criminal classes.

Children's Courts. The excellent work being done by the Children's court of New York City is shown in the recent annual report of Mr. Ernest K. Coulter, Clerk of the Court. There were fewer commitments, we are told, during the past year than during the previous year and that there were only eighty-five more arraignments, notwithstanding the increase of population. Concerning the function of the court, the report says:

"Its work in withdrawing thousands from the procession of paupers and criminals that press onward to almshouses and penal institutions, and making of them future good citizens, entitles the court to be regarded as one of the municipality's most valuable assets. Viewed merely in the cold light of dollars and cents the test of appraisement would be the civic difference in citizenship between preying parasites and profitable producers. The court, in dealing with the multitude of children that comes before it each year, views each as a prospective citizen, an individual potentiality for good or evil. The thought of individual salvation is ever uppermost in dealing with

[1]Furnished by J. W. G.

each child. If, in the best interests of all, it is possible to rescue the child without commitment to an institution, this is done and he is saved to his home and the State at the same time. Of the 11,494 children arraigned in this one court in the year 1909 only 1,792 were committed to institutions, either charitable or reformatory."

Under the caption "reaching the causes of mental deficiency," the report dwells upon the proposed plan for the treatment of children who violate the law because of functional derangements. Finally the report presents the general results of a personal observation of more than seventy thousand cases of children who have been before the court.

Uniform Criminal Laws. It is encouraging to note the interest that is beginning to be taken by many organizations and societies in the movement for reform of criminal law and procedure in this country. One of the latest to fall in line is the National Civic Federation, which, at its recent conference on uniform state legislation, adopted the following resolutions:

"WHEREAS, the system in vogue for the trial of causes in the criminal, equity and law courts of the United States and of the several States is the subject of much current discussion, both lay and professional, and is severely criticized for its technicalities and its useless expense and delay; and

"WHEREAS, the matter of procedural reform is receiving the thoughtful consideration of the American Bar Association through a special committee created for that purpose; therefore be it

"*Resolved,* That this conference recognizes the need for radical changes in the administration of the law both in criminal and civil action;

"*Resolved,* That a committee of fifteen on Reform in Legal Procedure be created and appointed by the Chairman of the Committee on Uniform Legislation of the National Civic Federation, and that such committee be instructed to coöperate with the Committee of the American Bar Association to suggest remedies and formulate proposed laws to prevent delay and unnecessary cost in litigation, and to use the influence and power of The National Civic Federation to simplify, cheapen and expedite judicial procedure."

The committee authorized by the last resolution has been appointed by Mr. Alton B. Parker and consists of the following persons: Ralph W. Breckenridge, Omaha; Morgan J. O'Brien, New York; William E. Chandler, New Hampshire; John B. Sanborn, Madison, Wis.; Selden P. Spencer, St. Louis, Mo.; Stephen H. Allen, Kansas; Charles Jewett, New Albany, Ind.; Thomas W. Shelton, Norfolk, Va.; Stephen S. Gregory, Chicago; Willard Saulsbury, Wilmington, Del.; Amasa M. Eaton, Providence, R. I.; Lawrence Cooper, Huntsville, Ala.; Henry Wade Rogers, New Haven, Conn.; George Turner, Spokane, Wash., and T. E. MacIntire, Georgia.

The Night-Riders Set Free by Technicalities. The Memphis *Commercial-Appeal,* in a recent issue, indulges in a severe criticism of the decision of the Tennessee supreme court nullifying the convictions in the recent night-rider cases. The court, in the name of the law, we are told, invalidated everything the law did and throttled justice, without ever entering into the merits of the case. It did not discuss the evidence against the defendants, nor inquire whether the evidence warranted a conviction; but simply held that the technical forms of the law were not properly observed in the selection

of the jury and that the defendants did not have the advantage of 192 jury challenges. The evidence showed that the defendants were guilty of murder, and the jury so found. But the supreme court paid no attention to this evidence and "by a process of reasoning as nice and fitting as that used long ago in determining how many souls could stand on the point of a needle it evaded the whole case on a subtle technical objection to the method of going to a trial."

The *Commercial-Appeal* justly remarks that "Technicalities were once bulwarks against lawless kings; now, they are the defense of lawless men. Once they were the outposts for justice against kingly rule; now they are the instrument for the protection of the lawless against justice. Justice created the law, but the hair-splitting ruling of our lawyers, in such cases as that of the state against the murderers of Captain Rankin, turn the law into a Frankenstein which kills Justice." In conclusion it says: "We are not concerned particularly with the decision of the supreme court, but we are concerned with the condition it creates. Under that decision it will be impossible to punish the crime of murder committed in Obion County, unless an extraordinary condition arises. Unless public opinion becomes aroused as it never was before in this state, the chances are that no man will suffer a day's imprisonment under the final verdict for the most brutal murder that ever disgraced the state."

Legislative Investigation of Delays of Justice. Several years ago the legislature of New York authorized the governor to appoint a commission to investigate the causes of the delays in the administration of justice in that state. The commission was composed of able lawyers, among whom was Mr. Wheeler H. Peckham as chairman. The commission found a shocking congestion of judicial business in several of the judicial districts, and reported that there were, on the first of November, 1903, 10,000 untried jury cases on the calendar of the first department of the Supreme Court. The court was then three years behind with its work. In Kings County and in the Niagara Falls district it required from one and one-half to two years to reach a jury trial (Report, pp. 8, 17). Justices Gaynor and Friedman and a number of highly respected members of the bar testified before the commission and pointed out the causes and the remedies. Some of their suggestions were embodied in the recommendations of the commission to the legislature and should have been enacted into law, but they were not. The report of the commission, however, served an important purpose in calling attention to an intolerable situation and in arousing a wholesome sentiment from which results must ultimately come.

The example of New York has recently been followed by Massachusetts, whose legislature a year ago authorized the governor to appoint a commission of three persons "to investigate the causes of delay in the administration of justice in civil matters, and the advisability of constituting new courts or altering the jurisdiction and powers of the existing courts, the expediency of permitting the examination of parties and witnesses at an early stage of judicial proceedings, and other matters relevant to securing a more speedy administration of justice in civil actions."

Although the Massachusetts investigation is to be confined to delays in

civil actions, it will no doubt touch upon the administration of criminal justice and its findings will, we hope, help on the general movement for reform.

Expert Testimony. The *Boston Medical and Surgical Journal,* in its issue of December 30, last, contained several articles dealing with the uses and abuses of expert testimony. One of these, an article entitled "Medical Expert Testimony," by Dr. George W. Gay of Boston, contains some practical suggestions that should be of interest to the bench and bar, as well as the medical profession. Medical experts, he says, are of two classes, the partisan and the non-partisan. The former class, altogether too prominent in our courts, are bought or hired in the open market and are paid for a special purpose, namely, to serve the cause of the purchaser, regardless of its merits or of the cause of justice. Dr. Gay pleads for more courteous treatment of medical experts by counsel. They ought not, he says, to be badgered and insulted in cross-examination for the purpose of destroying their influence with the jury. They should be allowed to state their opinions in their own way, and should be subjected to cross-examination solely for the purpose of explaining and elucidating those opinions. The judge, he thinks, ought to be allowed to charge the jury upon all expert evidence offered at the hearing, since, by reason of his superior knowledge and experience, he is able to indicate to the jury the chief points for their consideration and at the same time enlighten them upon the character of the testimony. The court should also, he added, have the power of selecting experts and they should be paid by the state, in which case they would be free from the temptation to aid the cause of either party and would thus serve the cause of justice more effectively. A far better plan, still, would be to refer all requisitions requiring the opinion of medical experts to a commission of alienists or experts who should be required to conduct their examinations according to the ordinary methods of consultations and to embody their conclusions in reports to the court. Then they should be required to appear at the trial and be subject to examination and cross-examination, as are ordinary witnesses. One effect of this method would be to prevent those "unseemly wrangles which at times have been a disgrace to both professions." Whatever plan is adopted, he maintains, should provide a method by which the best experts may be called into trial cases in such a manner that they may be an aid to the court and the jury and at the same time be entirely independent of the parties at suit.

The efforts of the medical profession during the last thirty years to obtain legislation looking to an improvement in the matter of expert testimony have been defeated largely by the opposition of a certain portion of the legal profession.

In a recent canvass made by the legislative committee of the American Medical Association it was found that, of thirty-five states heard from, only two have any laws regulating the admission of medical expert testimony to the courts. Michigan has a law giving the court authority to call from one to three experts in trials for homicide only, said experts to be paid by the county. In civil cases neither party is allowed to call over three medical experts without permission of the court—a wise provision, as it saves time and confusion.

NOTES: PROBATION AND PAROLE.

In Rhode Island the court may appoint one or more experts in any case, civil or criminal, upon the request of either party, the expenses of such experts to be paid by the party requesting their appointment. Information from reliable sources indicates that these regulations are an improvement upon the old order of things in both states and are fairly satisfactory.

Adult Probation and Parole. A recent report of the Civic Federation of Chicago deals, among other things, with the subject of parole and adult probation. It criticizes the Illinois parole law for making inadequate provision for a sufficient number of officers to look after paroled prisoners, there being at present only one such officer at each of the two state penitentiaries. As a result of this lack of proper supervision, paroled convicts frequently commit new crimes or violate their paroles, thus leading many persons to jump at the conclusion that the whole system of parole and the indeterminate sentence is wrong. A committee under the chairmanship of Prof. Charles R. Henderson was recently appointed to investigate and report to the Federation the principal defects of the parole system of Illinois and the remedies to be applied. After a full investigation the committee recommended that a law be passed providing for a system of adult probation under proper regulations and that provision be made for the appointment of an adequate number of parole officers in order to make the present system effective. In concluding its report the committee said: "We do not believe that the parole law has ever been fairly tried in Illinois, nor can be judged until the administrative board responsible for the working is provided with a sufficient number of agents to carefully watch the paroled men, see that they are observing the conditions of their parole, help them when they are honestly trying to reform, and return them promptly to the penitentiary when they are violating their promises and going into evil associations. We do not believe that there is any call to return to the medieval methods, founded on the passion for revenge, inhuman in their workings, driving to despair men who want to reform, and failing to fit for liberty those who are capable of reform. We have called attention to the fact that there is another class of criminals, called incorrigibles, who are not suitable subjects for a parole system or for probation. For these, long sentences should be inflicted so that they may be kept from harming society, so long as they are dangerous to its order and welfare."

In pursuance of these recommendations an adult probation bill was prepared, mainly by Chief Justice Olson of the municipal court of Chicago and Judge Albert C. Barnes of the superior court. A bill providing more parole officers was likewise framed and introduced into the legislature, and though both bills passed the Senate they were defeated in the House.

The Chicago Civic Federation has also taken some interest in the problem of judicial reform and recently in coöperation with the Chicago Law Institute and the Chicago Bar Association, it prepared a bill designed to diminish the scandalous delays in the selection of juries, such as occurred in the notorious Gilhooley and Shea cases, where three months were required to select a panel. Among the features of the bill as drafted was a provision prohibiting the selection of any person as a special juror until he shall have been examined personally by the jury commissioners as to his

qualifications and fitness. Defendants in capital cases are allowed ten peremptory challenges and no more; where there are more than one defendant to be tried on the same indictment, then all together, without reference to their number, are allowed twenty challenges. In all other criminal trials the defendant is allowed three peremptory challenges. The ruling of the court allowing or refusing any challenge of a special juror or in admitting or excluding evidence in their behalf shall not be a subject for exceptions and shall be final and not reviewable.

It is to be earnestly hoped that a remedy may be found for the intolerable delays in the selection of juries—delays that have come to be a regular feature of every important criminal trial. Nothing is contributing more to the difficulty of obtaining the best men in the community for jury service and few things are doing more to excite popular disgust with our methods of criminal procedure.

Criminal Justice in Texas. President Hatton W. Summers, in a recent address before the District and County Attorneys' Association of Texas, entered a vigorous protest against what he called the "ever increasing tendency of legislation and judicial construction, which, under the guise of protecting individual liberty, is rendering more and more difficult and uncertain the conviction of the criminal, and which is more and more neglecting the rights of our decent, law-abiding citizenship, and the government's duty to protect them against the vicious." A great many good people, he went on to say, are coming to the conclusion that the criminal is the only one whose rights the law is bound to respect. We have manacled our judicial system with fine-spun technicalities, he says, until it is almost impossible to punish a criminal who has the means with which to command the services of able and resourceful counsel. Mr. Summers shows from the report of the attorney-general of the state that there were in the years 1903-04, 12,044 indictments in Texas for felony, of which 5,060 were dismissed and 4,654 tried. Of the latter, 1,475 were acquitted and 3,179 convicted. Of those convicted 381 took appeals, 156 of which, or about 51 per cent, resulted in reversals, many of the decisions being rendered by a divided court. Referring to the fact which President Taft has so often dwelt upon, that under present methods, the wealthy defendant enjoys a marked advantage over the poor man, he said, "upon the brutal negro rapist and the poor, friendless white man the keen sword of the law falls with quick vengeance—but mark the change when some rich defendant comes marching boldly into the courtroom, surrounded by his coterie of lawyers, and throws down the challenge to the constituted authorities, and defies the powers of the state to punish him. It is pitiable to behold the glaring weakness of our law revealed by such conditions." "I ask those who take exception to what I have said to point to a half dozen men in the whole history of Texas, who were able to employ the best legal talent in the state to defend them, who were punished adequately, if at all, for high crimes, though there have been hundreds of them who deserved the gallows. The truth is, I do not recall a single one. Yet we boast of the impartiality of our laws, and speak eloquently of the equality of our citizens before them." Continuing, he pointed out an evident truth that "we have labored under an egotistical delusion with regard to our institutions and had a false pride

in them long enough." "It is time," he said, "that we should open our eyes to the real situation, and, like men, begin its correction. This over-solicitude about protecting men charged with assassination and under-solicitude about protecting the citizen from assassination has gone to seed in this country; not only in the higher crimes, but from murder down to disturbing the peace, the vice permeates the whole system, and worse than all, is rooted in the sentiments of the people."

It is refreshing to read an address so full of reason and common sense. Mr. Summers' criticisms are not the vaporings of a theorist, but the honest truths of a frank and candid practicing lawyer, who knows whereof he speaks. The more such protests from the leaders of the bar the better. They indicate an awakening sentiment in the legal profession which augurs well for the future.

Criminal Justice in Mississippi. In a recent address before the Bar Association of Mississippi, Justice Robert Mayes, of the Supreme Court of that State, took occasion to call attention to some of the "absurdities to which the courts have been driven in order to effectuate certain constitutional requirements in the methods of criminal procedure, and which only serve to defeat and not to promote the ends of justice." Addressing himself to the desirability of abolishing an antiquated practice which insists upon the employment of useless and meaningless verbiage in the preparation of legal documents, he asks why an indictment which charges the defendant with murder is not sufficient without the unnecessary assertion that the crime was wilfully, maliciously, unlawfully, and felonously done. What possible prejudice, he said, can the accused suffer from an omission from the indictment of such verbiage as "malice forethought," "wilful and felonious," "unlawfully," etc., if the indictment charges that the offense was murder? "The design of the criminal law," he went on to say, "is to protect society from those who set at defiance its rules of good conduct, but by strict adherence to many of its useless shambles the purpose of the criminal law has been subverted and the violator of the law, and not society, receives the greatest protection." Justice Mayes then pointed out that what he calls "these worse than useless shields that are thrown around the criminal and so sacredly retained," never had any place in American jurisprudence and that their only effect is to clog the wheels of justice.

Some of the instances of reversals for technical errors by the supreme court of Mississippi which he cited are so grotesque and subversive of justice that it is no wonder that they tend to impair confidence in the courts, and to inspire popular contempt for judges who are guilty of such quibbling. In one case cited by Justice Mayes (Riggs vs. the State, 26 Miss.), the decision of the trial court was reversed for the omission of the word "there" from the indictment. In another case a new trial was granted because the word "maliciously" was omitted from the indictment, although it charged that the offense was committed "wilfully and feloniously." In another case (Cook vs. State, 72 Miss.), there was a reversal of the omission of the word "did" from an indictment which charged the accused with killing and murdering one John Brian. In still another case (Taylor vs. State, decided in 1896), a new trial was granted because of the use of the word "and"

in the indictment when it should have been "or." "I might multiply these instances of the absurdities of the criminal law," he concluded, "but the instances I have given will serve the purpose of emphatic illustration of an immediate necessity for the enactment of laws which will forever end such quibbles. It is not my purpose to criticize the correctness of these decisions, or to say ought that will in any way reflect on the particular judge or tribunal that delivered them, but I condemn in unequivocal terms a law that makes such decisions necessary and makes a farce of justice. If property rights were to be made to depend upon such farcical technicalities as is the life, the peace, and tranquility of the citizen, such a law would be torn up, root and branch." The courts must be "aroused to a consciousness of the monstrous perversions of justice that are frequently occurring through the technical constitutional shields surrounding the accused," and they will help the courts as well to a higher appreciation of their duties to society.

We agree with Judge Mayes that the present state of the administration of the criminal law in America is "a reproach to its intelligence and an injustice to its civilization." Our bar associations need more lectures of this sort from the supreme judges.

Criminal Insanity and the Law. A special committee of the New York Bar Association, on the commitment and discharge of the criminal insane, has made a report recommending legislation for eliminating the scandals growing out of the misuse of the writ of habeas corpus in securing the release of persons detained in public institutions on the ground of insanity; and for the abolition of the abuses resulting from the insanity plea in murder cases. Under the existing law of New York, a person detained in a public or private institution may, if his means are ample enough to enable him to command the assistance of counsel and experts, obtain a writ every day during the period of his confinement. The justice to whom the petition for the writ is addressed is bound under penalty to grant it and, on the return, try the issue as to whether the petitioner is still insane. To meet the evil to which this procedure often leads in practice the committee recommends that in the case of one detained as insane in a *public* institution, the application for a writ shall be accompanied by a certificate made under oath by two qualified medical examiners in lunacy, or other evidence showing probable cause, which certificate shall state that the examiners have made a careful examination of the person in custody and of the official records of his case and that in their opinion he has recovered his sanity. This provision does not apply in the cases of persons in private institutions, the writ being allowed as of right in all such cases.

In dwelling upon the abuses of the insanity plea the committee takes occasion to recall the circumstances of a recent "well-known case which has been in the public eye for a long time, where a murderer, having escaped the consequences of his crime by the plea of insanity, is trying to escape the consequences of his plea by means of a continuous performance in habeas corpus." Speaking of this notorious and shameful affair, the committee has this to say: "A youthful debauchee, of great wealth, trained to believe that his money gave him a right of freedom from all restraints, whether imposed by law or the rules of decency, inheriting an abnormality of mind likely to develop into homicidal acts, leading a debased and ignoble life, without a

thought of the responsibilities which wealth imposes upon its owner, commits a foul and cowardly murder in a public resort. If he were sane there could be no escape from the penalty of death. His only defense is insanity. After a long and seemingly needless delay—and delays in hailing murderers to the bar for trial bring the administration of criminal law into disrepute—he is brought to trial, which by reason of the manner in which it is conducted, degenerates into a disgraceful farce, and a confused jury finds itself unable to agree. A second trial, conducted properly and with dignity, results in a verdict of acquittal on the ground of insanity, and thereupon the prisoner is sent by the court, as required by the statute, to a state asylum for the criminal insane. From this he plans to get free upon successive writs of habeas corpus, for which he purposes to apply so long as his purse will enable him to pay zealous counsel and unscrupulous experts. We say unscrupulous experts, for, to the shame of the medical profession, be it spoken, the expert who at one time swears him out of jail on the opinion of insanity, attempts at another time to swear him out of the asylum by an opinion of sanity. So forgetful are the murderer's family of their duty to society, their obligations to uphold the law, that they aid and abet the plot and instead of leaving him to his fate, as it is their duty as citizens to do, they claim, forsooth, that he is an object of persecution. Among the numerous judges of the supreme court of this state, the chances are that there is at least one whose head is not able to control his heart, and the only problem in the murderer's quest for freedom is to discover who that particular judge is. There may be a number of proceedings, but he will at last be found, and then, upon a petition to him, and backed up by the medical experts, whose favorable opinions can be bought for cash, the path to freedom will be cleared of all obstacles. It is a mere question of time and money when this particular murderer will be set free to direct his homicidal inclinations against some other citizen who has fallen or may hereafter come under his displeasure. And everything done according to the forms of law."

To prevent such abuses in the future the committee recommends that hereafter insanity or other mental deficiency shall not be a defense against a charge of crime and that it shall not prevent the trial of the accused unless his mental condition is such as to satisfy the court upon its own inquiry that he is unable, by reason thereof, to make proper preparations for his defense. "The only point we urge for consideration," the committee concludes, "is, that a man who has done an evil deed ought not to be acquitted, but found guilty, and if insane, he should be sentenced to an asylum. Being under sentence, he would have no right to a writ of habeas corpus, and could only be set free by pardon. Thus the judicial farce, of murderers being acquitted by reason of insanity, and set free on account of sanity, would be ended."

THE NATIONAL CONFERENCE OF CHARITIES AND CORRECTIONS.—The thirty-seventh annual meeting of the National Conference of Charities and Corrections will be held in St. Louis, May 19-26. The Conference now has more than 2,500 members and its annual meetings are attended by from 1,200 to 1,500 persons. Its general purpose, namely, the diffusion of trustworthy

information and the stimulation of right sentiment on the difficult problems of charity and correction, has remained unchanged, though in recent years its sphere of activities has been greatly widened. The program for the forthcoming meeting is divided among a number of committees, each composed partly of members and partly of non-members, whom the Conference desires to attract to itself. The following are the committees and the topics which each will consider:

1. STATE SUPERVISION AND ADMINISTRATION.—As regards the insane, the topics to be considered are "After Care," "Psychopathic Hospitals," "Legal Problems Involved in Commitment," and a paper is expected by a distinguished alienist who is now traveling in the East, on "The Care of the Insane in China and Japan."

2. LAW BREAKERS.—The most urgent public question of the moment which a committee on law breakers can consider is probably adult probation, and that will be presented and discussed by a chief justice of a municipal court, the secretary of a probation association and others. Equally important, if not so much in the public eye, is the legal treatment of public intoxication to which a section will be devoted. Another section meeting will be occupied by a symposium on the Woman Delinquent and educational methods as a cause of delinquency and the placing out and after care of delinquent girls will be presented.

Because its interest is perennial and because it is specially interesting to the people of Missouri, the reformatory system as exhibited at Elmira, Concord, Mansfield, etc., will be given prominence. Although practical reformatory work will be made most prominent, science and philosophy will not be forgotten. Among the papers announced is one on "The Duty of the Law Maker to the Law Breaker" and another on "A Scientific Basis for the Treatment of Problems of Criminology and Penology."

3. CHILDREN.—Juvenile courts continue to need discussion and the degree to which their original plans have been modified and still need modification will be the subject of one section meeting. Child placing has been usually discussed from the standpoint of the society employing expert paid agents. This year the facts concerning a society which is wholly officered by volunteers and which claims to be doing a large amount of good work will be set forth. This paper will undoubtedly provoke animated and interesting discussion.

There will be a time and place set apart for a meeting of women engaged in corrective work for girls. Other women of the Conference interested in the work will be welcomed.

The advantage of meeting at or about the time of the Conference is recognized by some other associations and the Conference itself is conscious of its advantage in this connection.

The National Conference on the Education of Dependent, Backward, Truant and Delinquent Children; The National Federation of Remedial Loan Associations; The National Probation Officers' Association, and the National Conference of Jewish Charities in the United States, will each meet in connection with The National Conference of Charities and Correction.

NOTES: AMERICAN ACADEMY OF POLITICAL SCIENCE.

AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE. The fourteenth annual meeting was held at Philadelphia, April 8 and 9, 1910, with the following program:

General Topic:—"The Administration of Justice in the United States."

First Session. "The Treatment of the Accused and the Offender"—presiding officer, Hon. John P. Elkin, justice of the Supreme Court of Pennsylvania. "The Treatment of the Accused—The Sweating or Third Degree System"—Hon. William F. Baker, police commissioner of New York; General Theodore A. Bingham, Corps of Engineers, U. S. A., ex-commissioner of police, New York; Major Richard Sylvester, superintendent of Metropolitan Police Department, Washington, D. C. "The Treatment of the Offender"—Homer Folks, Esq., secretary State Charities Aid Association, New York; Miss Maude E. Miner, secretary New York Probation Association; Katharine Bement Davis, Ph. D., superintendent of the New York State Reformatory for Women, Bedford, N. Y. Discussion:—Austin Flint, M. D., New York; F. H. Nibecker, Esq., superintendent Glen Mills School, Glen Mills, Pa.

General Topic:—"The Juvenile Court and the Treatment of Juvenile Offenders."

Second Session. "The Juvenile Court—A Summary of Results and Tendencies"—Bernard Flexner, Esq., Louisville, Ky. Discussion—Hon. William H. De Lacy, judge of the Juvenile Court of the District of Columbia; Hon. Robert J. Wilkin, justice of the Children's Court, Brooklyn, N. Y.; Hon. William H. Staake, judge of the Court of Common Pleas, Philadelphia; Mrs. Martha P. Falconer, superintendent Girl's Department, House of Refuge, Darling, Pa.; Hon. Harvey H. Baker, justice of the Juvenile Court, Boston; Hastings H. Hart, LL. D., director Department of Child-Helping, Russell Sage Foundation, New York; Prof. Lightner Witmer, Ph. D., University of Pennsylvania.

Third Session. "The Scope and Limits of the Injunction."

Fourth Session. "The Administration of the Criminal Law—Defects and Proposed Remedies"; "Abuses and Remedies in the Administration of the Criminal Law"—Samuel Untermyer, Esq., New York. "To What Extent Should the Insane be Made Amenable to the Criminal Law"—John Brooks Leavitt, Esq., chairman of the Committee on Criminal Procedure of the New York State Bar Association. "Administration of the Criminal Law in the Inferior Courts"—Hon. Julius M. Mayer, former justice of the Court of Special Sessions of New York City, and former attorney-general of the state of New York. "The Jury System—Defects and Proposed Remedies"—Arthur C. Train, Esq., former assistant district attorney of New York. "Necessary Reforms in the Treatment of Criminal Causes"—Hon. Everett P. Wheeler, New York. Discussion: George S. Graham, Esq., Philadelphia.

Fifth Session. "The Respect for Law in the United States"—Vice-President Sherman, Senator Dolliver and Senator Borah.

The proceedings will be printed in a special volume published by the Academy, in July. Price, $1.50; for sale by the Academy, West Philadelphia P. O., Philadelphia, Pa.

NOTES: WISCONSIN CONFERENCE ON CRIMINAL JUSTICE.

WISCONSIN CONFERENCE ON CRIMINAL JUSTICE. Pursuant to the recommendations of the National Conference on Criminal Law and Criminology, held last June in Chicago under the auspices of the Law School of Northwestern University, a Wisconsin Conference on Criminal Law and Criminology was held in Madison on Friday and Saturday, November 26 and 27, 1909. The conference was called at the instance of a committee of organization composed of citizens of Madison, representing the various callings and professions, and the Extension Division of the University of Wisconsin. The list of persons invited included the judges of the supreme court, of the circuit and municipal courts, district attorneys, leading members of the bar, physicians, educators and administrative officers. There were about 135 in attendance. The conference, which was presided over by Circuit Judge E. Ray Stevens, opened with a welcome from President Van Hise of the University and from Governor Davidson. These were followed by two addresses, one on "The Ritual of Punitive Justice," by Prof. Roscoe Pound, of the University of Chicago, and the other on the "Problems Before the Conference," by Justice William H. Timlin, of the Wisconsin supreme court. After these addresses the conference broke up into eight committees on the following subjects, to each of which had been previously assigned from four to eight related topics for consideration: The jury; trial procedure; trial of the issue of mental responsibility; appeals and reversals; organization of courts; juvenile offenders; probation, parole, pardon, and indeterminate sentence; causes and prevention of crime.

Friday afternoon and evening were spent in committee work. The full conference reconvened Saturday morning and received reports from the committees. The discussions of these reports, and the recommendations accompanying them, furnished the program for the day. This being the first conference, the work was largely preliminary and educational. While there was much discussion, both in the committees and in the full conference, no definite affirmative action was taken on any of the propositions submitted. All important questions were referred for further consideration to a similar conference to be held a year later. The conference adopted a recommendation of the committee on resolutions requesting the Board of Regents of the University to consider the advisability of establishing a professorship for the critical study of the results of remedial law. At the close of the conference a resolution was adopted to form a permanent organization as the Wisconsin branch of the American Institute of Criminal Law and Criminology. An executive council of nine was appointed to work out the details of organization. To this council was also referred various propositions and recommendations of the conference and the preparation of the next program. The council will appoint several special committees to consider these propositions and recommendations, and their reports will be made the basis of the program for the next meeting, which will be held in November, 1910. The sessions of the conference were held in the building of the Law School of the University. The out-of-town delegates were entertained by the committee on organization at the University Club and at the homes of Madison citizens.[1]

[1]Furnished by Prof. E. A. Gilmore.

CONFERENCE OF NEW YORK POLICE MAGISTRATES. On December 10 and 11, 1909, a conference of the city magistrates of New York state, called by the State Probation Commission, was held at Albany to exchange views and experiences and to compare methods and practices regarding the administration of police justice in the cities of the state, outside of the city of New York. The conference was in all respects unique, being the first of the kind, we believe, ever held in this country. It was presided over by Mr. Homer Folks, president of the State Probation Commission, and was participated in by police judges from twenty-four cities of the state. The following program of topics was discussed:

A. The Treatment of Adult Misdemeanants. 1. In cases of married men convicted of petit larceny, burglary in the third degree or some similar offense, what circumstances should determine whether imprisonment, a fine, suspended sentence or probation, is advisable?

2. (a) Are the jails and penitentiaries in this state providing proper reformatory influences for male misdemeanants between 16 and 21 years of age; (b) if not, how can persons of this class needing institutional treatment be segregated and given more satisfactory reformatory training?

3. In cases of defendants unable to pay their fines in one sum, is it sometimes desirable to release the defendants on probation, pursuant to section 483 of the Code of Criminal Procedure, permitting them to pay their fines in instalments and to avoid imprisonment in default of paying the entire fine at once?

4. In cases of defendants convicted of malicious mischief, petit larceny, assault in the third degree or defrauding boarding-house keepers, is it sometimes desirable to release the defendants under suspended sentence or probation, upon the condition that they make restitution to the aggrieved party?

B. The Treatment of Cases of Non-support (Disorderly Persons). 5. (a) In cases of defendants convicted for the first time of failure to support their families, is it desirable to place the defendants on probation upon the condition that they pay stipulated instalments for the support of their families; (b) if so, through whom should the money be paid?

C. The Treatment of Juvenile Delinquents and of Adults Contributing to the Delinquency of Children. 6. (a) In dealing with juvenile delinquents, is the nature of the offense, or are the personality, home conditions and associates of the child, the more important factor in determining the wisest disposition of the cases? (b) How can adequate information about the characteristics and circumstances of a child be secured?

7. In cases of violation of the compulsory education law, when should the truant children, and when should the negligent parents, be made the defendants; and what disposition by the court is most likely to be effective (a) when the children are the defendants, and (b) when the parents are the defendants?

8. Are the provisions of subdivision 3 of section 483 of the Penal Law satisfactory for dealing with parents, guardians and other adults who are guilty of contributing to the delinquency of children?

9. How long should a child usually be kept on probation before reasonable assurance can be felt as to his or her future conduct?

10. (a) Are wayward girls and those without proper guardianship usually brought before a court sufficiently early to make improvement in their conduct likely without commitment to a training school or other reformatory institution; (b) if not, how can such girls be brought before the court earlier, and what reformatory or preventive measures, other than commitment, can be made effective?

D. The Treatment of Drunkards. 11. Should public intoxication constitute a misdemeanor as is provided by section 1221 of the penal code?

12. How can a court distinguish occasional periodical and habitual drunkards?

13. In cases of occasional drunkards convicted for the first or second time, what disposition is most advisable?

14. In cases of periodical drunkards, what disposition is most advisable?

15. In cases of habitual drunkards, is it advisable to commit the defendants to a jail or penitentiary, or should they be committed to an institution providing proper hygienic and medical treatment and other essential reformatory influences, including suitable employment; if so, for how long should they be committed?

E. The Treatment of Prostitutes. 16. (a) In cases of street-walking, soliciting, being an inmate of a house of prostitution or kindred offenses, when is commitment advisable? (b) How can a city magistrate contribute most effectively to the diminution of the social evil?

F. The Treatment of Vagrants and Tramps. 17. In cases of vagrants or tramps, does commitment to a jail or penitentiary, (a) have a reformatory effect; (b) does it act as a deterrent?

18. In cases of vagrants or tramps is it desirable to release defendants under suspension of sentence upon the condition that they leave the city?

19. Is it possible to deal effectively with the vagrancy problem unless state, municipal, charitable and social agencies, and the railroads, coöperate in developing and carrying out some adequate plan for the identification, segregation and custodial care of confirmed vagrants, and for the relief and rehabilitation of those who are helpable?

G. Court Procedure and Miscellaneous Topics. 20. As a means of avoiding the unnecessary arrest and detention of defendants should the Code of Criminal Procedure be amended to provide that magistrates in their discretion may issue a compulsory process, known as a summons, for the appearance in court, without arrest, of persons charged with an offense less than a felony?

21. In cases of women or juvenile defendants where the presence in court of persons having no direct connection with the cases is likely to cause the defendants notoriety or harm, what means of securing privacy are practicable?

22. Assuming that the publication in newspapers of the names, addresses or other descriptive identification of children arrested or brought before juvenile courts, is as a rule undesirable, how can local newspapers be induced not to publish such facts?

23. Is a card index (as kept in certain courts in this state) of the names, aliases, records and other descriptive information about all defendants, desirable for readily identifying persons who in the future reappear in court on new charges?

24. Miscellaneous topics.

Dr. Andrew S. Draper, Commissioner of Education, in an address before the conference, dwelt upon the importance of the office of committing magistrate and pointed out that they ought to be men of large human sympathies and of good sense and that they should be familiar with all the provisions of the statutory law. Probably the city magistrates, he said, have greater opportunities than any other public officers for helping the people to be better. On the question of whether the jails and penitentiaries of the state were providing proper reformatory influences for juvenile male misdemeanants a negative opinion was generally expressed. On the question of the expediency of suspending sentence in certain cases and of releasing defendants on parole and allowing them to pay their fines in instalments, there was a difference of opinion, although it was brought out that the practice is followed with good results in various cities of the state. The same difference of opinion was expressed in regard to the advisability of releasing defendants convicted of malicious mischief, petit larceny, and similar offenses under suspended sentence or probation, upon condition that they make restitution

to the injured party. Altogether the advantage of such a method of procedure in particular cases was recognized and is being followed in practice in some cities.

In regard to the treatment of drunkards the opinion was general that the present methods are inadequate and it was asserted by one judge that the New York law on the subject is a reproach to civilization. There was a general agreement that drunkenness is often a disease, in which case imprisonment in the penitentiary does not provide the proper care, and that some form of institutional treatment is desirable. In the discussion of the treatment of prostitutes considerable attention was bestowed on the question of the desirablility of providing for medical examination of women convicted of prostitution, and when found suffering with venereal diseases of removing them from society.

Resolutions were adopted by the conference urging the legislature to establish a reformatory for male misdemeanants between the ages of 16 and 21 years and recommending the amendment of the penal law so as to make adult contributory delinquency a misdemeanor and empowering the courts to place parents found guilty of contributing to the delinquency of the child, under the supervision of a probation officer or of imposing such sentence as the court may deem advisable.

The proceedings of the conference have been published in convenient form (The J. B. Lyon Company, Albany, 1910, pp. 69). It is planned to hold another conference during the present year.