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## Editorial

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# Journal of the American Institute of Criminal Law and Criminology

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## EDITORIALS

### EXTRADITION OF THE INSANE.

If any other evidence than that afforded by the Thaw case were required to draw public attention to the necessity for interstate extradition laws to govern the insane who have escaped from custody in one state and have fled into another, it is at hand, no doubt, in many states. The need for such legislation has been emphasized in an address by Dr. Henry R. Stedman of Boston before the Psychiatric Society of New York. The matter was referred to the Committee on Legislation of the society with instructions to draft a bill to be introduced in the legislature of the state of New York.

We cannot better illustrate the simple-mindedness of the state in her relations to the insane who, having committed criminal acts in one commonwealth, have escaped from restraint and fled across the state line, than by quoting the descriptions of cases from Dr. Stedman's address.

"The savage attack upon Postmaster Morgan of New York City on November 9, 1908, in which he was shot and seriously wounded, was made, it will be remembered, by an insane man, who immediately after the act took his own life. This person was a case of dementia præcox of the paranoid type. He was sensitive and socialistic and eccentric in behavior and personal appearance. He became the butt of the boys in his neighborhood, and in 1896 asked permission of the police to carry a revolver. This having been denied him, he armed himself with two, threatening to shoot his persecutors, and in 1897, when, as he claimed, they attempted to mob him, he shot one of them. In 1903 he shot in the face a fellow employee who had torn his coat in a scuffle, and refused to pay for it. He was then arrested and committed to the State Hospital at Worcester, Mass., to the present superintendent of which, Dr. Scribner, I am indebted for information regarding him. He had reflected for many years upon his adverse circumstances, gradually developing delusional ideas which involved these "toughs," whom he came to regard as responsible for his supposed reputation as a coward, etc. Failing to obtain justice at the hands of the police, he formulated a plan whereby in killing the whole gang, as well as himself, the inefficiency of those in authority would be exposed and an example set.

"On May 25, 1904, he escaped from the hospital, fled to New York City, and secured employment as stenographer for a law firm. When it became known that he was there the attempt was made through the state and local police to secure his return to the hospital. The district attorney decided that he could not be

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extradited. In the meantime his employers, who had been notified of the dangerous nature of his insanity, maintained that he was sane and would fight any attempt to return him to the hospital. The patient at the same time retained the services of a Worcester lawyer. His dying statement was that he shot the postmaster 'as the last protest of a poor man against the custom of never enforcing laws against prominent and wealthy people.' He asserted that the postmaster had withheld a registered letter to him, and that he had selected the postmaster as his victim because he was the most prominent man who had antagonized him." \* \* \*

"A more recent case is that of a woman of 28, a married nurse of considerable capability, intelligence, and superficial refinement, who left her husband in England and came to this country. Hers was a case of moral insanity. She was an inveterate liar, and was in a few days or weeks discharged from four or five hospitals in which she was employed. She continually defamed respectable physicians and families in which she was employed by wholly unfounded charges of gross immorality, and is reported to have administered overdoses of medicine and given morphine without orders. She had a proclivity for inventing circumstantial accounts of sexual conversations and experiences. Employers and friends questioned her mental soundness. She was arrested in the fall of 1910 for ransacking the apartments of her aged patient after her death. The robbery, which she denied having committed, was so wholesale and the articles stolen so valuable as to expose her to immediate detection. She was committed to the Reformatory for Women in March, 1911. After several examinations she revealed the fixed delusion that she was the victim of a plot to incarcerate her in order to prevent her from making scandalous disclosures regarding the family of a prominent and respected lawyer, which she maintained would ruin his political career. She repeatedly declared that his withdrawal of his name as nominee for a high office was wholly on this account. She narrated fictitious visits made by him to her patient, and said that he gave a false name in order to spy upon her. She also accused the superintendent of the Women's Reformatory of general persecution of her, of intimate and coarse conversation of a sexual nature with her, and confidences regarding the management of the reformatory impossible to have occurred, etc., etc. The writer certified that she was a case of congenital moral insanity of high grade, with late development of delusions of persecution, and a menace to society at large.

"She was accordingly transferred to a state hospital in Massachusetts on March 15, 1911. She escaped from that institution on September 28, 1912, and after a prolonged search by means of detectives, the police and circulars sent broadcast over this country and Canada, was finally located in a New York hotel where she had secured employment, without taking the simple precaution of assuming another name. She was apprehended and sent to the Manhattan State Hospital. Dr. Mabon, the superintendent, re-

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ports that while there the Bureau of Deportation of the New York State Hospital Commission attempted to have her returned to Massachusetts; accordingly she wrote and secured the services of a woman lawyer, who obtained a writ of habeas corpus, on which five hearings were held. She succeeded in postponing the case and on various pretexts, greatly delaying the settlement. For some time the contest was over the legality of extraditing an insane person, and only at the last moment was the evidence brought out that when transferred from the Massachusetts Reformatory to the state hospital there she had not completed her sentence, and was still a criminal under state control. The writ was accordingly dismissed and the patient deported to the Massachusetts hospital on January 29, 1913."

It is undoubtedly true, as Dr. Stedman says, that many such characters as those described above are, under our present laws, or lack of laws, returned quietly to the communities from which they have made their escape and no questions are asked, *provided they have no influential but misguided friends to take up technical cudgels for them*. But it is different when wealth, influence, and ignorance combine to fight for the unjustified liberty of the unfortunate "guilty-but-insane." Additional statutes to protect against such sinister influence would serve a good purpose and we hope that the Institute of Criminal Law and Criminology will take the matter up and prosecute it with vigor. Massachusetts led the way in this matter, prompted by the attempted assassination of Postmaster Morgan in 1909, referred to above. Her law, says Dr. Stedman, is the only interstate rendition law in the United States applicable to insane persons. We quote the statute in full below:

Sec. 87. The governor may, upon demand, deliver to the executive of any other state or territory any person who has escaped from an institution for the insane, public or private, to which he has been committed under the laws of such state or territory, and who may be dangerous to the safety of the public, or may upon application appoint an agent to demand of the executive authority of any other state or territory any such person who has escaped from such an institution in this commonwealth. Such demand or application shall be accompanied by an attested copy of the commitment and sworn evidence of the superintendent or keeper of the institution stating that the person demanded has escaped from such institution, and by such further evidence as the governor may require.

Sec. 88. If the governor is satisfied that the demand conforms to law and ought to be complied with, he shall issue his warrant under the seal of the commonwealth to an officer authorized to serve warrants in criminal cases, directing him at the expense of the agent who makes the demand, at a time designated in the warrant, to take and transport such person to the boundary

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line of his commonwealth and there deliver him to such agent. The officer may require aid as in criminal cases.

Sec. 89. A person who is arrested upon such a warrant shall not be delivered to the agent of a state or territory until he has been notified of the demand for his surrender and has had an opportunity to apply for a writ of habeas corpus, if he claims such right of the officer who makes the arrest. If the said writ is applied for, notice thereof and of the time and place of hearing shall be given to the attorney-general or district attorney for the district in which the arrest is made. An officer who delivers such person in his custody upon such warrant to such agent for extradition without having complied with the provisions of this section shall forfeit not more than one thousand dollars. Pending the determination of the court upon an application for the said writ the person shall be detained in custody in a suitable hospital for the insane.

Sec. 90. If the application for the arrest of a patient escaped from an institution, public or private, in this commonwealth, is complied with and an agent is appointed, his account shall be paid by the institution from which the patient escaped, but the governor may direct the whole or part of such account to be paid by the commonwealth."<sup>1</sup>

ROBERT H. GAULT.

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## COMMON SENSE RELATION OF POLICE AND OFFENDER.

Maltreatment of a first offender by an arresting authority, particularly where there is no provocation, is known to have prompted the unfortunate subject to become more hardened and to depart from the trifling to the serious practices. Individuals apparently without force are often prodded to desperation by a controlling physical or moral influence. The individual who is authorized to arrest possesses great power and should ever be mindful of the fact that the law contemplates that penalties for violation shall not be in any wise imposed until after a presentment and hearing before a competent court. The fear of arrest carries with it suffering for the apprehensive one, even

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<sup>1</sup>*Commonwealth of Massachusetts v. Klaus*. Decision rendered July 7, 1911. In 145 Appellate Division Reports of Supreme Court of New York, page 798.

One of the highest legal authorities, a former attorney-general of Massachusetts, pronounces this act as constitutional and manifestly in the public interest because if uniformly adopted a state could enforce its responsible and continued control over a dangerous insane person escaping into another state and the community into which he had come would be delivered of the danger of his presence and responsibility for his care. The operation of the act, however, might be hampered because of constitutional questions arising in *habeas corpus* proceedings regarding the expulsion from a state of any person other than a fugitive charged with crime. It is therefore, he thinks, of the utmost importance that such statutes should be most carefully drawn in order to eliminate these questions so far as possible.

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though an aged delinquent; this, however, without legal intention or manner of legal avoidance, but application of penalty follows from the moment of committal of offense.

The graduated offender becomes downcast and sullen, as a general proposition, when deprived of his liberty, while the stranger to the grasp of the law usually breaks with tears in his eyes and a bleeding heart. In other words, the malefactor who has undergone repeated experience of arrest and who may not have had anything else than liberty to lose, does not show the bitter mental pangs that are shown by the one who for the first time is under restraint of the law. The illiterate, ignorant of the many requirements of the statutes, become an example of inquisitive anxiety, and when arrest overtakes the growing youth who has had all advantages, able to contemplate and realize, many times the shock alone leads to permanent and incurable distress.

If all this be true of man, the sterner sex, who is, through contact and environment, better prepared to contend against such misfortunes, how much greater must be the afflictions that follow the awakening of those of the weaker sex, who are taken into the custody of arresting officers? The enormity of the crime committed adds to the agony of those concerned.

The mental distress resulting from arrest is not, of course, generally evident in cases where intoxication, insanity or other disordered mental conditions prevail, when the character under restraint will be oblivious or indifferent to the situation.

The distress incident to thousands of cases, prior to and up to the time of court procedure or determination, appeals to the sympathy of many kind-hearted members of police forces, who not infrequently lend aid and comfort from the humanitarian point of view.

The International Association of Chiefs of Police in annual convention endorses the following sentiments as expressed by their presiding officer:

“The tendency of the times is to accomplish the end through the application of intelligence, rather than force. Humane efforts are exercised by the police in a manner not heretofore known. Especially is this true in dealing with juvenile offenders. There has been a great deal of sentimental talk about criminals, which has often gone too far, under the guise of humanity. We know that few real criminals reform, yet there are hundreds of instances where minds and bodies diseased have been presented to the court as such, by the police, with words for the unfortunates, which touched the court and minimized penalties imposed.

“There prevails an impression in many parts of the land that

the police officer is always seeking trouble. While he is but human, it is not for him to allow his personal disappointments or grievances to enter into his police work. At least, those comprising a properly conducted institution discourage such practice. The policeman's position is that of the representative of the law, wearing the insignia which stands for peace and good order, and as such he should be respected. In line with proper administration, the member of the force should be instructed so as to have this thought uppermost in mind at all times as should the good citizen."

The application of humane treatment does not mean that the officer in contending with thugs and burglars, who go about in the night-time loaded to murder unoffending citizens, or the wretched leader of the slums, should administer the remedies prescribed by law in sugar-coated doses, but it suggests the application of common sense coupled with humanity. Brutal treatment may derange for all time to come, an innocent person arrested.

Although inferior to the male physically, the female violator of the law, like the male violator, must not infrequently undergo additional humiliation or penalty in this regard. It is important that a member of the force should discriminate in the handling of the sex, yet, under circumstances which some policemen can relate, women of powerful physique, armed with clubs, knives, red pepper, if not with an ax or vitrol, have, in their craze and fury, made it necessary for the representative of the law to use force to the extent of inflicting bodily pain as would be necessary in subduing one of their own sex. Such cases are infrequent, and usually follow where prompt action is necessary to avoid the sacrifice of human life.

In the modern police departments, for those densely populated sections of municipalities where a low order of degradation prevails, the prevention of crime and the maintenance of order is usually had by doubling the police force and by having signal boxes located in close proximity to each other, in order to hurry call for assistance. In this manner a sufficiency of force is maintained to make arrests, and to the avoidance of scenes.

Humane procedure in this age of progress would be for the police to have low-set motor conveyances in which to transport female prisoners to the station houses or to houses of detention. If the hardened character of the prisoner makes it necessary to confine violators in the station house, whites should be separated from blacks, young from old, and women should never be with men.

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Every city should have an inebriate ward connected with its police stations, where prisoners who collapse could have the prompt attention of a physician—men as well as women.

Leaving the more degraded classes, consider the girl fugitive from home and parents, the one started on a wayward course, or the female charged with a first offense of shop-lifting or with having stolen from her employer. These should be and are usually taken to places of detention by officers in plain clothes. In my own jurisdiction, they are conveyed to a house of detention, and there placed in charge of a matron, who not only searches the prisoners, but affords them baths, provides them with night clothes, clean beds and linens and spreads, and furnishes them proper literature and instruction.

The conveyance attached to these institutions should have no lettering or insignia of police attachment, so that when a woman or girl is transported therein, it will be no unusual attraction for the curious, and thereby avoid humiliation for the unfortunate.

These prisoners should be classified from the time of arrest. Girls should be returned to their homes or friends without having to appear in court, if possible. First criminal offenders should be taken to court without knowledge of the sight-seeing public. Many should be given an opportunity to start life anew.

In department stores, where most of the shop-lifting or stealing of small articles is carried on, the disposition to arrest, except in flagrant cases, does not exist. Prisoners arrested by detectives are usually escorted into private places, and photographed and admonished. There are those known to have such weaknesses, whose relatives or friends make good for the losses sustained through their acts.

RICHARD SYLVESTER.

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## THE LABORATORY IN THE CRIMINAL COURT.

The fundamental purpose of the American Institute of Criminal Law and Criminology is becoming actual in our psychopathic laboratories. From its inception, the Institute has emphasized the laboratory ideal for the criminal courts and prisons. We are beginning to see the fruit of our urging, and it is satisfying. The laboratory in the Municipal Court of Boston, directed by Dr. Victor Anderson, and that in the parent court of Chicago, opened on last May first, with Dr. William Hickson as director: these are objects toward which we have set our faces.

One of the first committees appointed by the Institute was Committee A, charged with the duty to devise a system for recording data

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concerning criminals. Under the chairmanship of Chief Justice Olson of the Municipal Court of Chicago, this committee made two reports which were published by the Institute, and which attracted national attention. In those reports it was urged that municipalities and counties should establish laboratories for the service of their criminal courts. It has struck home in Boston and in Chicago. In the state of New York, too, the movement is on the way. Mr. Louis Gibbs of New York city, a year ago introduced in the legislature of the state a bill providing for the establishment of a similar laboratory in every first class city of the state. The measure attracted favorable attention, and no doubt it will ultimately carry.

It is a matter for regret that a paper recently read in Columbus, Ohio, by Dr. Hickson of the Chicago laboratory, came to our hand too late for insertion in this issue of the JOURNAL. Dr. Hickson there reported that since May first he and his assistants had examined 245 boys who were sent to him from the Boy's Court. They were youths who had not been released on bail and ranged in age from 17 to 21 years. Of these only 7.34 per cent were reported as of normal intelligence. The others were morons, and many of the majority suffered from some specific moral defect.

In making the above calculations, Dr. Hickson is assured he has erred, if at all, on the side of leniency. All doubtful answers, when the Binet-Simon tests were being applied, were marked plus. The percentage of normal cases, he thinks, will fall below that indicated above when the data obtained from examination of youths who have been admitted to bail shall have been taken into account.

It is appropriate to compare the ages at which the different groups make their way into the criminal courts. The morons, on the average, stand before the bar 2.23 years earlier than normal cases, and the borderland group precede normal youths by 0.84 year.

Further confirmation of the general conclusion that we find in this paper may be found in what we may be allowed to call the "world test." Few delinquent youths can hold a job for more than a limited number of days or weeks. Those who hold on longer are usually inefficient and are the first to be laid off when the employer adopts a policy of retrenchment. The results of this world test, as an index of mental quality, cannot be expressed in quantitative terms. It is a valid test for all that. If a young man can and will fix his attention upon his work through thick and thin until he establishes himself, even as a reliable day laborer, he has shown a degree of self control that we cannot associate with mental deficiency of a serious nature. In the latest report of the managers of the New York reformatories is a study of one hundred successive

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cases of failure on parole. The large outstanding fact in that investigation is that the young man who fails to meet the conditions of parole when he has been sent out from Elmira and Napanoch, fails because he will not hold his job. It is not, says Dr. Christian, the investigator, that the employers do not go half way, but that the young men themselves are shiftless. Dr. Hickson seems to approve such confirmation as this. Indeed he briefly refers, in his paper, to similar reports that he has received from social workers.

The economic side of this whole question is important, and manufacturing and commercial establishments are, with good sense, casting about for reliable means by which morons may be sifted out from the group of applicants for situations in their houses.

It is altogether probable that much of what appears as morosity at the chronological age of 20 is traceable to inexcusable social neglect. We allow unemployed youths between the ages of 14 and 16 to remain out of school and to lead lives of idleness in the street. This we permit, even while the law provides that they must be in school during these years, unless they are employed. But there is no authority to place these youths in the parental school where a place is provided for younger habitual truants. We have tied our own hands as far as these children are concerned, and give them an opportunity in their formative years to develop those mental habits or dispositions that put them in a position analogous to that of the constitutionally inferior.

If this data or anything approximating to it is confirmed we have found subject matter for an intellectual giant's constructive thought. On the one hand crime, and on the other education in America cost equally. How can we most effectively disturb this vicious balance in the right direction? We are finding the way. We must ultimately be able to discover the defective by specific tests before it is too late. We must try those who are suspected of constitutional deficiency in specially contrived environments for a long period if necessary. When they are once discovered beyond the shadow of doubt, by a strong hand we must eliminate them by life-long segregation from the opportunity to do wrong to their neighbors.

ROBERT H. GAULT.