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Editorials

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EDITORIALS

ANNUAL MEETING OF THE AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY

The next annual meeting of the Institute of Criminal Law and Criminology will be held in Cincinnati, Ohio, on next November 18 and 19, in accordance with action taken at a meeting of the Executive Board of the Institute on April 1.

The Chamber of Commerce of the City of Cincinnati is, in a practical way, showing its interest in the forthcoming meetings. This organization and the Mayor of the city have sent us a cordial invitation. The Hon. Charles W. Hoffman, judge of the Court of Domestic Relations, and Mr. Walter A. Knight, member of the Cincinnati Bar, are actively at work securing the interest of the local Bar Association and the Lawyers' Club.

The program will be varied somewhat from that of previous years. Two evening sessions will be open to the general public. Day sessions will be closed and will be for conference upon subjects to be announced. To these conferences members of the Institute, of course, will be invited. Invitations will be sent to others also in Cincinnati and elsewhere who by reason of experience and fitness are able to contribute to the discussions in the conferences.

Chairmen of committees are expected to have their reports ready for the uses of appropriate conferences.

Suggestions from members of the Institute and others with respect to the program are earnestly solicited.

ROBERT H. GAULT.

THE INDETERMINATE SENTENCE LAW A SUCCESS

Despite undoubted failures in individual instances, such as are inevitable in any large operation that entails the handling of large numbers of cases, the indeterminate sentence and parole law is in successful operation. At any rate, it is fulfilling two of the great purposes of those who have been most instrumental in creating the public opinion that was finally expressed here and there in the enactment of the laws to put it into effect.

One of these purposes is to enable the more promising prisoners to carry their own load and that of those who may be dependent upon

them during a period of suspension, and so to give them an opportunity, in approximately normal circumstances, to take strides toward acquiring habits of honest industry. It is an old story that during this period of supervision 80 per cent or more get on satisfactorily and are finally discharged. Unfortunately we do not know with any degree of fullness what happens to these people subsequently, but it is a great contribution to the administration of criminal law and to social welfare to apply the parole law so successfully during the period of supervision outside prison walls.

The second of the purposes to which I have alluded is to give the public more adequate protection against the habitual and the degraded criminal than it formerly enjoyed, while giving the enlarged opportunity I have mentioned to those who are not confirmed and degraded offenders. Several times in this JOURNAL we have shown by figures based upon more than twenty years in Indiana and a shorter period in Illinois that under the indeterminate sentence and parole law convicts are actually spending more time in prison, on the average, than under the old law. This is more striking in relation to those whom we regard as the more dangerous classes of criminals than to the less dangerous.

In these days, when the parole law is being repeatedly attacked, we cannot too frequently draw attention to these facts. We have just now received a statement, dated January 6, 1921, from Mr. Charles L. Neumiller, president of the State Board of Prison Directors of the State of California, that so admirably sets out the advantages of indeterminate sentence and parole that we print it below in full:

"The indeterminate sentence law is a success. Those who have spoken and written to the contrary are not fully informed.

"It is a success because it has resulted in just what the framers of the law intended—short sentences for casuals and first offenders under mitigating circumstances, but severe sentences for habitual criminals and those whose crimes are violent, aggravated and bestial.

"Let no person make the mistake of assuming that confirmed criminals, like the indeterminate sentence law. They do not. Habitual criminals fear it. They cannot beat it because their records are searched before they are sentenced.

"Under the indeterminate sentence, young first offenders, whose offenses were not heinous; have been given opportunity to make good, but habitual criminals have been discouraged by stiff sentences. The records clearly show that habitual criminals and those committing

offenses of revolting character have been given longer sentences under the indeterminate sentence plan than under the old law.

“Under the old plan of terms fixed by the judges, there was much complaint because of the inequality of sentences—the difference between the sentences given by different judges for the same offense. Judges conscientiously endeavoring to administer justice frequently complained that they were perplexed by the necessity of giving a definite, fixed sentence and that with the limited time they had for the study of the men brought before them for judgment they were unable to fix to their own satisfaction a fair and just term of incarceration. Experienced judges realized that while the proceedings at time of trial acquainted them with all circumstances surrounding the crime, they were frequently left in the dark concerning the past life, habits, general reputation, character, physical and mental condition and criminal record of the man before them for sentence. Sometimes first offenders were given long sentences and habitual offenders were let off with very short terms. Under the new plan, the indeterminate sentence, all men committing the same crime are sent to prison under the same conditions—for the term prescribed by law. If the crime committed is punishable by a term of from one to fourteen years, the offender is taken to prison with the understanding that he may be kept for any period from not less than one or more than fourteen years. During the first year his past life is thoroughly investigated, and if he has worked industriously and lived decently prior to the commission of the crime for which he has been sentenced, and he is really a first offender, that becomes known. If the investigation shows that he has not lived decently or worked for a living, but has traveled from place to place, breaking the laws and being continuously in trouble, that is made a part of the record of his case. His physical and mental condition is discovered by examinations and his conduct, industry and attitude in the prison are carefully observed and reported. After the service of the minimum term, with a complete record before them, five prison directors decide his case.

“And when the prison directors are about to impose sentence they have available for comparison the records in all similar cases from all sections of the state. How the prison directors have fixed sentences is best shown by comparing the sentences imposed by the Board since the indeterminate sentence law was enacted in 1917, with sentences pronounced by the judges under the old law. For example, take the crime of rape:

“During the four years prior to the enactment of the indetermi-

nate sentence law, judges in the 58 counties of the state, acting under the provisions of the old law, sentenced men to San Quentin for the crime of rape, and examination of all of the cases show the average sentence by the judges for the crime of rape to be nine years and eleven months. Since the indeterminate sentence law has been in effect, the sentences imposed for the crime of rape average twenty years and six months.

“Under the old law, the average sentence for attempt to commit rape was eight years and five months; under the indeterminate sentence law, seventeen years and six months.

“Lewd and lascivious conduct: Under the old law, average sentence, six years and ten months; under the indeterminate sentence law, fourteen years and ten months.

“Arson: Under the old law, average sentence, four years and one month; under the indeterminate sentence law, twelve years and two months.

Burglary, first degree: Under the old law, average sentence, three years, and under the indeterminate sentence law, three years and two months.

“Burglary, second degree: Average sentence under the old law, two years and five months; under the indeterminate sentence law, two years and seven months.

“Robbery: Average sentence under the old law, five years and eleven months, and under the indeterminate sentence law, the same.

“Manslaughter: Average sentence under the old law, six years and five months; under the indeterminate sentence law, seven years and one month.

“Assault and attempt to commit murder: Average sentence under the old law, five years and nine months; under the indeterminate sentence law, seven years and nine months.

“Mayhem: Average sentence under the old law, three years and four months; under the indeterminate sentence law, seven years and six months.

“Under the segregation act, those with previous criminal records are now sent to Folsom prison, and there the sentences under the indeterminate sentence law have been longer on the average for the crimes usually committed by repeaters or habitual criminals—that is, crimes like burglary and robbery.

“For example, under the old law the average sentence for burglary, first degree, was three years; under the indeterminate sentence law as applied to first termers at San Quentin, three years and two

months, but as applied to repeaters at Folsom, five years and nine months.

"Burglary, second degree: Under the old law the average sentence was two years and five months; under the indeterminate sentence law as applied to first termers at San Quentin, two years and seven months, and as applied to repeaters at Folsom three years and eleven months.

"The average sentence for robbery under the old law was five years and eleven months, and under the indeterminate sentence law as applied to first termers at San Quentin, the average is just the same, five years and eleven months, but as applied to second termers at Folsom the average has gone up to nine years."

ROBERT H. GAULT.

PARENTS RESPONSIBLE FOR CRIME: A COMMENT

The grand jury of Cook County, Illinois, in its report for October, 1920, holds parents, in very large measure, responsible for crime by reason of their neglect of their obligation to train their children in their homes.

This is consistent both with the common-sense view of the situation and with the scientific view of those who emphasize mental inferiority or psychoses, or mental disease as predominant causes of crime. It seems that psychiatrists agree that, given a certain inferiority or instability in human nature, pronounced mental disease may develop in unfavorable circumstances, and that, on the other hand, such inferior natures may, by wise treatment, be so fortified as to be able to maintain themselves and to be recognized as fairly normal members of the community. This is at the root of the mental hygiene movement in America and in Europe. People lose by their habits, on the whole, more than by their original unstable natures, and such natures probably gain as much as any others relatively from the acquisition of socially desirable habits.

The process of development of a criminal is in no essential respect different from that of a professional man. Certainly our neighbor, the lawyer, would not be what he is today if in his youth there had been no lawyers, no law schools and no laws. It matters not how well fitted he may have been in his youth for entering upon the study of law, he would now be following some other profession but for the continuous stimulation he received, it may be, from his earliest boyhood. Perhaps his father was a lawyer, and as such he created a

social atmosphere appropriate to his profession, in which the son grew up and to which the youth was daily, though perhaps unconsciously fitting himself. Or perhaps in some other way he fell under the influence of a lawyer whom he admired. Later he was in college and in law school, where, especially in the latter, every course of study and every exercise was selected by the teachers for the purpose of stimulating the young man to behave (i. e., to think and otherwise act) as a lawyer does. It is inevitable that he should adapt himself to these stimulations in home and school and to others of like nature when he enters into practice. Finally, he is in such a stabilized professional state that he can do nothing but behave as a lawyer. It is at least next to impossible for him to adjust himself to any other profession.

All this does not mean necessarily that in his childhood he was predisposed to become a lawyer, but only that he possessed the degree of adaptability necessary to enable him to respond to the lawyer-making stimulations, until at last his professional habits are formed.

The development of many a criminal nature is no doubt closely analogous to this. Assume a child or a youth who is living in an anti-social atmosphere and adjusting himself to it, whilst the other is growing up in the social atmosphere created by the head of the family, who is a lawyer and interested in his profession. Assume that each day of his life he is reacting to the unfavorable influences in his surroundings, to the criminal suggestions that his neighbors make, to their importunities to join in trivial acts of delinquency. Assume that the pressure of living is very heavy upon him and that in the midst of all else he has had a few experiences that lead him to distrust those who are in authority over him and who live on a different social plane from that on which he himself lives. Let our hypothetical youth on the back street be meeting such experiences as these whilst the other is reacting to all those well-arranged and selected stimulations of the high school, the college and the law school—is it not within the range of probability that the one will develop the fixed habits of a delinquent just as surely as the other will develop those of the lawyer? It may be assumed, if you please, that at the very outset each one is a normal youngster. We grant that if the youth in the unfavorable situation is unable, by reason of feebleness of mind, or instability or a psychotic condition to see and seize his better opportunities or to frame a worthy ambition and hold to it, he is all the more likely to form his habits on the level of the criminal. But whether he is abnormal or not, his development as a criminal is no more nor less mysterious than

is the development of the professional man. It is essentially the same process in both cases.

The feeble-minded and the psychopathic form complexes of habits as do the rest of us. The mental hygienists rightly build upon this proposition. It is a corollary to this that those psychoses that are sometimes the most immediate causes of crime may be prevented by deliberate and systematic efforts at (to use plain English) the building of suitable habits. This is in accord with the experience of eminent psychiatrists and it gives the cue to parents and teachers.

The grand jury is right. Parents, teachers and all others who have an opportunity to develop in the growing generation those habits that are suitable to life, are in a very large measure responsible for the development of criminals and hence for crime. It is equally true that they are not wholly responsible.

These considerations have a bearing not only upon the preventive but also upon the curative aspects of criminology. If what has gone before is correct it cannot be assumed that every criminal who is suffering from a psychosis was doomed from the beginning of his days to be a criminal. For the matter of that it should not be taken for granted that the young criminal with a psychosis that is presumably a cause of his crime must always be a criminal. If a complex of habits has brought him to his present state, a break-up of those habits and the substitution of new ones is within the range of possibility and may correct his behavior. The segregation of criminals with mental defects and diseases in suitable institutions such as farm colonies serves, therefore, a double purpose: it protects the community against the confirmed criminal and provides the best conditions for making over undesirable habits because it applies approximately normal stimulation to more or less responsive natures.

Crime is just as complex as any other form of human behavior, and the criminal is not described adequately merely by calling him a feeble-minded person or a moron, or a case of dementia praecox.

ROBERT H. GAULT.

THE BUREAU OF CRIMINAL ANALYSIS

The Bureau of Criminal Analysis has been incorporated in Illinois by Robert H. Gault, Professor of Psychology in Northwestern University, Editor of this JOURNAL, and Chairman of the Committee on Origin of Crime in the Chicago Crime Commission; John H. Wigmore, Dean of the School of Law in Northwestern University;

Fredéric B. Crossley, Professor of Law in Northwestern University and Librarian of the Elbert H. Gary Law Library, and Herbert Harley, Secretary of the American Judicature Society and Assistant to the Chief Justice of the Municipal Court of Chicago, who have been for a number of years well known in connection with criminologic studies. The Bureau will offer its services to municipalities, states, associations of commerce, other organizations and individuals who may wish to have surveys or investigations of criminal conditions made in their several localities, and also for the study of certain problems arising out of race contacts. As stated in the articles of incorporation, the purpose of the Bureau is as follows:

A—"To make surveys or investigations in specific localities with reference to (1) the causes and results of delinquency and crime; (2) the effectiveness of public and private institutions and agencies and plans and records dealing with delinquents and criminals; (3) the improvement of such institutions and agencies, laws and records, to the end that there may be a larger degree of co-operation and co-ordination for the prevention of crime and the treatment of law breakers, and to prepare reports thereon.

B—"To publish and distribute reports of the investigations made under its auspices."

The directors of the Bureau are as follows: Robert H. Gault, John H. Wigmore, Frederic B. Crossley and Herbert Harley.

The activities of the Bureau are always in accord with an Advisory Board, as follows:

Edwin W. Sims, Member of the Chicago Bar and President of the Chicago Crime Commission, Chicago.

Herbert H. Goddard, Director of the Bureau of Juvenile Research, Columbus, Ohio.

August Vollmer, Chief of Police, Berkeley, Cal.

Horace Secrist, Professor of Statistics and Economics and Director of the Bureau of Business Research in Northwestern University; Supervisor of Statistics for the U. S. Railway Labor Board, Evanston, Ill.

Joel D. Hunter, General Superintendent, United Charities, Chicago.

Sanford Bates, Commissioner of Corrections, Boston, Mass.

Herbert Harley, Secretary of the American Judicature Society and Assistant to the Chief Justice of the Municipal Court, Chicago.

Katherine Bement Davis, General Secretary of the Bureau of Social Hygiene, former Parole Commissioner, New York City.

Frederic B. Crossley and Robert H. Gault are Secretary and Operating Director respectively of the Bureau. When a corporation or individual desires to secure the Bureau's services, these officers will make a preliminary study of the possibilities in the situation, prepare a tentative plan of operation and a budget to cover expenses. This will be submitted to the Advisory Board and in conference will be reduced to final form. In case the inquiring corporation or individual accepts the plan and guarantees the budget, the directors of the Bureau will take charge of the work. They have at hand a list of investigators of proven ability in all branches of criminologic research who will co-operate with the Bureau and who may be employed during longer or shorter periods, some on full time and others on part time, to assist in executing the plans of the Bureau.

The Index to Vol. XI, that was inadvertently omitted from the last number, is inserted as a separate section in this issue.