

1923

Notes and Abstracts

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NOTES AND ABSTRACTS

Belgian Studies in Child Welfare.—The August, 1921, number of *La Protection de L'Enfance*, published monthly by the Belgian Ministry of Justice (Vol. V, No. 28) contains (p. 1009) the second of two articles by Mr. P. Renault, an inspector, with reference to reforms instituted in Belgium in the field of child welfare. These reforms include, among others, the provisions of more ample resources for the institutional care of children; more careful classification on the basis of age and development, mental and moral as well as physical; the establishment of fresh air sanatoria, the more careful organization of institutional regime; the establishment of a central institution for the observation of children presenting behavior problems; sanatoria for the care and treatment of victims of venereal diseases; the establishment of normal courses for the training of teachers, courses which include institutes and conferences as well as formal curricula. The discussion of the principles underlying these developments is illuminating and modern. An illustrated article on the School for Girls at Beermen (p. 1054) describes an institution established in 1858 and administered until 1911 by the members of one religious order, and since that date by those of another. During the spring of 1921, there was established a commission on the curricula of children's institutions, and its deliberations reported in part in this number correspond with the subjects discussed by our own National Probations Association, National Conference of Social Work in its Children's Division, or Children's Bureau Conferences. Some of those topics were, for example, the relations existing among the juvenile court placing a child, the institution to which the child is committed, and the after-care agency on which the agency relies; the responsibility of an agency for the occupational training of a child in its care; the length of time during which a delinquent child should be held; the responsibility of an agency to which a child is committed for the rehabilitation of the child's home, etc. (p. 1057-1067). Among the enactments enumerated in the field of child-care is a law creating a commission for the control of moving pictures (p. 1068).

In the September-October number (Vol. V, No. 29) there is an interesting discussion (p. 1161) of the Difficulties of Parole, by Gerard Boon, Director of the Division of Difficulties of Parole of the Brussels Politechnique, containing an able analysis of the problem of the difficult child, in relation to inheritance, environment, social habits, etc. There is also in this number an article on the treatment of abnormal children in the delinquent group, by M. le Dr. Vermeylen, an alienist and psychiatrist, who reports in this article the results of a journey of observation to various psychiatric centers in the continental countries. There is also an interesting report of the work of a commission appointed in October, 1920, to consider an appropriate curriculum for Schools of Social Service. This commission recommends the establishment of schools qualified to prepare workers in the fields of (1) Child Welfare, (2) Private Charitable Administration, (3) Institutional Organization, (4) Factory Inspection, (5) Social and Mutual Insurance, (6) Public Library Administration. The commission not only emphasizes the domestic need, but the colonial opportunity as well, in the field of social work. In accordance with these recommendations, there was issued, July 14, 1921, a decree to the effect that a diploma of social aid (*Auxiliaire social*)

should be granted to any candidate who gave evidence of general preparation in (1) Public and Private Law, (2) Civil Law in Relation to Social Service, (3) Social and Political Economy, (4) Labor Legislation, (5) Public and Private Organization in Preventive Work, (6) Social and Personal Hygiene, (7) Social Psychology, and (8) Social Statistics. This general preparation must include visits to 50 social organizations or agencies. After examination on this general preparatory work, successful candidates may be admitted to specialized study, and after following a course in a selected field from among these eight groups for at least a year, may submit a thesis on some report on the work of that field and take a final (oral) examination. The conditions under which institutions designed to give the training outlined are granted subsidies from the public treasury are stated, and provision for central inspection is authorized.—Sophomsba S. Breckenridge.

Publication of the Official Reports of the United States Supreme Court.—In July, 1922, Congress passed an act (Public No. 272) providing for the publication of the Official Reports of the Supreme Court in the Government Printing Office and for their sale to the public at cost of production, including a part of the appropriation made for the maintenance of the Reporter's office. This did away with the method of publication through contracts between the Reporter and private publishing houses, which had obtained from the beginning. The last contract of that kind expired with the publication of Volume 256, which completed the reports for the October, 1920, term. The letting of a new contract to cover the opinions of the 1921 term was impracticable, owing to the pendency of the legislation, to the expectation that it would be enacted long before it actually was, and to definite indications that, when enacted, it would supersede the contract method.

For various reasons, incident to the ending of the old contract and the legislative change, editorial work on the opinions of the 1921 Term was seriously delayed. Time also was consumed by administrative preliminaries under the new law, and in making necessary preparations in the printing office. Notwithstanding this, however, gratifying progress has been made. The reports of these opinions will be contained in three volumes to be numbered 257, 258 and 259, all of which, it is confidently expected, will be published in bound and pamphlet form before the close of the year.

The act provides for advance parts as well as bound volumes, when ordered by the chief justice. It was decided to issue a small edition of these pamphlets, four to a volume, sufficient to meet the requirements of public officials and of those lawyers who may desire them notwithstanding the delay. These, as heretofore, are made from the plates used in the final volumes and, therefore, correspond with them in page numbering. It is believed that their publication will not delay the bound volume, and it is known that the prompt dissemination of the opinions thus made possible will be of convenience to many, besides helping to detect errors in the plates. Two numbers, containing one-half of the opinions of Volume 257, have been issued at this writing. The price is twenty-five cents per number. The bound volumes will follow the corresponding pamphlets as soon as the plates can be re-examined and corrected and the tables and indexes completed and plated. According to present estimates, the price of bound volumes will be about two dollars and ten cents each, possibly a little more,

possibly a little less. It will be fixed in the near future when the work has progressed somewhat farther.

Especial attention is directed to the fact that it will not be necessary to send in a separate order for each pamphlet or volume purchased. Standing orders with advance deposits will be received by the Superintendent of Documents, Government Printing Office, Washington, D. C., and the publications will be mailed, as issued, to the addresses given, as long as the amounts kept on deposit suffice to pay for them—Ernest Knaehe, Reporter.

Minimum Probation Standards.—“*A full knowledge by the court of the past of the offender.* Must it be said that this is not solely nor chiefly a revelation of his misdeeds? We are not looking for a limitation; we are looking for light. Guidance is wanted for a disposition of the case that will consist with a purpose to help the offender back to correctness of behavior, and thereby serve the only justifiable intent of criminal law, the protection of the state.

“*A full knowledge of the present conditions of the offender.* This knowledge is essential to an understanding of his conduct and to any wise provision as to his future. Incidentally it has value as accounting for the particular offense under consideration. . . .

“Provisions having been secured for full information in the court of the problem the case presents, we turn to the requirements for such supervision of the person placed on probation as the public interest demands. These may be briefly stated, even though each of the features to be mentioned could be discussed at length:

“*The paid probation officer.* It may be taken as settled that this service carries with it such responsibility and involves such close attention that reliance upon voluntary service fails to meet the need.

“*Direct responsibility of the officer to court.* The probation officer is the extension of the court into the community, and there can be nothing short of unqualified control of his acts at the source of his authority.

“*Eventual termination of the probation period.* The length of time required for dealing with the offender is not discoverable at the moment of beginning what is really an individual experiment. Elasticity in point of time is one of the prime advantages of probationary treatment as compared with a fixed term of incarceration. But at the moment of ascertained trustworthiness there must be a lifting of supervision and not a fading away of the court's authority over the person. This only is consistent with the right, clearly settled in the law, of every man to have the case against him finally disposed of.

“As to the offender, the minimum is such conduct as conforms to reasonable requirements of correctness and propriety, and holds out distinct promise of future rectitude. This involves, of course, the power in the officer to surrender his charge, and the considerate but firm exercise of that power.

“As to the officer, there are obvious character requirements—intelligence, an understanding of the problems he is to face—conceivably requiring previous study and training, a capacity for sympathy combined with firmness and diligence in order that there may be unflinching thoroughness in the exacting business of dealing with the person under his care and within his custody.

“As to methods, the least requirements are (a) That they shall be friendly. The nearest approach to failure in probation work comes with the conception of it as a modified form of imprisonment. The probation officer is not a policeman,

he is not a sleuth; he is an upbuilder. (b) That there shall be every safeguard thrown around the probationer against influences that tend to upset, as well as against exploitation and against effort, which may always be suspected, to treat him meanly and as different from human beings who happen not to have been called to account for wrongdoing. (c) Profitable and respectable employment. The experienced probation officer is a little better informed than anybody else of the truth of the saying that idleness is the devil's workshop. (d) Not the greatest, but a modulated and discriminating oversight, the end being to develop progressively the self-respect and the self-reliance of the probationer. (e) The enlistment of every available agency for the upbuilding of the man, the task which one of our philosophers has described as 'the greatest enterprise in the world for splendor and for extent.'—Herbert C. Parsons in *Probation Bulletin*, Vol. I, No. 3, October, 1922.

Modern Burglar's Strange Evolution.—"Methods of criminals, like those of other craftsmen, change with the times. If the criminal of twenty-five years ago returned today to his former occupation he would be quick to realize that he was working under new and strange conditions. The old-time burglar would find much to stump and startle him. He would discover that houses were built on a different plan and that there were traps of all kinds to anticipate his visits.

"Like the business or professional man, the modern burglar, if he expects to elude capture, must keep abreast of the times. He has had painful experiences with burglar alarms and other burglar-catching devices. These experiences have made him canny, and when he starts to work with his tools in his pocket, he makes a fervent prayer that the 'cops' will not get him. Ordinarily, he has no desire to emulate those bold, bad burglars of the past, who delighted to break into a flat when its occupants were peacefully asleep, make off successfully with the family jewels and heirlooms, and then join their cronies in a friendly saloon where, over their glasses, they would discuss the big adventure.

"It used to be the accepted thing for these burglars of the older and bolder type to work exclusively at night. In those days a burglar who would get on the job before the midnight hour was either a novice at the game, or a fellow who was rapidly losing his sanity. No self-respecting cracksman would so far forget himself as to tackle a job before the prescribed, ordained witching hour. If he were a regular burglar it was equally important that he should hie himself home to bed long before the first pale flush of dawn should streak the horizon.

"Just when burglars began to change all this is not definitely known. Unfortunately, police historians have neglected to chronicle the time when these well-intentioned housebreakers threw form and etiquette and the clock to the four winds, and, upsetting a cherished tradition, went to work when and where they pleased.

"The change, nevertheless, radical and revolutionary, took place. It began with the published chronicles and adventures of certain "dinner burglars," so-called because they "burglarized" while their unsuspecting victims were gathered about the dinner table at the evening meal. The first accounts of this new and heretofore unknown type of burglar caused everywhere a profound sensation. Everybody was hoping and praying that the police would apprehend the bold fellow, and everybody, including the police, were speculating on what manner of criminal he could be. The regular members, however, of the housebreaking

fraternity paid scant attention to the excitement the new type had provoked, but quietly pursued their old method of robbing places in the wee, small hours.

"It was not strange that dinner burglars should spring up in all sections of the country. The old cracksmen refused to become interested; they merely sneered, shrugged their shoulders and predicted that the craze would shortly die out. At first, dinner burglars had sprung up slowly by dozens, later they appeared by the hundreds, and became eventually so common that they ceased to cause the faintest ripple when criminal affairs were being discussed.

"They were succeeded by a 'gentleman' burglar who caused as profound a sensation as the first dinner burglar. Victims who had caught a glimpse of him described him as tall, handsome, athletic and exquisitely groomed. He appeared at times in different dress. He had been seen in evening clothes, silk hat and opera cloak, a cane in one hand and a pair of white gloves in the other. He was as bold as he was well dressed and handsome. Retiring and bashful ladies had encountered him in their boudoirs unexpectedly. At such times he would grab a handful of rings and trinkets from a dresser and with panther-like agility disappear through window or door.

"He had been seen scaling the sides of a building like a monkey or jumping like a squirrel from one roof to another. He was always too quick for his pursuers. On more than one occasion when the police believe they had him trapped he managed to elude them. They finally caught him after a long pursuit. He turned out to be the black sheep of an old family. When they searched his abode they found that his wardrobe had not been exaggerated. He had half a dozen trunks filled with the most approved creations of the tailor's art.

"Although his career was cut short, he had enjoyed considerable notoriety, and it was not strange that, like his predecessor, the dinner burglar, he should be followed by a veritable epidemic of gentleman burglars. None of his successors, however, equaled him in good looks or elegance. There were plenty of them, but somehow none of them ever achieved his distinction. Many of them had no just claim to the title of gentleman, and it was a mystery how some of them ever came by it.

"'If this fellow is a gentleman burglar,' cried a detective on locking up such a thief who had aspired to the title, 'then God save the name gentleman. Look at this fellow: He's wearing a dinner coat, a fancy flowered vest and a pair of Scotch plaid trousers. He carries a cane and twirls his waxed mustache. When I searched him he was as clean as a whistle. His clothes were made a good many years ago, and he picked up most of them in different flats he robbed. He says he's hungry, and I believe him.'

"These were followed by other freak types such as the phantom burglar, so called because he flitted here and there like a ghost, and eluded many police traps, and the luncheon burglar, who instead of appearing at the dinner hour, appeared at the hour for the mid-day meal; the humorous burglar, who liked to stuff the clothing of his victims in out-of-the-way places behind radiators, on fire-escapes and in vases, and the soft-hearted burglar, who, after listening to a sad tale from his victim, returned the fruits of his theft and departed weeping.

"These have all appeared and had their day. Although the old type burglar is not altogether extinct, he is very much on the rocks at present. His successor is for the most part a craven fellow who prefers to rob a flat or a house when it is vacant. He usually satisfies himself that no one is at home before he ventures to jimmy his way inside. He has no regular hours of work, but as a

rule he prefers to do his thieving in the daytime rather than at night. At the first sign of danger he runs for cover.

"Although he is a coward at heart, he is dangerous like a rat when cornered, and will fight back. If he believes his life is at stake or he is in danger of arrest, he sometimes will not hesitate to shoot to kill."—*N. Y. Times*, October 2, 1922.

Reduction in Major Crimes in Chicago.—"In the downward trend in burglary and robbery in Chicago for the three months ending September 1, 1922, the Chicago Crime Commission finds reason to compliment Superintendent of Police Charles C. Fitzmorris and members of the Department of Police and State's Attorney Robert E. Crowe, and his assistants.

"During the period in which 1,476 robberies were reported this year, 700 defendants were arraigned in the Criminal Court. These were involved in 1,225 charges of robbery. Convictions were obtained in cases against 370 individuals of whom 322 were penalized and forty-eight placed on probation.

"During the period in which 2,956 burglaries were committed, 652 defendants involved in 1,001 charges of burglary were tried. Convictions were obtained against 399 defendants, 281 being penalized and 118 placed on probation.

"Robbery has decreased forty-eight per cent in the past three months as compared with the preceding three months of this year, and has decreased forty per cent as compared with the corresponding three months of last year.

"Burglary has decreased thirty-one per cent in the past three months as compared with the preceding three months of this year, and has decreased sixteen per cent as compared to the corresponding three months of last year.

"In the first eight months of 1921 there were 3,129 burglary complaints to the Police Department; in the first eight months of 1922 there were 2,956 burglary complaints.

"In the first eight months of last year there were 1,735 robbery complaints as compared with 1,466 complaints to September 1 this year.

"Records compiled by the Commission show that almost half of all the defendants arraigned in the Criminal Court on robbery and burglary charges are convicted and punished. This is proportionately twice as many as were penalized last year.

"These figures indicate a satisfactory co-operation between the State's Attorney's office and the Department of Police. The marked improvement in the reduction of robberies and the increased number of penalties reflects credit on both.

"Spectacular daylight holdups in which large sums of money are taken have been rare so far this year and the loss of life and property in both robberies and burglaries also has been very noticeably less than in the same period last year.

"In the first eight months of 1922 there were 147 murders as compared with 118 during the same period of last year. Six of these represent the killing of police officers martyred in the performance of their duties. In addition there were a number of special deputies and other peace officers killed in combats with criminals. The proportion of citizens killed in the course of holdups and robberies during the past eight months has been less than in any previous similar period. These figures, like all previous murder figures compiled by the Chicago Crime Commission, are for Cook County and

are taken from the Coroner's records. Until recently there were few murders in Cook County outside of Chicago, but during the past few months there have been several killings in roadhouses and on the public highways outside the city limits. This should be considered in applying the present murder rate as a test of police efficiency in Chicago. Although the figures so far this year are higher than for last year, on the whole they are creditable to the Chicago Police Department.

"The record of stolen motor cars recovered for the first eight months of the year also reflects credit not only upon Captain John Naughton and the Motor Division, but also upon Chief Michael Hughes and the Detective Bureau. Not only do the reports of the Police Department show a reduction in the number of motor cars stolen but they also show a very remarkable record of the recovery within the city limits of Chicago of cars stolen outside. In the twelve months of last year the department reported 5,960 cars stolen within the city police jurisdiction and 839 in the territory within the city limits, but policed by the five park districts, a total of 6,799. Of these 4,501 were recovered.

"In the eight months ending September 1, 1922, 2,793 motor cars were stolen within the city limits of Chicago, 180 of which were stolen in territory policed by the five park systems. During the same period 2,213 cars stolen in this same territory were recovered, leaving but 580 out of the 2,793 to be accounted for. In addition to the recovery of 2,213 cars stolen in Chicago, the department recovered 177 from outside and 207 regarding which no complaint of loss had been made, a grand total of 2,597 cars recovered during the period that 2,793 cars were stolen.

"There is no doubt but that the frequent and unexpected appearance of the automobile squads from the Detective Bureau at various points throughout the city during both day and night have acted as a most effective deterrent of crime and has increased the hazards involved in the theft of motor cars. The motorcycle section stationed at vantage points in the outlying sections and working in close co-operation with the Motor Division has also acted as a very great deterrent because of the large percentage of recoveries and the present very satisfactory proportion of the arrest of auto thieves. The department is making the theft of an automobile more difficult, the capture of the thief more likely and the attitude of the State's Attorney's office, the judges of the Criminal Court and the citizens serving as jurors, has done much toward improving a situation which in the past has been one of great concern, because of the extent to which motor cars have figured in the loss of life and property in the holdup and robbery of citizens who were slain by automobile bandits upon the slightest show of resistance. A tabulation by months is as follows:

| Month | <i>Stolen</i> | |
|----------------|---------------|-------|
| | City | Parks |
| January | 371 | 31 |
| February | 337 | 33 |
| March | 335 | 15 |
| April | 310 | 28 |
| May | 320 | 16 |
| June | 291 | 17 |
| July | 314 | 27 |
| August | 325 | 23 |

| <i>Recovered</i> | | | |
|------------------|-------|------|-------|
| Month | | City | Parks |
| January | ..... | 337 | 32 |
| February | ..... | 323 | 19 |
| March | ..... | 246 | 18 |
| April | ..... | 236 | 24 |
| May | ..... | 247 | 18 |
| June | ..... | 205 | 16 |
| July | ..... | 216 | 15 |
| August | ..... | 241 | 20 |

| Month | | Out of Town | Not Claimed |
|----------|-------|----------------|----------------|
| January | ..... | 29 | .. |
| February | ..... | 9 | 2 |
| March | ..... | 19 | 32 |
| April | ..... | 17 | 39 |
| May | ..... | 15 | 25 |
| June | ..... | 29 | 36 |
| July | ..... | 36 | 30 |
| August | ..... | 23 | 43 |

"Due to the activity of the Chicago Crime Commission, the City Council on May 24, 1922, authorized the addition of one thousand more patrolmen to the Police Department. Between June 7 and June 13, 759 probational patrolmen were sworn in, and since then twenty-four others have been employed. Superintendent Fitzmorris has not only used extreme care in the investigation of these men but has subjected them to rigorous discipline in a brief but intensive course of qualifying training. One hundred and seven of the new patrolmen have been suspended and sixteen have resigned as a result of this investigation and training. Thirteen of those suspended have been reinstated giving the department on September 1, 1922, 673 recruits of very superior qualifications.

"With these additional patrolmen available, a more effective patrol system at night is being established in the belief that it is better to prevent burglars from entering a place than it is to capture and convict them afterwards.

"The effect of this addition of man power available for patrol duty in the department is just beginning to be felt. Every member of the department is entitled to fifteen days' furlough every year and this during the summer months results in a considerable reduction in the number of men on active duty. The number of recruits added to the department previous to the period beginning September 1, therefore, did not nearly make up for the withdrawals due to these leaves of absence. Precinct commanders now have more men available for patrol duty than ever before in the history of the department, and have no valid excuse for failure to cut down preventable crime and to maintain order.

"Methods employed in training the new men are excellent. They are thoroughly schooled in the laws, ordinances, and the rules of the department with which a police officer is expected to be familiar. They are put through systematic physical exercises, including expert training in the use

and care of firearms and first aid to the injured. Many of them are ex-service men who have had the benefit of military experience. For the most part they are accustomed to discipline. Young, virile, alert and active—a superior type of man, mentally and physically—they are a formidable acquisition to the department.

“Their induction into the department at a time when its morale is at a higher peak than ever before in its history, is also greatly to their advantage. Public evidence of the fine spirit of co-operation and interest in the department was given during the field day recently held in Grant Park in which 1,125 members of the department participated. The drill by the Provisional Exhibition Drill Company of the department, commanded by Major John Bauder, was performed with a precision and snap worthy of West Point’s finest battalion. It was the first time that the general public had opportunity to view so large a number of the department in so varied a program of physical activity, in which muscle and brawn were directed by healthy minds capable of fast thinking and quick judgments.

“That Superintendent Fitzmorris could organize and produce such a spectacle in less than ninety days’ preparation—the same ninety days in which the department had reduced robbery forty-eight per cent and burglary thirty-one per cent—would seem to indicate that he has instilled into its membership a most commendable spirit of confidence and co-operation which will go a long way toward ultimately making it the sort of police department which Chicago believes he is trying to organize and for the support of which its citizens are taxed.”—From Bulletin No. 26 of the Chicago Crime Commission, Oct. 25, 1922.

Our Lunacy Laws.—Probably the case of Mr. John Armstrong Chaloner has brought before the public our lunacy law in a way it would not have been brought except for the proceedings taken by him and the book written by him. We suppose very few people in Virginia have thought about the nature of our laws upon this subject. They have worked very well, it seems to us, and we are not personally aware of any person who has been injured in liberty or property by any proceeding taken under our laws. We think this a high tribute to our Virginia people, but the article by Mr. Charles E. Kemper in this number of the Register has caused us to think somewhat of the dangers that may lurk in our present lunacy laws. Mr. Kemper is mistaken in supposing that a person charged with lunacy has no chance for a jury trial. He undoubtedly has such a chance, but he can only reach a jury trial by the tedious process of a habeas corpus and very few people brought before a commission know anything about this and are seldom represented by counsel. Ought we not to have some way by which when a person is charged with lunacy a guardian *ad litem* could be appointed who would be a skilled lawyer, who should be present at the trial and be enabled to take an appeal to the circuit or corporation court and demand a jury trial? In the meantime, of course, the lunatic, if the commission deemed it wise, might be placed in the custody of friends or committed to the hospital in accordance with the present law. We think

the matter is well worth the consideration of our law makers.—From *Virginia Law Register*, December, 1922.

Public Defender.—The papers, both legal and otherwise, have been discussing at some length during the past few months the question of a Public Defender. The more one thinks of it the more necessary to the proper administration of justice we believe such an officer to be. It is true that no man is tried in our courts who is not able to employ counsel, that counsel is not assigned to him by the court; but too often the counsel thus assigned are the youngest members at the bar, the court thus giving an opportunity to our young knights to flash their maiden swords. We think it proper to say that in nearly all instance these young lawyers do their duty fully and with even more zeal and success than the older and well paid attorneys, but at the same time an experience of some years has convinced us that a Public Defender would expedite justice and the business of the courts with more zeal and celerity than at present. Whilst it is true that the Attorney for the Commonwealth ought to a certain extent to consider himself as representing the prisoner, too often in the zeal of combat even the best Attorney for the Commonwealth will forget this duty and urge a conviction with a great deal of force when probably had he looked at it impartially he would have advised the jury of the exact nature of the case. The difficulty with most Attorneys for the Commonwealth is that they do not even hear the evidence for the Commonwealth in full until the trial. With that strange distrust of its public officers which we think is one of the peculiar characteristics of the State of Virginia, the Commonwealth's Attorney is not allowed to appear before the grand jury unless summoned as a witness. We have seen it gravely stated that the reason for this is that the Attorney for the Commonwealth would try to get as many indictments found by the grand jury as possible, whereas we believe that the conscientious Attorney for the Commonwealth wants to have as few indictments found as possible, and if he were in the jury room to aid and counsel the grand jury and advise them as to the nature of evidence and get a full view of the case, a great many indictments which are now found and often have to be "nolle prossed" would not be found. In the United States courts the district attorney, or one of his assistants, always appears in the grand jury room. He cross-questions the witnesses, hears the whole case and is therefore in a much better position to say whether an indictment ought to be found. A similar rule prevails in most of the states of the Union and has been found to work admirably, but this not being the case in Virginia the position of the Public Defender becomes one of great importance. Occupying a position somewhat similar to the Attorney for the Commonwealth, the Public Defender would be able to give ample time to the case and in many instances to advise his client to plead guilty, and when he did defend him would defend him with the highest motives to do justice and not merely to gain a victory. This view may seem to be a little optimistic, but we believe that if the right sort of man were selected for the place it would not be at all so. Of course, it is possible that the Commonwealth might be imposed upon, but this could be

easily remedied by the judge making a strict inquiry into the ability of the accused to pay counsel, and only when it was found that the accused was absolutely unable to pay counsel would the case be assigned to the Public Defender and time given him to examine thoroughly into it. Space will not permit us to work out the scheme that a committee of the legislature might perfect, but we refer a discussion of this question to our bar associations and to our lawmakers, believing that if thoroughly studied and worked out a plan might be adopted to make the appointment of such an officer not only feasible, but to the great benefit of the Commonwealth.—From *Virginia Law Register*, December, 1922.

Outcome of a Celebrated Case.—After three trials for murder, each of which resulted in a failure of the jury to agree upon a verdict, the district attorney of Los Angeles has brought about the discharge of Arthur C. Burch, charged with killing J. Belton Kennedy. Upon his release by the court on the district attorney's motion, Burch, at the request of his own attorney, was taken into custody for examination as to his sanity. Of course, it is impossible to say in advance of the investigation whether Burch will be found insane. It is sufficient to know that Burch's father regards his son as insane and that Burch's attorney, after fighting for a year to prevent his conviction for willful murder, has insisted upon an official inquiry into his condition.

This question naturally arises: Why, after many months of legal effort and after three formal and expensive jury trials, is Burch's mental state still a matter of doubt? Something is grievously wrong with a system of criminal prosecution which persistently works upon the theory that an accused man is sane without first establishing beyond doubt whether he is sane or insane. The question of mental soundness in a given case is not so obscure in these days of carefully established scientific tests that doubt should linger and juries, because of that doubt, should disagree time after time. Burch's attorney is quoted as saying: "I am convinced that Burch is insane and have been convinced of it ever since I talked to him first more than a year ago." And the attorney added: "I consider it dangerous to let him be at large."

If it is dangerous for Burch to be at large that danger might have been discovered before the death of the man whom he was accused of slaying from ambush. Whether Burch is insane or not, it is certain that many dangerous mental defectives who are potential criminals now enjoy their liberty.

The investigation of Burch's condition may or may not help to bring home to lawmakers, prosecutors and judges the duty resting upon them of dealing intelligently and effectively with the long-neglected problem of insanity left free to manifest itself in criminal deeds. Innocent persons are entitled to protection from irresponsible types of human beings who act on irrational impulses, being devoid of those natural emotions which restrain sane minds from senseless crimes. This subject has been left so long in the fog that followers of precedent are loath to give it the serious consideration its importance insistently demands.

Crime statistics abundantly prove that persons of low mentality are the most persistent, the most cold-blooded and the most depraved criminals. To restore them to freedom time after time is merely to license them to commit further crimes, since the penalties established for rational beings have no restraining effect upon minds incapable of rational thought.—From the *Chicago Daily News*, December 6, 1922.