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EDITORIALS

ANNOUNCEMENT

With this Number 1 of Volume XXII, the title of this JOURNAL becomes: "Journal of Criminal Law and Criminology." It continues to be, as it has from the beginning, the official organ of the American Institute of Criminal Law and Criminology. Its policy is not in the slightest degree altered from the original. Its aims cannot be better expressed than they were twenty-one years ago, in Volume I, No. 1, in an editorial by Professor James W. Garner, of the University of Illinois who was at that time the Editor-in-Chief of this JOURNAL. We quote below from Professor Garner's editorial:

"America needs a journal which shall represent all classes of persons whose professional activities or private interests bring them into relation with the administration of the criminal law and who are seeking for modern solutions of some of its most important problems. Very recently there has been a remarkable awakening of interest in the scientific study of crime and penal methods—an interest which is beginning to manifest itself in a productive research and investigation as well as in destructive criticism of antiquated methods and in constructive proposals of reform. Believing that an organ should be provided for promoting this new spirit of research and investigation, the American Institute of Criminal Law and Criminology has undertaken the establishment of this JOURNAL.

"It will aim to arouse and extend a wider interest in the study of all questions relating to the administration of the criminal law, including the causes and prevention of crime, methods of criminal procedure and the treatment of criminals; to provide a common medium for recording the results of the best scientific thought and professional practice in this and foreign countries concerning the larger problems of criminal science; to consider the present state of the criminal law in every branch, and to bring to the attention of all who are interested the evidences of progress in legislation and administration so far as it relates to the detection and punishment of crime, criminal procedure, and the punishment of offenders. It will advocate the introduction of such reforms in existing penal methods as experience and reason have shown to be desirable, to the end that a more effective, speedy and inexpensive system of criminal justice may be secured, more modern and effective methods of dealing with criminals may be introduced, and the causes of the present widespread and increasing popular dissatisfaction with the administration of the criminal law may be removed. The JOURNAL will encourage and advocate legislation looking toward the collection and publication of more systematic statistical and descriptive information relating to the causes, nature and punishment

of crime, including judicial statistics showing the efficiency of those agencies and instrumentalities charged with the detection and punishment of crime. Finally, the JOURNAL will furnish reviews of recent and current scientific literature in English and foreign languages, dealing with the progress of criminal jurisprudence and penal methods, together with bibliographical and miscellaneous notes of interest to students of the criminal law, criminology and the allied sciences.

"It is believed that such a journal will appeal not only to intelligent practitioners who are interested in the progress of a scientific criminal law, but to all persons, public officials and private individuals alike, who are concerned directly or indirectly with the administration of punitive justice, as well as to a large group of scholars who are working in the allied fields of sociology, anthropology, psychology, philanthropy, etc. It is now recognized that all these sciences are more or less closely related to criminal jurisprudence and criminology and that they are capable of throwing a vast amount of much-needed light on many problems of the criminal law. Each is in a sense contributory to the others and at many points their spheres touch and even overlap."

Exactly in Professor Garner's words do we find the reasons for the continued existence of this JOURNAL. And it is to the end that the purposes of twenty-one years ago may have a more favorable chance of being realized that we have restored to the JOURNAL its original bi-monthly character beginning with the present volume. It will henceforth be issued in May, July, September, November, January and March.

It is for the same purpose that the Editorial Board has been reorganized. In this reorganization we had in mind the advantage of having a small active board so situated geographically that for the most part its members can come together for regular monthly meetings. But we have not lost sight of the fact that the JOURNAL is not local, but national and international. With this in mind, we have created an Advisory Editorial Council composed of members irrespective of location who will assist the active board in keeping in touch with what is going on throughout the nation and the world so far as it touches the criminologist's interests.

The management of the JOURNAL takes this opportunity to express to all its readers its appreciation of the support that they have given this periodical in years past. It has not been an easy matter, especially in the period of the War, and the uncertain times that have followed, to maintain the JOURNAL. We are indebted also to those who are members of the American Institute of Criminal Law and Criminology whether they are at the same time subscribers to the JOURNAL or not. Through their membership they have contributed

to the performance of some very important research that is pertinent to the Institute and to the maintenance of the JOURNAL itself.

ROBERT H. GAULT.

"BETTER NOT PARK THERE! YOU'RE LIABLE TO GET PINCHED"

"Better not park there! You're liable to get pinched." Such were the words heard, on a recent morning, in a middle-sized city, by one who was walking past a shop-entrance in the business district. On turning to learn the occasion of this remark, he observed the shop-owner in the doorway. The watchful shop-owner had addressed his warning to a woman-customer who had just stepped out of her motor-car, leaving it parked in the middle of the highway, outside the row of motor-cars that already lined the curb. The application of the warning was obvious. The police-station was just around the corner; and the parked car, in its illegal location, was likely to become soon the object of penal attention from a patrolman.

The woman then returned and removed her car to a proper location.

Notice that the friendly shop-owner did not appeal to the woman's conscience: "you're likely to bother traffic." Nor did he appeal to sociological canons; "you're doing an anti-social act." Nor did he appeal to public opinion: "you're liable to be cussed by other drivers who will have to turn out."

No; he invoked the woman's attention to none of these motives. What he invoked was the *fear of being punished* by the agents of criminal justice. And this motive was effective.

The incident was typical of the operation of the main process of what we call the criminal law. It *represses by fear of a penalty*.

Now this woman was perfectly normal. She was not a congenital moron. Nor was she the unfortunate creature of "social maladjustment" in early youth. Nor was she the victim of a powerful adverse environment that had broken down her original inhibitions against crime. She was just a normal person, like millions of the rest of us. But she was going deliberately to violate the law and public welfare. And the only thing that deterred her from it was the fear of the law's penalty.

Conscientious regard for others' convenience would not have deterred her. Respect for public opinion could not have deterred her.

Nothing deterred her but the *fear of getting caught* by the law, with its disagreeable consequences.

The incident serves to expose the fallacy of those psychiatrists who are constantly proclaiming that all crime is analogous to a disease; that a criminal act is the result of natal inevitable tendencies, or of deranged psychic impulses, or of social inevitable pressures; and that therefore the penalties of the criminal law are psychologically futile—in short, that the orthodox criminal law is false in the light of modern science, and is an anachronistic survival, due to be abandoned.

The fallacy of this school of psychiatry (it is of course one school only, but a loud and powerful one) is that its practitioners concentrate their thought only on the special and abnormal types that are brought under their attention. They fail to reflect on the psychology of the normal person—those who constitute 99% of the population. Now these normal persons are confronted constantly with temptations to do acts which are both anti-social and illegal. All of us are potential offenders—once a day or a week or a month or a year; and all of us are susceptible to some kinds of temptation, though not to other kinds. And as these temptations come, they are sometimes rejected for motives of conscience or of social anathema—rejected, that is by some of us all of the time and by all of us some of the time. But there come occasions when the urge of our selfish will to seek the desired advantage of the moment is ready to override both of these motives. Some persons are so made that they would execute this anti-social self-will *sometimes* only. And some persons are so made that they would execute this self-will *every time*. That is, they would if a motive still more powerful did not come in to restrain them, viz., the fear of the law's penalty. In the expression common to such persons' thought, they would do it if they could "get away with it." And they refrain if they believe that they cannot "get away with it." And in an adequately governed country—England, let us say—almost all of them, that have not been deterred by either of the higher motives, will in fact refrain, simply and solely because they are afraid that they cannot "get away with it."

The operation of this motive is seen all along the line—not merely in traffic violation, but in larceny, embezzlement, arson, rape, murder, and all the rest of it. Do we not remember that the canny Loeb-Leopold malefactors had planned to depart for Europe, leaving no traces? Does any one suppose that they would have proceeded to

the achievement of their "perfect crime" if they had been entirely sure that they would be detected and punished? Even among habitual criminals, do not their memoirs show that a large majority of them refrain from this or that particular offense in almost direct proportion to the probabilities of being caught?

The fact is that the most fundamental and justifying rationale of the criminal law is found in the *crimes that are not committed*. We are all self-willed, more or less of the time, and for more or fewer kinds of conduct. And it is the criminal law, in a large proportion of occasions, that clamps an inhibition on our will and represses our illegal act. Take off that repressive influence, and the community would become a seething shambles, in which the most self-willed and unscrupulous ones that were physically stronger or mentally cleverer would be preying daily upon the life, liberty, and property of the others. Not until the millennium arrives, when Love of Fellow-Man shall be the universal motive, can we afford to relax the fear-motive of the criminal law.

Meanwhile, let us by all means treat scientifically the abnormal personalities. But let no school of thinkers forget to give due place to the law's fear-motive, as the necessary and effective expedient for repressing the ravages of the normal person's anti-social will.

JOHN H. WIGMORE.

POLICE EDUCATION

The air is charged with police education. From one end of the country to the other we have notice that the old-time policeman is doomed and a new type is being developed. Within a comparatively short time the old policeman, who believes that there is more law in the end of a night stick than there is in all the books in all the libraries, will disappear and in his place there will be found a man especially trained to serve the people more intelligently

In the great Northwest, Willamette University is offering an Institute for Police Officers covering a brief period. Courses and lectures will be given by notable experts from various sections of the country.

Down in the southwest a California Academy of Police Science has been formed and several experts in that portion of the country are playing an active part in building up this academy so that it will be useful to the officers of the southwest.

New York city has made great strides with its police academy. Not only are officers of that city being trained so that they may serve the people better but they are teaching others, and the methods of the Police Academy are being copied by other departments who have sent their men to be trained in New York. The men so trained will put into practice what they learned in New York.

In the southeastern part of the country the Jacksonville Police Department has recently established a police school modelled after the school in Detroit and they are very rapidly setting the pace for the cities of the south east.

In the middle west the University of Chicago introduced a course in Police Organization and Administration and recently this course was attended by a large number of police officers from various sections of the country.

During the month of April the Northwestern University will offer a course limited to fifty police officers covering practically every field in the science of criminal investigation.

These are trends and one must be blind indeed who does not see the future of police service.

Perhaps the work that eclipses all of the other efforts is the school of Police Organization and Administration established in connection with the Junior College at San Jose, California. Here a number of fundamental courses are offered to students who have university entrance requirements and who plan to prepare for police service. This is a two-year course and only those persons are admitted to the police school who have police entrance qualifications. What this really means is that young men on the Pacific Coast are urged to enter the police service as a life career and cities are being encouraged to raise their standards and insist that only men of superior intelligence with at least a Police Science Certificate should be admitted to the ranks of the police organizations. At least three cities have signified their intentions to raising their standards.

But a few short years ago this would have seemed impossible. Now we are commencing to accept the educated policeman as a matter of fact. No one can prophesy the future but there can be little question in the minds of many that within a few years schools for police will be established in practically every college and university in the land.

AUGUST VOLLMER.

“PRISONERS: 1927”

With the publication of “Prisoners: 1927” the United States Bureau of the Census adds an excellent volume to those already issued for 1923 and 1926. The same cautious analysis which characterized the earlier reports is found in the one under consideration, yet the report as a whole reveals the need for further discussion on the scope of prison statistics and the desirability of emphasizing almost exclusively the offenses, the composition, and the movement of the institutional population.

In a recent report of the State Government in Maine prepared by the National Institute of Public Administration, the following paragraph appears:

“One of the most important factors in prison management is the guard. He is the one in most direct daily contact with individual prisoners and, therefore, the one upon whose effort disciplinary success or failure depends. Prison guards at Thomaston are paid from \$24 to \$34 a week, depending upon their rank. They do not live at the prison and they are not provided with maintenance. During the six months prior to this study, there were twelve changes in guard personnel. In the course of a year at the same rate of change there would be 100 per cent change of guard personnel. It is obvious that this means a serious loss of efficiency in management and the deterioration of discipline.”

This quotation touches upon the most serious of all penal problems. The staff of a penal institution, from its chief down, is in the most real sense the measure of its success. We need not only a sufficient number of prison officials and guards, but they must be well-trained and possessed of experience and a professional spirit. Unfortunately, there is virtually nothing in the report under consideration which enables one to judge the status of the personnel problem.

Prison industries furnish another crucial problem of administration and treatment. Here again the report remains silent, nor does it touch upon the programs of formal and informal education—vocational, academic or social—the research activities, and some of the most significant phases of parole and other methods of discharge. Since institutional criminal statistics cannot be used as an index to crime conditions in the community, and since they can throw but a faint light on the causes of crime or on the composition of the so-called criminal class, we hope that the time will soon come when penal

institutions, while including the essential data concerning the offenses, the composition, and the movement of their inmate population, will devote most of their reports to the statistical presentation and analysis of administrative organization, functions, and policies of penal treatment.

THORSTEN SELLIN.