

Fall 1935

## Current Notes

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Current Notes, 26 Am. Inst. Crim. L. & Criminology 465 (1935-1936)

This Note is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

## CURRENT NOTES

---

NEWMAN F. BAKER [Ed.]

---

Northwestern University Law School  
Chicago, Illinois

---

**Indiana University Institute of Criminal Law and Criminology**—A four-fold program designed to give co-operation to local, state and national authorities for prevention and control of crime was announced early in July by Prof. J. J. Robinson for the newly established Indiana University Institute of Criminal Law and Criminology. Prof. Robinson is director of the new Institute, and Prof. Edwin H. Sutherland, now of the University of Chicago, who will become head of the Indiana University department of sociology this Fall, will be its president.

The program of the Institute as outlined by Prof. Robinson and Dr. Sutherland has been planned and will be executed with four main purposes in mind; namely, (1) studies in the causes of crime and in its prevention, (2) training of personnel for criminal law administration, (3) co-operation with officials engaged in criminal law administration, and (4) improvement in state statutory provisions for the administration of the criminal law.

The University schools and departments will take part in the work. The Institute will co-ordinate and direct their activities, and will act as a clearing house to make available to law enforcement officials and agencies the results of the work carried on in the laboratories and

classrooms of Indiana University, and in the field.

President William Lowe Bryan has emphasized the important fact that the Institute will develop and organize work which has been carried on by Indiana University over a period of years. The appointment of Dr. Sutherland as the head of the department of sociology gave the University a nationally-known specialist in criminology and plans for an Institute were drawn up immediately by Prof. Robinson and Dr. Sutherland at the request of President Bryan. These plans were accepted and approved by the Board of Trustees on June 15. Founded as an answer to the growing demand for state crime prevention bureaus conducted jointly by specialists in criminal law and specialists in criminology, the Indiana University Institute is the first co-operative effort of this kind.

For a number of years, Prof. Robinson pointed out, there has been a need for criminal law institutes or bureaus not only to assist local and state officers, but also to make available to other states information which they consider necessary. In 1909 there was organized in Chicago the American Institute of Criminal Law and Criminology. Its purpose is "to further the scientific study of crime, criminal law, and procedure, to formulate and pro-

mote measures for solving the problems connected therewith, and co-ordinate the efforts of individuals and organizations interested in the administration of certain and speedy justice." The Indiana University Institute will serve a similar purpose in the state of Indiana, and it will work with organizations in other states and with national organizations.

The Indiana Institute will serve as the Indiana point of contact for the United States department of justice; for the American Institute of Criminal Law and Criminology; for state and national bar associations; for similar institutes which may be formed in other states; for national and international surveys in criminal law and criminology; and for foundations promoting this type of work.

The Institute will co-operate also with the Indiana Committee, which already has performed notable service in the improvement of criminal justice in Indiana, and with other groups and committees of citizens who are interested in crime prevention and crime control.

As has been pointed out, the first division of the Institute will be research in the causes of crime, and the application of the results of such study in a continuing program of crime prevention and control. This program will include the development of knowledge by first-hand contact with problems of crime and by more specific research methods. In the study of causes of crime, attention will be given to geographic distribution of crimes in the state of Indiana and in the larger cities of Indiana, to intensive field studies of areas of greatest concentration of crime and to case studies of juvenile and adult offenders.

In the research field there also

will be studies of the success and failure of penal and reformatory policies by intensive analysis of the types and records of offenders who continue to commit crime, and there will be experiments and programs in the prevention of delinquency by local community organization and by character education.

A second division of the work of the Institute will have to do with training of personnel for the official duties of criminal law administration. This personnel consists of police officers, prosecuting attorneys, defense counsel, judges, probation officers, prison and parole officers, social workers, expert criminal investigators, psychiatrists and criminologists.

Courses already offered by the University which deal with the work of these officers will be continued as now conducted, by the professional schools and in the departmental courses of study.

For the training of the present active personnel, the Institute in the near future will offer short term, intensive training schools for police officers, and for prison, probation and parole officers. Conferences will be offered for prosecuting attorneys, similar in scope to the clinics which are provided by medical schools for physicians and surgeons.

Eventually professional courses covering two or more years will be provided for the training of persons desiring professional careers in police work and in other branches of criminal law administration.

The third division of the work of the Institute consists of co-operation with officials and agencies engaged in criminal law administration. The Institute plans to be prepared within a few months for co-operation in scientific criminal in-

vestigation, and for special advisory services, providing, for example, legal citations and briefs, upon requests from prosecutors, judges and defense counsel. Assistance will be available on such problems as parole administration, penal educational plans and policies, and prison labor, upon requests from administrative officers of penal institutions, from other officials, and from legislative committees. Provision will be made also for psychological and psychiatric assistance for courts of law, for schools, for penal and reformatory institutions, and for parole boards.

Co-operation in general information services will include preparation and distribution of technical and professional papers, reports, bulletins and books; of manuals of practice for police, and for prosecuting attorneys; of systems of traffic regulation; of maps, graphs and charts bearing on crime prevention and control; of criminal statistics; and of tested legal forms useful for securing and preserving evidence.

The fourth division of the work of the Institute will have to do with the progressive improvement of the statutory provisions, and of the practical methods by which criminal law is administered. There will be preparation of bills for statutory improvements. These bills will be based on the Institute's study of the causes of crime, on information and suggestions received from judges, members of judicial councils, prosecutors, and others, on deliberations in clinics and seminars, and on comparative studies of legislation and experience in other states and countries.

These comparative studies and the resulting bills will give due consideration, for example, to the New

Jersey system and the federal system of classification of prisoners and of penal institutions; the Vermont system and the Canadian systems of police organization and administration; the California simplification of the law of larceny, embezzlement and false pretenses; the American Law Institute code and other codes of criminal procedure.

Assisting the president and director of the Institute will be an advisory council composed of members of the faculties of some of the following co-operating schools and departments: law, medicine, education, business administration; sociology, chemistry, philosophy, psychology, government, physics, economics, physical education; and the Extension Division.

Prof. Sutherland, president of the Institute, has had wide experience in work in criminology. He is a member of the American Sociological Society, American Prison Association, American Statistical Association, the Chicago Academy of Criminology, and the Editorial Board of the *Journal of Criminal Law and Criminology*. He is the author of "Criminology," first published in 1924, with a new edition in 1934.

Prof. Robinson has worked many years in the field of criminal law. Before becoming a member of the Indiana University law school faculty in 1924, he was a prosecuting attorney in Indiana, and has frequently served as special prosecutor, special judge, and defense counsel in criminal cases. He is the draftsman of most of the statutes which have been enacted in Indiana for the improvement of criminal procedure, as established by the Indiana criminal code of 1905. He is chairman of the American Bar Association's committee on criminal proced-

ure and a member of the executive board of the American Institute of Criminal Law and Criminology.

**First Canadian Penal Congress—**  
The organization sessions of the First Canadian Penal Congress were held at the Windsor Hotel, Montreal, on June 13 and 14th during the sessions of the National Conference of Social Work.

The call for the meeting was sent out in the names of Dr. Milton L. Hersey, President of the Canadian Prisoners' Welfare Association, of Montreal, and of Prof. F. R. Scott of McGill University. Approximately fifty persons attended these sessions. With Dr. Hersey presiding, a paper on the Dominion Penitentiaries was read by Major General D. M. Ormond, Superintendent of Canadian Penitentiaries in the Dominion Government. Rehabilitation programs were discussed by the Rev. J. D. Hobden, Secretary of the John Howard Society of British Columbia and by John Kidman, Honorary Secretary of the Canadian Prisoners' Welfare Association and Executive Secretary of the Canadian Prisoners' Aid and Welfare Association of Montreal. At a dinner meeting on the first day, Magistrate James Edmund Jones of the Toronto Bench, author of "Pioneer Crimes and Punishment in Toronto and the Home District" and an active leader in prison reform movements in Canada spoke on the need for a Borstal-type institution in Ontario and of the efforts under way for the establishment of such an institution in Ontario. This meeting was presided over by the Rev. C. E. Silcox, General Secretary of the Canadian Social Service Council, Toronto.

Provincial jails and reforma-

tories were discussed by the Hon. Helen Gregory McGill, Judge of the Juvenile Court and by Prof. C. H. Mercer of Dalhousie University, Halifax, N. S. The accused before the courts was the subject of papers by the Hon. Phillipe Monette, K.C., and J. A. Edmison, both Honorary Legal Council for the Prisoners' Aid and Welfare Association.

The Congress had the official and financial support of the Dominion Ministry of Justice at Ottawa. Representatives of all of the denominational groups engaged in prisoners' aid and welfare work in Canada were present, including a number of visitors from the United States.

The Congress, which is to be an affiliate of the American Prison Congress, but organized for purely Canadian prison affairs, has the following aims: 1. promotion and aid to local prison aid and welfare associations; 2. improvement of the laws relating to public offenses and offenders, whether federal, provincial or municipal; 3. the simplification and humanization of the machinery of penal law enforcement; 4. the improvement of the penal and correctional institutions in Canada; 5. "promotion of studies and research in the cause of crime, etc. . . . and the organization of lectures dealing with such matters with a view to creating a public opinion better informed on penological matters"; and 6. "co-operation with other societies and associations with similar aims in other countries and with any penological work undertaken by the League of Nations."

The organization of the Congress was not completed at these meetings but in addition to the regular officers, two vice-presidents are to be chosen for each Canadian province. Inquiries may be addressed

to John Kidman, Hon. Secretary of the Association, at 1502 St. Catherine's Street West, Montreal.

W. A. G.

---

**Hall to Louisiana**—Professor Jerome Hall, author of "Theft, Law and Society," a recent book receiving great praise from criminologists, has been appointed Professor of Criminal Law and Criminology at Louisiana State University School of Law. The Law School is being reorganized and greatly expanded under the supervision of Dean Frederick K. Beutel, formerly of Tulane. It is planned to broaden the work in Criminal Law to include Administration and Criminology, and to provide facilities for research in the entire field and the addition of Professor Hall to the faculty is the first step in this development.

---

**Utah Institute**—During the University of Utah summer session an Institute of Criminology was held under the leadership of Professor Arthur L. Beeley, chairman of the Department of Sociology. Two courses in Criminology were offered to students and in addition there were evening conferences open to the public. In July four public sessions were devoted to Local Problems of Law Enforcement, Prevention of Crime through Social Education, The Place of Science in Crime Control, and Prisons and the Parole System. The courses and public sessions were quite successful and the interest displayed indicates that the Institute will become an annual affair.

---

**Russian Program**—An article by Anna L. Strong appearing in the

Moscow News (June 27, 1935) dealt with the new Soviet program to deal with juvenile delinquency. An abstract prepared by Mrs. S. A. Downs follows:

The famine emergency of 1921 dates the establishment of the children's Commission in the Central Executive Committee of the Soviet Union. Its task was to correlate work for children, to set standards and raise funds. The commission still exists but its work has been changed with the years. Beginning as emergency relief from famine, it passed through many years of organizing educational workshops and farm colonies where homeless children might be trained for citizenship. These institutions are now being improved and increased to take care of the last remnants of homeless and neglected children. But the emphasis is now passing to a new stage. Not the reclaiming of homeless children but the prevention of child delinquency and dependency through attention to home life and the strengthening of the entire network of institutions supplementing the home is the major aim. Three recent decrees deal with this problem. They deal with the building of new schools; criminality among minors; care of homeless children.

The question may arise, what has the building of new schools to do with criminality? The answer is that the acute shortage of schools, especially in large cities, etc., forced many schools to run two shifts and some even three shifts, closing at 11 P. M., thus causing many unsupervised children to be on the streets at night.

The decree dealing with child delinquency has been much misinterpreted abroad. This law places all juvenile delinquents over the age of 12 under the ordinary courts, in-

stead of dealing with them, as formerly, by informal conference composed of educators and volunteers. This implies no change in the policy of dealing with children according to their age, as well as all attendant social circumstances. The practical immunity of children from court action under the former procedure led criminal elements to make use of children as actual agents of crime. Educational authorities were powerless to deal with such cases by "moral suasion."

The third decree deals with the care of the homeless and neglected child. There are at present some 25,000 orphans under the age of 3, being cared for in institutions under the department of health, and a number several times as large in the children's homes of the Commissariat of Education, receiving children between the ages of 3 to 16.

In spite of the large sums (300 million rubles a year) spent by the state for the purpose and the social insurance funds diverted to it, many homeless children are still to be found on the streets. The decree fixes the responsibility for this unfortunate situation upon local authorities and social organizations. Children's homes were often so unsatisfactory that children ran away from them. Hence the law provides that interesting workshops must prepare the children with suitable vocational training. To this end a staff of 1,000 instructors was engaged—communists, university graduates, expert managers of workshops, farms and vegetable gardens. The decree correlates the work of all the homes and fixes the responsibility of every organization. Chairmen of city and rural soviets are held directly responsible for making proper provision for orphans, either by appointing guardians or

sending the child to a home, school, farm or industrial enterprise. Collective farmers are required to use their mutual aid funds not only to maintain orphans but also to assist children in families of farm members temporarily in difficulties. The apprentice schools in factories and state farms are ordered to receive homeless children over 14 years of age and provide living quarters for them as well as instruction.

The law likewise provides that parents may be fined up to 200 rubles if, through their neglect, their children fall into mischief on the streets. Guardians using their positions for mercenary aims are held criminally liable.

Combined, the three decrees provide that the oncoming generation shall be protected and cared for and equipped for useful citizenship. They provide education and training for a many-sided life of labor, mental activity and participation in social activities.

---

**Illinois Prison Building Conference**—At the instance of Governor Henry Horner of Illinois, a meeting of State officials and interested laymen was called on August 5th at Chicago. The call was issued by A. L. Bowen, Director of the Department of Public Welfare, to consider the needs of the penal institutions in additional housing facilities.

In addition to the Governor and Mr. Bowen, the following were present: Col. Frank D. Whipp, Warden of the Joliet Branch, O. H. Lewis, Warden of the Pontiac Branch, Joseph E. Ragen, Superintendent of Prisons and Warden of the Menard Branch, George Ray, Superintendent of the Vandalia State Farm, John C. Weigel, Fiscal Supervisor, Dr. Paul L. Schroeder, Criminolo-

gist, C. Herrick Hammond, State Architect, George T. Scully, Parole Supervisor, Judge Harry M. Fisher of the Cook County Circuit Court, Prof. Robert W. Millar of Northwestern University Law School, W. A. Goldberg, Jewish Social Service Bureau of Chicago, Dr. Edwin H. Sutherland of the University of Chicago and Col. Henry B. Chamberlin, Operating Director of the Chicago Crime Commission.

In the State budget for the coming biennium the sum of \$1,250,000 has been set aside provisionally by the department for construction at the prisons. The meeting was opened with this announcement by Mr. Bowen who expressed the wish of the Department for suggestions for a rounded-out prison building program which would take into account the future needs of the prisons. Among the issues raised was that of increasing the size of the present institutions as contrasted with the view that the present prisons, especially the unit at Joliet, was beyond a reasonable size at this time and that the State might well concentrate on planning for new institutions. It was conceded that the population at Joliet was increasing—the population in 1934 being 5,950, a new peak, and the present population near 5,700. Col. Whipp favored increasing the size of his unit by the addition of a dormitory, inside the walls, housing 500 inmates and to be patterned after the accommodations at the Brandenburg, Germany, prison where wards or units of between eight and ten cell capacity, with common sanitary and recreational facilities were had. The other units, through their managing officers, expressed similar needs for extension of housing—a dormitory at the State Farm, a farm dormitory at Pontiac, a building for tu-

bercular inmates at Pontiac and additional accommodations at the Illinois Security Hospital.

Judge Fisher, sponsor of the 1933 classification laws and the consolidated penitentiary system as well as a leader in the present movement to enact a new criminal code (which latter measure failed of enactment in the last legislature but which is to be re-introduced soon), advocated that provision be made for medium security institutions. In this he was joined by Dr. Sutherland and others. Considerable opposition developed from the Governor and others, especially since the escape, a few days previously of a notorious prisoner. Judge Fisher also opposed the enlargement of the present Joliet units and together with many others present urged the establishment of a unit for the first offender of all ages particularly in view of the lack of a truly reformatory institution in the State penal system. During the meeting considerable stress was placed upon the view that there are a good many younger offenders who fit neither into the St. Charles School for Boys program nor into that of any of the penitentiary system.

It was the consensus of opinion of the meeting that the several penitentiary branches were in great need of recreational facilities, especially facilities which were fireproof and which might also be readily used for religious assembly. The tentative plan is to set aside \$100,000 for each of three such buildings at Stateville, Pontiac and Menard, in addition to money for a tubercular dormitory at Pontiac and a new hospital building at the latter unit.

The Governor suggested the early demolition of the Old Prison at Joliet, at present used for the older recidivist population, this view be-



ing taken because of the age of the building, its lack of sanitary facilities, the small cell size, and the fact that remodeling would cost nearly as much as a new unit.

In view of the possible enactment of the new criminal code which provides for lessening the present sentences for a number of offenses by means of a grading system of offenses, Prof. Millar urged that some thought be given to the possible needs of other institutions in the State in event of the passage of the new code. All persons present were agreed that the passage of the code would create additional housing problems which must be considered in any plan of prison building at this time. Great stress was laid upon the need for additional classification facilities, whether this is done by means of new institutions or the re-arrangement of the programs and housing facilities and policies of the present units.

To advise with the Department in this building program, the following committee was appointed: Prof. R. W. Millar, Prof. E. H. Sutherland, Col. H. B. Chamberlin with Judge H. M. Fisher as chairman. This committee plans to visit the various institutions, as a preliminary move, to aid in formulating a prison building program.

W. A. G.

**New York Prison Report**—Under the caption "What America Needs" the annual report of the Prison Association of New York for 1934, which was sent to members, July 8, 1935, frankly admits that little progress has been made in the war on crime and that "the professional criminal, particularly, seems to be master of the situation."

The report is for the ninetieth

year of the Association, which was founded in 1844 and incorporated by a special act of the Legislature in 1846, giving the right to visit and inspect prisons. Since its beginning the Association has not limited itself to the care of discharged prisoners, as is popularly supposed. Throughout its ninety years it has led the fight for a more effective and deterrent criminal law system based upon honest and efficient administration, the elimination of delays and the curbing of politicians and unscrupulous lawyers who ally themselves with criminals.

Admission by an organization of such experience that the professional criminal "seems to be master of the situation" is joined with its charge that "public indifference and neglect is the greatest single cause of crime." By such indifference and neglect the report does not mean indifference to and neglect for heredity, glands, hormones, environment, or any of the other special causes of crime. It means public indifference and neglect at voting time which allows the election or appointment of officials who wink at alliances with crime.

In support of its attitude the Association report quotes an utterance by former Police Commissioner Edward P. Mulrooney, although it does not name him, that convictions could be obtained with the aid of "an honest, vigorous prosecutor and when the victim will testify to the facts." The report approves the further cynical remark of Mr. Mulrooney upon the proposals of the American Bar Association and others for criminal law reform, that "nothing has been done except the filing of voluminous reports. Action in the Legislature is prevented by lobbies and other obstacles inspired from sources which are not difficult

to locate." Lewis J. Valentine, the present New York City Police Commissioner, is praised for his courage in asserting before the Association of Grand Jurors of New York County that the professional criminal can not operate without protection.

In effect the Prison Association joins in the growing demand that the vital matter of strengthening the system of criminal justice be made a major issue in politics. Its report says:

"That there are sinister influences identified with professional crime there is little doubt. The highly organized manner in which such crime is conducted, from the commission of the crime itself to the prompt and, too often, highly experienced legal representation, is very significant."

"What America needs is the prompt, fearless and impartial administration of criminal justice. This will come only when the people are more alert and constant in a demand for reform."

The report was written before public outcry caused Governor Herbert H. Lehman to insist that Thomas E. Dewey be appointed a special assistant District Attorney to conduct an investigation before a special grand jury into the alleged connection between professional criminals, especially racketeers, and politicians, and in the light of events in the past month was prophetic. The report takes another fling at "lawyer criminals," in a special section on "Tombs Lawyers." It tells how the Prison Association has fought the nests of criminal lawyers around the Tombs and other prisons who solicit business directly or through runners, while others "appointed as counsel by the courts are dilatory and negligent and op-

erate too frequently with only a mercenary interest, thus virtually necessitating the client to manage his own defense."

The twenty-four special recommendations in the report were submitted in January, 1935, to the New York State Legislature, in advance of the full report. One is a protest against the practice of District Attorneys in allowing indicted persons to plead guilty to a lesser offense, "cop a plea," as it is called. The Association has fought the practice for years because it believes the "bargaining" leaves the way open for circumventing the law, and also because it results in many hardened felons being sent to penitentiaries and reformatories established for minor offenders.

Along the same lines is a recommendation that the power to commit prisoners to Elmira Reformatory be taken from the courts and that inmates for that institution be selected by the State Department of Correction. Bitter complaints have been made that hard-boiled young criminals up to the age of 25, are being sent to Elmira, from which institution they can obtain release on parole in about eighteen months, although they committed offenses for which long terms are possible under the law.

The Association has long been an advocate of having the Bronx and Richmond county jails transferred to the New York City Department of Correction. It strongly urges the necessary legislation to take those jails from the control of the sheriffs of those two counties. The jails of Kings, New York and Queens counties and all of the city's penal institutions are under the department.

A more general recommendation and one often made in previous re-

ports, is that all the county jails in the State outside New York City be placed under the State Department of Correction and subject to uniform control, instead of leaving each county jail in the hands of the sheriff and possibly of his wife's relations.

The Prison Association was one of the first to crystallize the movement for tearing down the Tombs and Criminal Courts Building in New York County, and using the site to build a modern detention jail and courts building, either on the lines of a skyscraper "hall of justice" or a group of separate buildings. The Tombs has been a scandal for many years because of its physical condition and overcrowding, and the Criminal Courts Building has been an unsanitary eyesore for a long time. The report notes that in June, 1934, Mayor LaGuardia included a Central Criminal Courts building in a list of PWA projects he sent to Washington. That was followed by much activity in architectural circles. Since then both buildings have become one year older and dirtier but nothing much else seems to have happened.

No recommendation is made to the Legislature about the Central Criminal Courts for Manhattan because that is a city affair.

The Association makes a strong recommendation that one way to stop the use of the 800 old cells at Sing Sing, built in 1825, and damp, cold, sunless breeders of rheumatism and other ailments, is to pass a statute forbidding their use after a certain date. The State, in 1916, legislatively condemned these cells, but, nevertheless, about 300 of them are regularly occupied, and at times 500. It is further pointed out that the demolition of some of the cells could be undertaken now and there-

by furnish an opportunity for the use of prison labor.

An appropriation of \$150,000 to finance camps and cantonments for the working of prisoners on public highways was stricken from the Governor's budget in 1933. The Prison Association is an advocate of prisoners working on roads, both for the benefit of the prisoners and of the counties and recommends that the practice be resumed. The Association strongly urges that prisoners should work.

Several recommendations are made for improving the classification and educational systems in the State's penal and correctional institutions. E. R. Cass, General Secretary of the Prison Association of New York and of the American Prison Association, is a member of the Commission for the Study of Educational Problems of Penal Institutions for Youth, which was appointed by Governor Lehman in 1933, and which has already brought about many improvements at Elmira and other institutions.

On the much publicized subject of parole the report shows that the Prison Association is still in favor of having all sentences made indeterminate and of leaving the length of term to the Parole Board, as is the case in some states, provided, however, the parole supervision is adequate and is competently administered. On the other hand the Association is far from being swayed by sentimental mawkishness or accepting the contention that punishment does not deter. Under the caption, "What America Needs," the report boldly declares:

"Offenders must be shown that the laws must be obeyed, if only for the effect on others who might be inclined to get out of hand. Punishment is the only way, apparently,

to carry out the mandates of the law to lawbreakers."

The report condemns the use of the third degree in a short paragraph, and recommends that one way to stop it is to compel the police to take arrested persons directly before a magistrate.

Commissioner MacCormick of the New York City Department of Correction is warmly praised for breaking up the gang rule at the Penitentiary on Welfare Island, which was pointed out by the Association in August, 1933, thereby bringing order out of chaos. His efforts during 1934 to make for progress in the Department of Correction are commended, with special emphasis on the elimination of political influence.

The Prison Association since 1844 has been one of the most consistent and persistent civic forces fighting for criminal law reform measures. It supported those introduced in the Legislature of 1935 by State Attorney General Bennett, and also a number of other bills almost as important but which were of a technical nature and did not arouse public interest. Those measures advocated by the Attorney General and which failed will be supported again by the Association during the 1936 session of the Legislature.

---

**Uniform Department of Justice Act**—A committee on Uniform State Department of Justice Act of the National Conference of Commissioners on Uniform State Laws recently submitted a tentative draft with annotations. In preparing the draft the Committee constantly referred to the article by Earl H. DeLong "Powers and Duties of the State Attorney General in Criminal Prosecution" printed in this Journal (Vol. XXV, p. 358, Sept.-Oct.,

1934). The draft, containing alternative provisions, is printed below: (*Be it enacted, etc.*)

Section 1. (*Department of Justice Created.*) There is hereby created a Department of State Government, which shall be designated in law as the Department of Justice.

Section 2. (*Powers and Duties of Attorney General.*) Subject to the powers and duties of the Governor vested in him by [Article...s ..., of the Constitution], the Attorney-General shall be the chief law officer of the State and the Director of the Department of Justice hereinafter created; and, in addition to the powers already vested in him by law, shall have the powers and duties hereinafter set forth.

[Section 2A. (*The Director General.*) The Department of Justice shall function through a Director General, who shall be appointed by the Governor, by and with the consent of the [Senate], and his term of office shall be coincidental with the term of office of the Governor and he may be removed by the Governor at any time. His salary shall be \$        payable in equal monthly installments.]

Section 3. (*Assistant Attorneys General.*) The Attorney General may appoint a first assistant Attorney General and such other assistant Attorneys General as may be authorized by law, who shall devote their entire time to the duties of their positions. The assistant Attorneys General shall, subject to the direction of the Attorney General, have the same power and authority as the Attorney General.

Section 4. (*Creation of Divisions within the Department.*) There is hereby created within the Department of Justice, the following divisions, to-wit: (1) Division of Criminal Prosecution; (2) Division

of Medical Examiners; (3) Division of Police; (4) Division of Criminal Identification, Investigation and Statistics; (5) Division of Pardons and Parole, and (6) Division of Prisons.

Section 5. (*Division of Criminal Prosecution.*) The Attorney General as the Director of the Department of Justice may require written reports to be made to him by every district attorney, prosecutor, sheriff, or other law enforcement officer as may be designated by law, and upon the request of any such district attorney or prosecutor of any [county] or upon the request of the governor may aid in the prosecution of any offense against the laws of the state which may be tried therein or if so requested by said district attorney, prosecutor, or governor as aforesaid may assume entire direction of such prosecution.

[Section 5A. (*Division of Criminal Prosecution.*) The Attorney General is hereby vested with the exclusive control and direction of the prosecution of all criminal proceedings in any and all of the courts and tribunals of this State and in any county or part of the State.]

[Section 5B. (*Division of Criminal Prosecution.*) There shall be appointed by the Governor, by and with the advice and consent of the Senate, from among the practicing members of the bar of each county (judicial district) of this State, a lawyer resident in each of said counties (judicial districts) and designated a State Prosecutor, whose duties, subject to the supervision and direction of the Attorney General shall be to attend any and all courts or tribunals in his county (judicial district), and to prosecute all violations of the criminal and penal laws therein, and to discharge

all other duties assigned him by law.]

Section 6. (*Division of Medical Examiners.*) The Attorney General as the Director of the Department of Justice may require written reports to be made to him by every coroner [medical examiner, board of medical examiners] and upon the request of said officer or of the governor shall render his aid and the aid of the facilities of said Department to said officer in the discharge of the latter's duties.

Section 7. (*Division of Police.*) The Attorney General as the Director of the Department of Justice may require written reports to be made to him by the Superintendent of State Police, or the chief of police of any city, county, or town in the state [or other appropriate state or local officers to be named] and at the request of any such officer or officers, or their representatives, or at the request of the governor, shall render his aid and the aid of the facilities of said Department to said officer or officers in the discharge of the latter's duties.

Section 8. (*Division of Criminal Identification, Investigation, and Statistics.*) For the detection and prosecution of crimes against the State, and for the acquisition, collection, classification, and preservation of criminal identification records and their exchange with the officials of other states and the Bureau of Investigation of the United States Department of Justice, the Attorney General is authorized to appoint officials and assistants who shall be vested with the authority necessary for the execution of such duties, and to create and organize such laboratories and other facilities as may be necessary to the permanent maintenance of the work of this division.

Section 9. (*Division of Pardons and Parole.*) The Attorney General as the Director of the Department of Justice may require written reports from the Board of Pardons and Parole [or other proper local organization] and at the request of the latter, or at the request of the governor, shall render his aid and the aid of the facilities of said Department to said Board.

[Section 9A. (*Division of Pardons and Parole.*) The Board of Pardons and Parole [or other proper state organization] is hereby made a division of the Department of Justice and the Attorney General as the Director of said Department is hereby made a member of said Board.]

Section 10. (*Division of Prisons.*) The Attorney General as the Director of the Department of Justice may require written reports from the Board of Prisons [or other proper local organization] and at the request of the latter, or of the governor, shall render his aid and the aid of the facilities of said Department to said Board.

[Section 10A. (*Division of Prisons.*) The Board of Prisons [or other proper state organization] shall be a division of the Department of Justice and the Attorney General shall be ex-officio a member thereof.]

---

A. B. A. Report—Sometimes the statement that bar association reports are listened to and immediately forgotten seems all too true, but the recent report of Mr. Will Shafroth, Director of the National Bar Program to the Chairman of the Section of Criminal Law, American Bar Association, should prove to be an encouragement to the hundreds of lawyers who are serving upon

local bar committee in an effort to improve the administration of criminal justice.

*To the Chairman of the Section of Criminal Law:*

In view of the fact that Criminal Law and Its Enforcement is the first topic on the National Bar Program and that definite recommendations in this field were adopted by the Association last year at Milwaukee, I am pleased to report to you the results that have been attained in the way of securing legislative consideration for these recommendations and for the acts prepared by the Commissioners on Uniform State Laws which are within the purview of your Section's activity.

Forty-four of the state legislatures have been in regular session this year and 15 are still in session. Necessarily, therefore, our records are incomplete, but at the present time they show that some part of the above recommendations of the American Bar Association or some of the uniform acts in the criminal law field have been introduced in 40 legislatures. The recommendations alone have received consideration in 34 legislative bodies, including the Congress of the United States. Specifically, information has been received that the waiver of jury trial provision has been introduced in 10 states of the 32 in session in which it is not already law and passed in two; the use of alternate jurors has been considered in 12 states of the 30 in which it is not already law and passed in four; the use of the information as well as indictment has been considered in seven of the 31 states in which it is not already law and passed in two; the less than unanimous jury verdict has been considered in six states of the 39

where it is not already law and passed in one; other provisions of the Model Code of Criminal Procedure (which has been approved by the Association) were considered in at least 21 states and parts of the Code have been enacted into law; the advance notice of the alibi or insanity defense has been considered in 17 states of the 39 where it is not already law and passed in eight (it was also passed as a federal law); the provision allowing comment on the failure of a defendant in a criminal case to testify has been considered in 15 states of the 43 where not already law and passed in two (it was also passed as a federal law); a state department of justice has been considered in 10 states and passed in four; 71 of the uniform acts in the criminal law field have been considered in 29 states and 26 acts have been passed in 17 states.

It is impossible to single out all the instances of good work on the part of the more than 200 committees appointed by state and local bar associations to cooperate in the criminal law phase of the National Bar Program. However, mention should be made of the signal accomplishments of the committee of the Utah Bar Association in securing the enactment of more than 80 sections of the Model Code of Criminal Procedure as well as other recommendations of our Association, of the excellent work of the Criminal Law Section of the Illinois Bar Association in presenting a complete code of criminal law and procedure to its legislature, of the splendid record of the Indiana Bar Association's Committee on Criminal Jurisprudence in securing the passage of 22 bills which will materially aid in law enforcement, of the successful efforts of the Minnesota Crime

Commission (acting for the state bar Association and the Governor) in securing the enactment of important legislation in this field and of the cooperative efforts of several bar committees in New York State with the Commission on the Administration of Justice resulting in the passage of many of our recommendations. California led the way last fall with the passage of its four constitutional amendments to "curb crime," one of which provided for a state department of justice. Many other states have shown substantial progress, including Arkansas, Colorado, Florida, Iowa, Kansas, Missouri, North Carolina, Oregon, Pennsylvania, South Dakota, Vermont and Wisconsin.

I believe it is safe to say that during no other legislative session has the Bar been so active or successful in promoting the improvement of the administration of criminal justice.

Respectfully submitted,

WILL SHAFROTH,  
Director of the National Bar  
Program.

**Indiana Legislation**—The Indiana Bulletin of Charities and Correction for June, 1935, contains a summary of the Social Legislation of 1935 indicative of a vast amount of legislation—the summary being more than 30 pages in length. Changes in criminal laws and criminal procedure are listed here:

#### CRIMINAL PROCEDURE:

*Attendance of Non-Resident Witnesses.* The uniform law was enacted which provides a method for securing the attendance of witnesses in criminal cases who do not live in the state in which the crime was committed.

*Extradition of Criminals.* Prescribing a method, uniform with

other states, by which criminals who have fled from the state in which the crime was committed may be extradited for trial.

*Lesser Offenses than Charged.* Repealing the section of the act of 1929 which provides that any person who is indicted for robbery, burglary, banditry, or murder, can not be found guilty of an offense lesser than the offense charged in the indictment.

*Joint Trials.* Giving the judge the discretion to grant separate trials to defendants who are jointly charged with any offense and if no such separate trial be granted, the defendants must be tried jointly.

*Warrants, Arrest.* Authorizes city courts and justices of the peace to issue summons instead of warrants to defendants charged with the commission of an offense.

*Amendment of Indictments and Affidavits.* Authorizing the court, before or during a trial, to amend the indictment or affidavit to correct imperfections, defects or omissions.

*Alibi.* When the defendant in any criminal trial intends to offer evidence of alibi in his defense, he is required to give notice ten days before trial, specifying the place where he was at the time the offense was committed.

*Photographs of Dead Bodies.* Requires the coroner in counties of 200,000 to 400,000 to take photographs of the body of any person whose death occurred by violence or casualty, to disclose the manner in which and the circumstances under which the person came to his death.

*Bail Appeal.* A defendant who is convicted and sentenced, and who appeals may be admitted to bail by the trial court. Formerly that power was vested in the trial court and the court to which the appeal was taken.

*Law Enforcement Compacts.* Authorizing the State of Indiana to enter into a compact with any state in the Union, for mutual helpfulness in relation to convicted lawbreakers on probation or parole, the enforcement of penal laws and the prevention of crime, as contemplated by an act of Congress granting consent to the states to enter into such agreements.

*Prosecuting Attorney's Investigators.* Authorizes the prosecuting attorney of certain counties to appoint investigators to assemble evidence in the prosecution of criminal cases.

#### CRIMINAL LAWS:

*Kidnapping for Ransom.* Fixes the penalty for kidnapping for ransom at life imprisonment or death.

*Marathons.* Prohibits the operation or maintenance of marathons, walkathons or skatathons. Prescribes the penalty for so doing.

*Firearms.* Requiring persons who deal in or own firearms to obtain licenses and prescribing penalties for failure to comply with the law.

*Fruit and Vegetables.* Prohibiting fraud in the marking of containers in which fresh fruits and vegetables are sold.

*Embezzlement.* Providing that any person who violates the law relating to the deposit of public funds in public depositories is guilty of embezzlement. Changes the penalty for bank embezzlement now two to fourteen years, to two to twenty years.

*Harboring Criminals.* Prohibits and imposes a penalty on persons who harbor criminals for the purpose of assisting such criminal to escape.

*Burglary.* Defines burglary in the first, second and third degrees and prescribes the penalty. Burglary in the first degree consists of entering a place of human habita-



tion; burglary in the second degree, entering a place other than a dwelling house; and burglary in the third degree, entering a tract of land and taking fruit or crops.

*Tourist Camps.* Provides for the licensing and regulation of tourist camps and prescribes penalties for the violation of the act.

*Slot Machines.* Prohibiting the manufacture, sale and operation of slot machines.

#### International Prison Congress—

Mr. Sanford Bates, Director of Prisons, U. S. Department of Justice, sailed for Europe on July 24, to attend the eleventh quinquennial International Penal and Penitentiary Congress, held in Berlin, August 17-24. Mr. Bates is chairman of the American delegation and commissioner for the United States. One Commissioner is sent by each of the following governments:

Austria	Italy
Belgium	Japan
Czechoslovakia	Norway
Denmark	Finland
Egypt	Netherlands
France	Chile
Germany	British India
Great Britain	New Zealand
Greece	Lithuania
Hungary	Sweden
Roumania	Switzerland
Union of South Africa	Yugoslavia

Sailing with Mr. Bates as delegates were the following: James V. Bennett, Assistant Director, U. S. Bureau of Prisons; Dr. Mary B. Harris, Superintendent, Federal Industrial Institutions for Women at Alderson, West Virginia; Miss Ruth E. Collins, formerly of the Bureau, now Superintendent House of Correction for Women, New York City; Edward R. Cass, General Secretary,

American Prison Association; Charles L. Chute, Executive Director, National Probation Association; William B. Cox, Osborne Association; Warden Lewis E. Lawes, Sing Sing; George C. Erskine, Superintendent, Connecticut State Reformatory; Dr. R. F. C. Kieb, Superintendent Matteawan State Hospital; Mrs. Blanche L. LaDue, Chairman State Board of Control, Minnesota; Miss Elizabeth Munger, Superintendent, Connecticut State Prison for Women; William Frank Penn, Superintendent, Pennsylvania Training School; E. Stagg Whitin, Chairman, Executive Council, National Committee on Prisons and Prison Labor; Alfred Hopkins of New York; Mrs. Fannie Sax Long, Wilkes-Barre, Pennsylvania; and Mrs. E. J. King, San Antonio, Texas.

**Denver Meetings**—In connection with the Institute of Public Affairs of the University of Denver a series of Round Table Discussions were held on Crime—Its Causes, Treatment and Prevention. The meetings were daily from August 5 to August 9. Among those taking part were Justin Miller, Chairman of the Attorney General's Commission on Crime, William E. Gunther, Professor Henry Wiehofen, Chief-of-Police Harper and other well known men of the region.

**Prison Directory**—Compiled by the American Prison Association and printed at the Maryland Penitentiary the 1935 Directory of State and National Correctional Institutions of the United States and Canada again proves to be a useful manual. The institutions are presented by states listed alphabetically, and the topics covered are: Date opened,

capacity, average 1934 population, male and female, received from court or transfer?, felons or misdemeanants?, age when admitted, indeterminate or definite term, and inmates employed, either on state use, state account, maintenance, or idle. Illinois' Joliet seems to lead all others in the number of idle prisoners with 2,346 of the 5,390 inmates so listed.

---

**Beattie Studies**—Mr. Ronald H. Beattie, formerly engaged upon the Oregon Crime Survey, and now research assistant in the Bureau of Public Administration, University of California, has prepared two interesting studies recently published by the Bureau. "The Public Defender and Private Defense Attorneys" is

a statistical comparison of the felony cases defended by the Public Defender with the cases defended by private attorneys, which were disposed of in the Superior Court of Alameda County during the year 1932-1933. He concludes that the public defender system materially speeded up the handling of felony cases. The other study is "California Prison Population, 1902-1934." Among many interesting conclusions is the statement, that, "it is commonly assumed that those involved in crime in recent years have been, on the average, younger than the criminals of earlier years" but the tables "indicate that the ages of those sentenced to prison in California during the last nineteen years have been remarkably consistent from year to year."