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## Current Notes

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## CURRENT NOTES

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Northwestern University Law School  
Chicago, Illinois

**American Prison Association**—As the familiar P. T. A. represents the Parent-Teacher Association, these same letters might symbolize Penal Training Association, otherwise known as the American Prison Congress. For the annual meeting of this Conference, held in Atlanta October 26-31, is a forum not only for the discussion of methods of training prisoners for good citizenship, but also offers initial training for many delegates who have been newly chosen to serve correctional institutions and agencies.

To those who have previously attended, the program points to new trends and interpretations of old subjects. To first visitors, however, the trenchant addresses and discussions are little short of a revelation.

The American Prison Association, in the course of its 65 years, has accumulated auxilliary agencies, such as the National Conference of Juvenile Agencies, the National Probation Association, the American Parole Association, etc. There are also the regular sub-divisions of the conference, including the Wardens' Association, the Chaplains' Association, and the National Prisoners' Aid Association.

The Juvenile Agencies started the Conference on the 26th by comparing notes on "Institutional Training Programs" and by raising such questions as "Parent Education in the

Community" and the special education of so-called "problem" children. It was the consensus of opinion of this department that the courts should have not merely a judicial function, but also one of investigation, and that juvenile institutions should not be primarily punitive, but educational. They also held that there should be a much larger responsibility on the part of the community and society in general, for both the causes of crime and the future care and readjustment of offenders. A helpful contribution to this discussion was furnished by Major-General Daniel J. Ormond, of the Canadian Department of Justice, in his description of the history, growth, and character of the Borstal system in England.

At the mass meeting of the conference on Sunday afternoon, Warden Lewis E. Lawes, of Sing Sing, read a paper in which he said "Humanization and rehabilitation must go hand in hand in penal institutions." He further stated "Psychiatry will have to prove itself less academic to become a definite and positive factor in connection with the restoration of prisoners to good citizenship." He declared "the one feasible and effective method of humanizing our prisoners is by applying the principles of social case work and classification. It is high time to forego the idea that retri-

bution is the sole aim of correctional institutions."

In his Presidential address on Monday evening, Mr. Stanley P. Ashe, President of the Association, gave his "re-affirmation of the belief that the end of penology is the protection of society" and that society can be most effectively protected by a program of classification, individual treatment, and properly administered and supervised parole."

Governor McNutt of Indiana, who is especially interested in adult probation and in successful parole, declared that permanent injury to prisoners often resulted from the inequality of sentences by various judges without reference to the merits of the case or the character of the man sentenced.

This same criticism was pointed out by other speakers.

An able paper was read by Warden F. G. Zerbst, of Leavenworth Prison, in which he deplored the overcrowding, and especially the idleness in the various prisons. He said the failure of a solution of the prison labor problem resulted from the conflict between prison labor and private industry. In this connection he stated "This is at present probably the most important as well as the most difficult prison problem." He declared that the trend in dealing with prisoners everywhere is, and should be, with a view of their rehabilitation. The social service units in the Federal Prisons, with its better classification and understanding of prisoners, will greatly contribute to this end.

Similar case work for all prisoners, both before and after their release, was declared to be essential by Mr. R. G. Fraser, of the Pennsylvania Prison Association. More and more the discussions of the

conference go back to the sources of crime and the consideration of its control, and cure, by the integration and coordination of all agencies dealing with the matter, from police officer to parole supervising officer. It was contended by various speakers that intelligent parole and competent supervision of parolees must necessarily be independent of politics and under high standards of civil service.

A unique feature of the conference was presented by the Committee on Criminal Law, which was a presentation of three papers by intelligent prisoners, giving their views on the parole law and prison reform, and as to whether the law as administered is a handicap rather than a help in the reformation of the prisoner. The writer of these papers had been given prizes, and their papers were read by members of the Committee. These papers gave interesting reactions of the prisoners themselves, and threw interesting light upon their feelings in the matter. Among other things, they seemed to feel that the regimentation of prison life was harmful to them, in that it relieved them of responsibility, robbed them of self respect, gave them too much time for mental meandering—just doing time. This latter effect is especially apparent under the present condition of idleness in the prisons. One speaker in calling attention to the old saying that "All work and no play makes Jack a dull boy," stated that all play and no work is quite certain to make Jack a bad boy.

Mr. William J. Ellis, of New Jersey, gave the results of a survey made in recent months revealing the effect of the depression on the conduct of correctional institutions. He found that in most cases the budget

had been reduced, but at the same time considerable work had been done for many institutions by the N.R.A. and other government agencies. He also found that the number of violations of parole in the various states had been doubled within the last five years, and that the discussion in regard to psychiatric clinics in some institutions had been all out of proportion to its influence in the institutions and its recognition by paroling authorities.

With reference to parole, an outstanding paper was presented at the Tuesday morning session by Winthrop D. Lane, as to the history and practice of parole in the different states. He deplored the fact that in many states there was a parole law in name only, without any adequate supervision. He declared that no state could properly claim a parole law unless it has the three essentials of adequate investigation, a properly constituted non-political paroling authority, and a sufficient staff of supervising parole officers. It is because these conditions do not obtain in most states that there is such widespread criticism of the parole law. His point of view was confirmed by Mr. Justin Miller, of the Department of Justice, who summarized the discussion and advocated a higher level of parole administration and closer integration between theory and practice in the administration of correctional institutions and the paroling of prisoners.

That these ideals and advance movements are far from being realized was fully revealed in a report of the Committee on Jails, by Dr. Roy K. Flannigan, of Virginia, in which he described the deplorable conditions in many of these institutions. In the discussion following this report, Dr. F. Emory Lyon de-

clared that little improvement could be expected until jails are taken over by the State or the Government.

Mr. Milton F. Amrine, in a paper on the Future of Jails, described the possibilities in this direction in the Federal Jail at New Orleans. A further demonstration of the great need of the work of the Prison Association was shown in a paper by William B. Cox, Secretary of the Osborne Association, on the subject "Revenge or Reform?" He indicated the vast need of improvement in respect to cleanliness, management, and humane treatment in many of the institutions, including the chain gang. A surprising occurrence in this connection was in the address of Governor Talmadge, in which he frankly defended the chain gang system in Georgia as desirable.

Delegates registered at this Conference numbered 525, besides a considerable number in addition, who were registered for the Conference of Juvenile Agencies. Forty-four states were represented in addition to the District of Columbia, and Canada.

The meeting of the Congress for 1936 will be held in Chicago, with Mrs. Blanche LaDu, Chairman of the Minnesota Board of Control, as President.—F. E. L.

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**University Courses**—This list of university courses in police training and criminology was prepared for the *Journal* by Professor August Vollmer of the University of California.

Agricultural and Mechanical College, Texas. Police school, one week, July, 1935.

Boston University. School for police, short course.

- Brown University. Public administration.
- California, University of. Criminology: four aspects—technical, legal, social, and medical; four years.
- Chicago, University of. Criminology, etc. (Social Science Division), four years.
- Cleveland College. Police training, three months, Oct., 1930-Jan., 1931.
- Duke University. Criminology (Sociology Department).
- Fordham University. Courses on crime (Sociology and Social Service Department).
- Harvard University. Criminology and penology (Sociology Department), also Law School, two years graduate work.
- Hobart College. Police School under direction of Extension Department.
- Illinois, University of. Criminology (Sociology Department); in Medical School, special course.
- Indiana University. Institute of Criminal Law and Criminology; Criminology (Sociology Department).
- Kentucky, University of. Public safety administration, four years. Also police training course, three days, April, 1935.
- Los Angeles Junior College. Preparatory police training course, two years.
- Louisville, University of. Data insufficient. For details consult George T. Ragsdale, c/o Police Department, Louisville, Ky.
- Massachusetts Institute of Technology. Five-year course to prepare scientists and engineers for public service.
- Michigan, University of. Criminology (Sociology Department); Criminal law and criminology (Law School, advanced degree); Five-year course in connection with Michigan State police.
- Minnesota, University of. Criminal behavior (Sociology and Social Work Department).
- New York School of Social Work. Special program for policewomen, 1925-26.
- New York University. Medico-legal course (Medical School). New course in Criminology in the Law School.
- North Carolina, University of. Legal psychology (Psychology Department); also Public administration.
- Northwestern University. Administration of justice. (Political Science Department); Delinquent (Psychology Department); Criminal law, criminology, and methods of detection offered in the University College; Law School cooperates with the Scientific Crime Detection Laboratory.
- Notre Dame, University of. Penology (Sociology Department).
- Ohio University. Short course, 1934.
- Pennsylvania, University of. Criminology (Sociology Department).
- Philadelphia College of Pharmacy. Detection of crime, one year course.
- San Jose State College. Preparatory police training course, two years.
- Southern California, University of. Criminology, delinquency (Sociology Department). Evening police training program, 1935.
- Swarthmore College. Police school, three months, March-May, 1935.
- Syracuse University. Police administration (Municipal Administration), one year, graduate course.
- Tennessee, University of. Criminology and police work. Evening school, 1930.
- Texas, University of. Police admin-

istration, one year, graduate work. Utah, University of. Criminology (Sociology Department) and summer conferences.

Washington, University of. Criminology (Sociology Department).

Wichita, University of. Police administration, four years, of which two years are spent in practical police work in Wichita Police Department.

Willamette University. College of Law. Police school, one week, March, 1931.

Wisconsin, University of. Social pathology (Sociology Department).

Yale University. Psychiatry in law administration (Law School).

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**New Alibi Defense Laws**—The September-October Panel, published by the Association of Grand Jurors of New York County made the following statements:

"New Jersey now has an Alibi Defense law among its statutes. The law, modeled after the recent enactments of Ohio and Michigan upon this subject, was created by the New Jersey Legislature to combat an alibi defense in the trial of Hauptmann, but for some unexplained reason was not taken advantage of by the prosecution.

The New Jersey law differs from the bill suggested for New York State in the legislative programs of the Association of Grand Jurors of New York County, which became a law on July 1st, 1935. New Jersey permits a defendant to demand from the prosecutor the names of all witnesses intended to place the defendant at the scene of the crime. The Panel believes that granting a defendant such a

privilege takes the teeth out of a perfect alibi defense law."

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**New York Conference**—Upon the call of Governor Herbert H. Lehman several hundred delegates attended a conference on "Crime, The Criminal and Society" at Albany, September 30 to October 3, 1935. In the opening address by the Governor he said:

"I believe that one of our principal troubles in the past has been that we have never considered the problem of the criminal as a correlated whole from the time he is a potential delinquent to the time he is returned from prison to society. We have thought in terms of the police alone, of prisons alone, of laws, of courts, or of parole, and have directed our attention to the improvement of each one of those separately and without any attempt to coordinate or correlate their very definitely interdependent activities.

"How closely they are related and how much each one depends upon the, effectiveness of the others is becoming more apparent to me every day. The efficiency of a police department is directly affected by the functions of every one of the other law enforcement agencies in this State—the courts, the district attorneys, probation and parole officers, and the penal institutions. The police officials are not going to exert their best efforts if they feel that the courts are turning men out when they should be held for trial, or if conviction of the criminal they have arrested fails because of inefficient or dishonest prosecution. Their work, too, is directly affected by the

handling of the prisoner in our institutions and by what he is learning for good or evil while there. The performance of their duties is helped or handicapped in direct proportion to the cooperation they receive from probation and parole officials.

"Exactly the same situation holds true with all of our other agencies dealing with crime and the criminal. The work of a parole board is largely influenced by the treatment of men in prison, by the soundness of the sentences imposed by our courts, by the attitude of the police officers toward parolees, by the degree of crime to which the prisoner may have been allowed to plead.

"District Attorneys cannot function properly if they have supine courts or indifferent police departments. The courts, in turn, are greatly affected by the degree of cooperation they receive from the district attorneys and from their probation officers as well as by the interest and integrity of the arresting officials.

"If we are going to get results, all parts of our law enforcement machinery must be substantially integrated and their activities coordinated. The need of cooperation and coordination does not stop with the law enforcement agencies of a particular unit. The need for cooperation exists between different units of government. Today we are sadly lacking in cooperation between the district attorneys of different counties, between sheriffs of our various counties, between local and State police, between county, city, state and federal agencies."

In carrying out his plans for the Conference, five Round Tables were

organized which "reported back" to three of the General Sessions and general discussions followed. These Round Tables were devoted to *Crime Prevention*, Dr. Wm. E. Grady, Chairman; *Detection and Apprehension*, Commissioner Lewis J. Valentine, Chairman; *Prosecution and the Courts*, Judge Edward Lazansky, Chairman; *Institutional Care*, Commissioner Walter N. Thayer, Jr., Chairman; and *Probation, Parole and Rehabilitation*, Miss Jane M. Hoey, Chairman. Present and speaking before General Sessions or at Round Tables, were many persons who have been mentioned in this *Journal* in the past, whose names are known to all criminologists: Raymond Moley, Austin H. MacCormick, Justin Miller, Bruce Smith, E. R. Cass, Sanford Bates, William B. Cox, Charles L. Chute, Sam A. Lewisohn, and others who should be noted. The proceedings soon will appear in printed form and even a summary of the able addresses will not be attempted. The spirit of the Conference was summed up in the word "cooperation." It was the principal theme at each Round Table and at each session. The task of coordinating the different agencies within the State and necessity of cooperating with the Federal Government and other States were thoroughly considered. The Conference was attended by practically all state officials who deal with crime in any of its phases and, in addition, many state legislators who gave careful attention to the problems discussed. The practical work of the Conference will soon be apparent in new laws already in the process of making.

The P.I.R.A.—Through the courtesy of James P. Davis, Executive

Director of the Prison Industries Reorganization Administration, we are able to print the executive order establishing this work. The Board members, appointed by President Roosevelt on September 28, are Joseph N. Ulman, Louis N. Robinson, Linton N. Collins, Gustav Peck and Mr. Davis.

#### EXECUTIVE ORDER

##### *Establishment of the Prison Industries Reorganization Administration*

By virtue of and pursuant to the authority vested in me by the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (Public Resolution No. 11, 74th Congress), I hereby establish an agency within the Government to be known as the "Prison Industries Reorganization Administration."

The governing body of said Prison Industries Reorganization Administration shall be a Prison Industries Reorganization Board consisting of five members to be hereafter appointed by the President and to hold office at his pleasure. The Prison Industries Reorganization Board is hereby authorized to prescribe such rules and regulations and to delegate to its agents and representatives such powers as, in its discretion, it shall deem necessary and proper for the performance of the duties and functions of the Prison Industries Reorganization Administration and for effectuating the purposes of this Order.

I hereby prescribe the following duties and functions of the said Prison Industries Reorganization Administration:

(1) In cooperation with the proper authorities of the several States and the political subdivisions

thereof and the District of Columbia:

(a) To conduct surveys, studies, and investigations of the industrial operations and allied activities carried on by the several penal and correctional institutions of the States and political subdivisions thereof and the District of Columbia, and the actual and potential markets for products of such industrial operations and activities.

(b) To initiate, formulate, and recommend for approval of the President a program of projects with respect to replanning and reorganizing the existing prison industries systems and allied prison activities of the several State and political subdivisions thereof and the District of Columbia to the end that the industrial operations and activities of such institutions may be so reorganized as to relieve private industry and labor of any undue burden of competition between the products of private industry with the products of such institutions; and to eliminate idleness and to provide an adequate and humane system of rehabilitation for the inmates of such institutions.

(2) To recommend for the approval of the President loans or grants, or both, to the several States and political subdivisions thereof and the District of Columbia necessary to accomplish the purposes of this Order, and to administer and supervise the program of projects approved by the President.

In the performance of such duties and functions the Prison Industries Reorganization Board is hereby authorized to employ the services and means mentioned in subdivision (a) of section 3 of the said Emergency Relief Appropriation Act of 1935, to the extent therein provided, and, within the limitations prescribed by



said section, to exercise the authority with respect to personnel conferred by subdivision (b) thereof.

The acquisition of articles, materials, and supplies for use in carrying out any project authorized by this Executive Order shall be subject to the provisions of Title III of the Treasury and Post Office Appropriation Act, fiscal year 1934 (47 Stat. 1489, 1520).

For administrative expenses of the Prison Industries Reorganization Administration there is hereby allocated to the Administration from the appropriation made by the Emergency Relief Appropriation Act of 1935 the sum of \$100,000. Separate allocations will be made hereafter for each of the authorized activities as may be needed.

FRANKLIN D. ROOSEVELT.

The White House,  
September 26, 1935.

Judge Ulman discussed the plans of P.I.R.A. at the American Prison Congress on Monday, October 28, and his committee held continuous sessions at the Congress headquarters conferring with interested prison officials.

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**Parole Research**—Mr. Ray L. Huff, Parole Executive, United States Board of Parole, has made the following statement concerning an interesting study being made within his Department.

"In an effort to test the experience in problems of supervision relating to parolees and those conditionally released, a group of 5,912 cases were examined and the experience measured in terms of successful or unsuccessful termination. After this experience was recorded under the number of categories available, the results were used as a

basis for the examination of an additional 3,000 cases for the six months immediately following.

"This experiment provides the test hitherto not made in any substantial way in the research with the so-called prediction technique. The report of this study will be available in the reasonably near future.

"The findings appear to be that—while it is practical to record experience and within a given period to find significant differences among the categories used, it does not follow that the experience could be projected successfully into a new group for the purpose of prediction.

"This second step is not the final one since it is now in process to take a much larger series of categories, carefully placing each of these under close scrutiny in a further effort to elaborate upon the first two elementary steps.

"It appears that many more and different measures than used at present need to be available before experimentation in this field may leave the elementary steps. A report on the study was made at the conference of the American Prison Congress at Atlanta in the meeting of the American Parole Association."

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**Michigan "Prison Reimbursement Act"**—Because of the nationwide publicity given to the recent Michigan law authorizing the state to charge "board and room" from prisoners it is thought to be of sufficient interest to reprint in this *Journal*.

State of Michigan  
58th Legislature  
Regular Session of 1935  
Bill No. 204  
House Enrolled Act No. 152  
(Introduced by Mr. DeLano)

AN ACT relative to the state penal institutions, and the care and maintenance of prisoners therein; and to provide for the reimbursement of the state on account thereof in certain cases.

*The People of the State of Michigan enact:*

Section 1. This act may be known and cited as "The Prison Reimbursement Act."

Sec. 2. The warden of the state prison at Jackson, the branch of the state prison at Marquette, and the house of correction and reformatory at Ionia, shall forward to the auditor general a list containing the name of each prisoner, the county from which he was sentenced, term of sentence, date of admission, together with all information available on the financial responsibility of said prisoner. Such report shall be made on blanks to be furnished by the auditor general, and shall be made on or before the tenth day of each month.

Sec. 3. The auditor general shall investigate or cause to be investigated all such reports furnished by said wardens for the purpose of securing reimbursement for the expense of the state of Michigan for the care, custody and control of said prisoners.

Sec. 4. Whenever it shall be found that any person has been admitted to any of the aforesaid state penal institutions, as a prisoner, the auditor general, or the prosecuting attorney of the county from which said person was so sentenced, shall, if such person or prisoner be possessed of any estate, or shall thereafter while he shall remain in such institution become possessed thereof, petition the circuit court of the county from which said person was sentenced, stating that such person is a prisoner in such

state penal institution, and that he has good reason to believe and does believe that the said prisoner has an estate, and praying for the appointment of a guardian of such person, if a guardian has not already been so appointed, and that said estate may be subjected to the payment to the state of the expenses paid and to be paid by it on behalf of said person as a prisoner. The court shall thereupon issue a citation to show cause why the prayer of the petitioner should not be granted. If such prisoner has a guardian, it shall be served upon him. If such prisoner has no guardian, it shall be served upon such prisoner by delivering a copy thereof personally or by registered mail to the warden of the penal institution where such prisoner is being detained at least fourteen days before the date of hearing. The court may appoint a guardian of such person or prisoner. At the time of the hearing, if it appear that such person or prisoner has an estate which ought to be subjected to the claim of the state, the court shall without further notice appoint a guardian of the person and estate of such prisoner if the court deems one necessary for the protection of the rights of all parties so concerned, and the court shall make an order requiring the guardian or any person or corporation so possessed of the estate belonging to said prisoner to appropriate and apply such estate to the payment of so much or such part thereof as may appear to be proper toward reimbursing the state for the expenses theretofore incurred by it on behalf of such prisoner, and such part thereof towards reimbursing the state for the future expenses which it must pay on his behalf, which reimbursement shall not be in excess of the per capita cost of maintaining

prisoners in the institution in which said prisoner is an inmate, regard being had to claims of persons having a moral or legal right to maintenance out of the estate of such prisoner. If such guardian, person or corporation shall neglect or refuse to comply with such order, the court shall cite him to appear before the court at such time as it may direct and to show cause why he should not be sentenced for contempt of court. As an additional remedy, the auditor general or prosecuting attorney may enforce payment of the sums provided in the original order, by a proper action in the name of the state. If in the opinion of the court, the estate of said prisoner is sufficient to pay the cost of such proceeds, such estate shall be made liable therefor by order of the court.

The proceedings provided for by this section may be begun at any time after admittance to said state penal institution, and recovery thereunder may be had for the expense incurred on behalf of such person or prisoner during the entire period or periods such person has been confined as a prisoner in said state penal institution.

Sec. 4-a. That upon admission to any state penal institution the attorney general may file a claim for future maintenance and support of such prisoner with the court from which said prisoner was sentenced, and thereupon the court may make an order making such prisoner's estate or property liable for such future care and support and that such claim shall constitute a lien upon all property, real and personal, of said prisoner.

All proceedings to enforce any such lien under this act against any such property shall be instituted by information in the name of the peo-

ple of the state of Michigan addressed to such circuit court in chancery of the county in which such property is situated. The information shall be signed by the attorney general and need not be otherwise verified and shall be equivalent to a bill in chancery to enforce the lien against such property. Such information shall show the name of the prisoner, date and place of sentence, the length of time set forth in said sentence, description of the property against which said lien exists, and the amount due the state of Michigan for the care, support and maintenance of said prisoner: *Provided*, That in no case shall any said property be sold to satisfy such claim of the state of Michigan within sixty days after the entry of such decree: *And provided further*, That such lien may be removed by filing a bond approved by the circuit court for payment of said claim or by payment of the claim itself. Otherwise the sale of said property shall be conducted the same as in cases of foreclosure of liens in chancery.

Sec. 4-b. *Provided further*, That upon the issuance of such decree or order it shall be the duty of the auditor general of the state of Michigan or the prosecuting attorney of the county in which such decree or order was issued to record a certified copy of such decree or order in the office of the register of deeds in the county or counties wherein any of the property of such prisoner may be located, and when such decree or order is so recorded the same shall operate as a lien against said property until so removed as heretofore provided. Further, such decree or order shall be recorded without payment of any recording fee by said auditor general or prosecuting attorney.

Sec. 5. It shall be the duty of the sentencing judge, the sheriff of the county and the warden of the prison to furnish on inquiry to the auditor general or prosecuting attorney all information and assistance possible to enable said auditor general or prosecuting attorney to secure reimbursement for the state of Michigan.

Sec. 6. The costs of such investigations shall be paid from the reimbursements secured under this act, and, the balance of said reimbursements shall be credited to the general fund of the state to be available for general fund purposes. Said auditor general is hereby authorized to determine the amount due the state in such cases and render statements thereof, and such sworn statements shall be considered *prima facie* evidence of the account. The auditor general is further authorized to carry out this act and employ such assistance as may be necessary therefor.

This act is ordered to take immediate effect.

#### **New York Commission Reports—**

The New York Commission on the Administration of Justice has issued the second and third Reports of the Special Advisory Committee, Bruce Smith, chairman, which is engaged in preparing a revision of the Code of Criminal Procedure. In making the Reports the Advisory Committee acknowledges the assistance of Professors William E. Mikell and Edwin R. Keedy who were reporters for the American Law Institute's Model Code of Criminal Procedure.

Report number two deals with preliminary examination and in the prefatory note the statement is made that under the present procedure in

New York the preliminary examination has tended to become a "mere formality" in which the defendant is apprised of the charge against him and given an opportunity to make an exculpatory statement, if he so elects. The Committee proposes changes to convert this perfunctory hearing into an immediate judicial inquiry of all the facts bearing upon the truth or falsity of the accusation.

"The Committee is strongly inclined to the view that persons charged with crime should be encouraged to talk freely at the first judicial proceeding, and to accomplish this end recommends that the present advantages in silence be removed. Accordingly, the unsworn statement has been eliminated from the proposed code and by proposed section 200 the defendant is expressly given the right to testify in his own behalf at the preliminary examination, subject to cross-examination on the testimony given, and it is further provided by that section that his testimony and cross-examination may be admitted in evidence on his trial. If the defendant fails to exercise his privilege so to testify, the fact of such failure may also be admitted in evidence on the trial, under the provisions of proposed section 199.

It is the opinion of the Committee that these proposed changes in the law will tend to eliminate secret and oppressive examinations by the police, and other third degree methods charged against them, which have frequently resulted in mistrials with consequent increase in expense and delay, and will otherwise greatly improve the administration of criminal law in this state.

The proposed change permitting use at the trial of the defendant's

failure to testify at the preliminary examination is of a substantial character and requires an amendment to present section 393. That section now provides that a defendant may testify in his own behalf on the trial, but that his neglect or refusal to testify shall not create a presumption against him.<sup>11</sup>

The third Report is noteworthy chiefly in that it proposes a wide extension of the use of the information rather than indictment. "The Committee feels that where the defendant has had the opportunity of a preliminary examination, the intervention of the grand jury is not essential to the proper administration of justice and in the vast majority of cases creates unnecessary burdens, expense and delays. The function of the grand jury is to determine whether there is probable cause to believe that a crime has been committed by the defendant, in other words, whether the prosecution has made out a *prima facie* case. This is the same function that the magistrate performs at the preliminary examination. Where the defendant has been held to answer by the magistrate, the grand jury merely duplicates the function of the magistrate. It may, of course, correct any error that the magistrate has committed in determining that there is probable cause to believe that the defendant has committed the crime charged. However, without the intervention of the grand jury, the district attorney has the same opportunity to discover errors by the committing magistrate.

At the time that the district attorney drafts the information, he has an opportunity to determine the sufficiency of the evidence before the magistrate to hold the defendant. Again, after he has filed the information and is preparing the

case for trial, he may, in the examination of the witnesses, determine that a *prima facie* case against the defendant does not exist. Third, upon the trial itself, an opportunity is afforded to review the determination made at the preliminary examination.

Furthermore, the writ of *habeas corpus* is available to secure the release of a person improperly held by the committing magistrate. This writ may be used to test the sufficiency of the evidence to warrant his detention.

In the usual prosecution by indictment, material witnesses are required to be examined on three different occasions in addition to interviews by the district attorney. They are called to appear at the preliminary examination, again before the grand jury, and finally on the trial. Permitting the use of an information eliminates one of these appearances, and in important cases would prove a distinct convenience to the administration of justice.

In proposed section 224, provision is made safeguarding against the suppression of prosecutions by the district attorney. The proposed section provides that if the district attorney determines that an information should not be filed, he shall make a written recommendation to the judge of the court in which the case is triable. If the court determines that further proceedings should be instituted, the district attorney is directed either to file the proper information or to present the case to the grand jury."

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**Ploscowe Study**—Mr. Morris Ploscowe is collaborating with Mr. L. V. Harrison in a short survey of the administration of the criminal laws of New Jersey, which is being made

for the Judicial Council. The State has been collecting criminal statistics for the Courts of general jurisdiction for three years on the Census Bureau model. He will analyze these statistics and expects to make suggestions on the reorganization of courts, the selection of judicial and prosecutorial personnel, and in the fields of criminal law and criminal procedure.

#### Deportation of Criminal Aliens—

For the past two years Col. Daniel W. MacCormack of the Immigration and Naturalization Service and Hon. J. Weston Allen, special Assistant to the Attorney General assigned to the Department of Labor, have attempted to secure legislation which would remedy the long standing defects in the law governing the deportation of aliens and more especially the "loopholes which have prevented, in so many cases, the deportation of criminal aliens." At the July meeting of the American Bar Association in Los Angeles, Mr. Allen spoke on the Kerr bill, designed by the administration to cure some of the defects in the present system, and his remarks have since been reprinted in the Congressional Record as "Extension of Remarks of Senator David I. Walsh of Massachusetts" (Legislative day of Monday July 29, 1935). Since legislation on this subject will appear before Congress when it convenes in January, 1936, the statements of Mr. Allen deserve notice. He says:

"The pending bill in Congress recognizes the fallacy of permitting a trial judge, without adequate knowledge of the defendant, to control the action of the Federal authorities on the question of deportation, and the recommendation of

the judge is made subject to approval by the interdepartmental committee established by an amendment of the bill.

If the bill as now drafted is enacted it will put teeth into the present law, regulating the deportation of criminals, and will make it possible for the immigration authorities to rid this country of many dangerous and habitual criminals not now deportable . . . .

If the bill becomes law, it will serve the threefold purpose of (1) ridding the country of large numbers of alien criminals not now deportable; (2) decreasing illegal entries by arrest and return of aliens unlawfully crossing the border, and (3) granting discretion in the deportation of aliens of good character in cases of extreme hardship and severity.

The bill should receive the support of all patriotic and humane societies and citizens because, for every alien of good character permitted by the bill to remain in this country, it will cause the deportation of three or more aliens of bad character including gunmen, racketeers, smugglers, and habitual criminals."

Mr. Allen's address also appeared in the October American Bar Association Journal XXI:677.

**New Jersey Conference**—Hon. William J. Ellis, Commissioner of the Department of Institutions and Agencies, State of New Jersey was invited to discuss the recent Interstate Conference on the control of crime. The following note, prepared by Mr. Ellis, was written for this *Journal* to answer editorial questions concerning the general purpose and accomplishments of the Conference.

"In response to an invitation issued to the Governors of all of the States by the Honorable Harold G. Hoffman, Governor of New Jersey, approximately 150 delegates representing more than 30 states met in Trenton, October 11th and 12th to canvass the possibility of practical joint action with reference to the control of crime. Underlying the meetings was a desire to formulate inter-state compacts and uniform statutes which upon adoption would substantially eliminate the barrier effect of state lines when it comes to pursuit, trial, and punishment of criminals.

Governor Hoffman's invitation to his fellow chief executives came as a result of the New Jersey State Crime Conference held last March, at which time it became apparent that many of the specific objectives discussed there would require joint action on a regional or national basis if the desired results were to be obtained. One of the accomplishments of the New Jersey Crime Conference was the establishment of the New Jersey Commission on Inter-State Cooperation, of which Judge Richard Hartshorne of the Essex County Court of Common Pleas is the Chairman. This Commission was established as a permanent part of the New Jersey administrative machinery and set an example which has been followed in numerous other states. These Commissions are empowered to negotiate inter-state compacts and uniform laws in several fields other than crime control. It appeared, however, in the early meetings of the New Jersey Commission, that public opinion is now ripe for action in the field of crime control whereas questions affecting interstate action on labor legislation, regulation of the milk industry and other economic

matters require a great deal of public attention and consideration before they will have reached a stage warranting widespread action.

So far as crime control is concerned the New Jersey Commission's judgment that in this field there is a substantial unanimity of opinion was thoroughly justified when Governor Hoffman's Conference met. At no point throughout the two-day session was there a voice raised to oppose the objectives in hand. Questions as to constitutional means and acceptable details were raised freely and as a result of this it became apparent early that no specific compacts would be written at the Trenton meeting. Rather the delegates favored a series of resolutions pointing out specific objectives as a guide to a permanent inter-state crime commission which was actually set up to draft the detailed compacts and uniform laws which are to be submitted to the legislatures of the respective states at their next sessions.

Among the recommendations submitted to the Inter-State Crime Commission by the Conference were the following:

1. That the Inter-State Crime Commission promptly study and report

- (a) On the simplification of inter-state rendition procedures.

- (b) On the application of such procedures to others than actual fugitives from justice.

Further that all the states adopt statutes permitting waiver of extradition procedure by those charged with crime or under sentence.

2. That the states adopt a uniform act providing for the summoning of witnesses in one state to testify in another state and that the Inter-State Crime Commission consider the desirability and feasibility

of extending the provisions of this act to include grand jury witnesses.

3. That the Commissioners on uniform state laws draft appropriate statutes to cover

(a) The situation where a person within a state performs an act that affects another state.

(b) Where an actor outside the state commits an act which takes effect within the state.

Further that the Inter-State Crime Commission consider the advisability of a compact which would cover acts committed so near the boundaries of states as to make it uncertain whether either the actor or the effect is within the jurisdiction of either state.

4. That the Inter-State Crime Commission consider the drafting of a compact on parole supervision which would

(a) Permit the authorities of one state to permit a person convicted of an offense and placed on probation or parole to reside in any other state under terms and conditions as to residence, employment, and reporting mutually agreed upon.

(b) That the compact define residence in the receiving state.

(c) That the receiving state be given opportunity to investigate the prospective home and employment of persons to be sent there under such a compact.

(d) That the sending state be required to supply necessary identifying and factual information to the receiving state.

(e) That the receiving state assume the duties of visitation and supervision and in the exercise of these duties shall be governed by the high standards necessary and consistent with the resources of the receiving state.

(f) That the officers of the

sending state shall be permitted to enter the receiving state and apprehend any person on probation or parole without undue formality; provided, however, that the offender is not charged with or held for a crime in the receiving state.

(g) That the decision of the sending state to retake shall be conclusive and not reviewable in the receiving state.

(h) That the State Department of Parole, or, in the absence of such a department, the Governor of each state shall delegate an officer to act with officers of other states to promulgate necessary rules and regulations.

(i) That the committee as above constituted shall seek uniform and minimum standards covering pre-parole investigations, supervision and administrative practices, etc.

5. The Conference recommended the establishment of bureaus of criminal identification in each state; universal finger-printing; experiments with sound motion pictures in the identification of criminals; the development of the present intercommunication among apprehension authorities; and the creation of state units of criminal intelligence.

W. J. E.

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**Faculty Appointments**—Irving W. Halpern, Chief Probation Officer, Court of General Sessions, New York City, and a member of the board of trustees of the National Probation Association, has been appointed to the faculty of the School of Law of New York University. His lectures, which will be open to both graduate and undergraduate law students will include the history of crime and punishment as well as



probation and preventive programs. This course, a departure in a law school curriculum, should have special value in acquainting future lawyers and judges with probation purposes and methods.

L. Wallace Hoffman, Chief Probation Officer, United States District Court, Detroit, is teaching a course on probation and delinquency at the Michigan School of Social Work, under the auspices of the University of Michigan. Credit for the course may be applied toward a master's degree.

Joseph Fulling Fishman, member of the board of the American Prison Association and formerly Deputy Commissioner of Correction of New York City, is teaching a course at the New School for Social Research, New York City. The first term will cover crime and prison life in America, the second term will be devoted entirely to probation and parole.

Dr. Thorsten Sellin, member of the board of trustees of the National Probation Association and associate editor of the *Journal of Criminal Law and Criminology*, will conduct a course in crime and delinquency at Columbia University this fall. The second part of the course includes probation, parole and "the scientific objectives of the new penology." (Probation, October, 1935).

**Miscellaneous**—In the August "News Bulletin", Commissioner William J. Ellis comments upon the discussion of parole which was presented before the International Association of Chiefs of Police at their mid-summer Convention at Atlantic City. J. Edgar Hoover of the U. S. Bureau of Investigation assailed parole in his speech and "his remarks brought forth an equally vigorous defense of parole from

Winthrop D. Lane, Director of the New Jersey parole system."

The Chicago Academy of Criminology discussed parole at its October meeting, the speakers being George T. Scully, Illinois superintendent of Parolees, F. Emory Lyon of the Central Howard Association and Henry Barrett Chamberlin of the Chicago Crime Commission.

Reprints of Mayer C. Goldman's address "Should Public Defenders be Substituted for Defense Counsel in All Criminal Cases" given at the meeting of the American Bar Association in July, 1935, have been circulated. Mr. Goldman for twenty years has advocated public defenders for the *poor* in criminal cases and the success of their work, when established, has prompted him to enlarge his earlier plans to include "compulsory State defense for *all*—rich or poor."

The Journal of the American Judicature Society for October, 1935, contained a discussion entitled "What is a Department of Justice?" based largely upon Earl H. DeLong's recent article in *State Government*. Mr. DeLong will be remembered as the author of the article "Powers and Duties of the State Attorney General in Criminal Prosecution," which appeared in this Journal last year (25 J. Crim. L. 358). The Judicature Society discussion emphasized two things: "Efficient crime control calls for a study of State government structure" and "officials must be got out of 'practical' politics." Crime control calls for *governmental planning* and improvement will be slight as long as the at-

torney generals and prosecutors are short term political officers. "And yet we have heard of no bar association in the country which has declared itself opposed to the popular election and short terms of prosecutors."

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In a radio interview of Professor August Vollmer of the University of California over the Columbia network, September 10, some interesting statements were made concerning the lack of organization of police forces. For example, the Federal government maintains six separate police organizations: investigators of the Department of Justice, investigators of the Treasury Department, customs officers, immigration officers, postoffice inspectors, and forest and national park rangers. Then, in addition, there are twenty-five governmental bureaus and divisions which have special police powers, ranging from the U. S. District Attorney to the Pension Bureau.

In the majority of states this complicated arrangement is duplicated over and over again. In California, to mention one, the State government gives police powers to about fifty-six different bureaus and divisions. In effect there are eight police units in the Department of Agriculture, one in Education, three in Finance, six in Industrial Relations, five in Investments, one in Military and Veterans' affairs, one in Motor Vehicles, four in Natural Resources, three in Penology, thirteen in Professional and Vocational Standards, three in Public Health, five in Public Works, and one each in Social Welfare, Board of Harbor Commissioners, and the Railroad Commission. To this total one must add the police departments of the

various cities, the sheriffs and deputies of the various counties, and the constables of the small towns. We have thousands of policemen of a score of different types. All of them are upholding the law. But each group attends to its own limited responsibilities without reference to others.

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The "Vignettes of the Criminal Court," which appeared in Volume 25 of this Journal, written by Mr. Charles C. Arado, Esq., of the Chicago Bar have been abstracted for "Archivio di Anthropologia Criminale," Turin, Italy, July 10, 1935. This was done by Carla Malvano Muggia.

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"Probation," the journal of the National Probation Association, appeared in October in a new and improved form. The Association is to be congratulated for the pleasing appearance of this useful publication. Of great interest was the article by Charles L. Chute, Executive Director of the National Probation Association, which was entitled "European Notes." The writer was one of the twenty-three delegates appointed by the United States Government to attend the recent International Penal and Penitentiary Congress at Berlin.

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The actions of the International Penal and Penitentiary Congress on the various questions set forth in the Agenda is printed in "Correction" published by the New York State Department of Correction for September, 1935.

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The work of the Minnesota Crime Commission is portrayed by Ben W. Palmer, Esq., a member of the Commission, in the September American Bar Association Journal XXI; 619.

An unusually attractive and interesting report is entitled "Therapy and Prevention of Crime," issued by the Essex County Probation Department, Newark, New Jersey, Joseph P. Murphy, Chief Probation Officer. The report is for the year ending December 31, 1934, and contains a graphic picture of present-day discouragements encountered by probation officers. "Continued existence on the 'dole' complicated the whole routine of living so far as

these probationers were concerned."

The National Council for the Abolition of the Death Penalty, Parliament Mansions, Victoria Street, London, S.W. 1, has issued a booklet "The Death Penalty Is Not Necessary" which discusses the effectiveness of capital punishment as a deterrent. The conclusion reached, after an investigation of the "abolitionist" countries, is that capital punishment is not the most effective deterrent.