Journal of Criminal Law and Criminology

Volume 27
Issue 5 *January-February*

Article 14

Winter 1937

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, 27 Am. Inst. Crim. L. & Criminology 754 (1936-1937)

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

Law School Committee—At the meeting of the Association of American Law Schools in Chicago, December 28-30, 1936, the Committee on Survey of Crime, Criminal Law and Criminal Procedure made a report to the Association describing the development in the field during the year 1936.

The Report, in part, stated:

"At the meeting of the American Bar Association in August, 1936, the House of Delegates adopted a resolution brought in by the Section on Criminal Law stating that 'society can be better protected against crime if police forces are so organized as to provide a high degree of continuity in office for all their personnel, including the chief and policy directing heads thereof, and if the members of such forces are thoroughly trained in the technique of their work.'

"It is encouraging to see the development of forces for achieving this result. Perhaps the greatest advance has been in the growth of police training schools. In 1931, the Wickersham report on police revealed that of 363 police departments in cities of 10,000 to 75,000, not more than 15 gave courses which could be considered to qualify the recruit for efficient police work, while about 80 per cent gave no training whatsoever. In towns of less than 10,000, the situation was even worse. Of 225 such towns studied, there was 'absolutely nothing done which by any stretch of the imagination could be considered police training.' A few American cities, such as Detroit and New York, have had police training for a number of years, but the movement for police training has gained appreciable momentum only recently. The growing importance of the subject is shown by the amount of material written about it in recent years. Whereas before 1927 only 40 books and articles on police training had been published, during the past ten years there have appeared more than 120 such items.

"The universities, and particularly the law schools, have cooperated in the creation of police training schools. According to August Vollmer, courses in police training are now given in 38 colleges and universities. In many instances, the universities have taken the initiative in organizing courses for police officers or for police training.

"*What can the law schools do?* It is proper for this Association to consider to what extent the law schools of the country can and should further cooperate in this movement. Undoubtedly, it would be preferable for police schools to be under the administration of the various law enforcement organizations themselves, with the schools cooperating by offering the serv-

ices of members of their faculties. However, where no 'in service' training is being offered by the law enforcement agencies, it is a useful public service for the schools to take the initiative in offering such courses for the police. The International Association of Chiefs of Police has for some time been attempting to enlist the aid of this Association in the work of police education.

"Another hopeful sign pointing to better training for enforcement officers is the interesting experimental course or seminar for prosecuting attorneys given at Northwestern University School of Law this past summer, when a group of thirty-eight prosecutors from twelve states assembled for a five-day program, from August 3 to August 7, for a series of lectures and demonstrations by staff members of the school's Scientific Crime Detection Laboratory, and by authorities on various phases of criminal law administration, prosecution and investigation. The venture was significant as a step toward building up a body of prosecutors with a professional sense and training, instead of a hope to use the position as a stepping stone to other things.

"A number of law schools have undertaken not only to cooperate in providing 'in service' training, but also to provide courses designed to train students for professional police work. Some of these schools attempt to provide students opportunities to visit penal and correctional institutions, departments of probation and parole, and juvenile courts, and thus become acquainted with the actual functioning of judicial and administrative organizations. Some operate legal aid clinics, where students have actual experience in criminal cases and in relating such cases to the social conditions out of which crime springs, and in attempting to adjust not merely the basis of guilt or innocence but also the social situation referred to. Indiana University School of Law has recently undertaken to cooperate with the other professional schools and academic departments of the university, in making provision for 'in service' training, and also in providing professional courses designed to train students for police work as a profession. The university, with the cooperation of its law school, has established an Institute of Criminal Law and Criminology, which will conduct the official training school for the Indiana State Police. It will offer a professional four-year course, leading to a bachelor's degree, and designed to train men as professional police officers and administrators.

"*Recommendations.* This committee has not been able to devote sufficient time to the matter to make definite recommendations, but we do recommend that the Association, through this committee, if this committee be continued, or through other agencies, consider whether the law schools should do more than they now do (1) to cooperate with police agencies in providing 'in service' training for officers; and (2) to train students professionally for law enforcement careers.

"One useful result which might be expected to flow from such an undertaking would be to compel the law schools to examine beyond the narrow confines of substantive criminal law into the question of the actual operation of the criminal law in practice, and also to compel greater collaboration between the teachers of criminal law and the

teachers and experts in other social sciences important to a fuller understanding of the crime problem.

"This leads us to what your committee considers the greatest single responsibility confronting the law teaching profession, and the one which the profession has done the least to fulfill: the task of reexamining the classical concepts and doctrines of the substantive criminal law in the light of modern conditions and modern knowledge of criminology, psychology, penology, prosecution and police operation. It is fairly well agreed today that the arbitrary delimitation of the course in criminal law to the study of principles deductively formulated ages ago from conceptions then deemed to be immutable and axiomatic truths, without regard to their present factual operation, encourages the maintenance of rules which are not consonant with modern penal philosophy and modern crime conditions. At least there is room for suspicion that some of these principles could not endure critical examination in the light of present day facts.

"*Doctrines.* But instead of taking the lead in getting rid of doctrines which no longer square with the facts, the law schools have been the chief agencies for keeping them alive. The courts in action are much less concerned with these antiquated doctrines than are the teachers in the schools. The courts to a large extent operate in a clinical way, disregarding much of the ritual and mosaic philosophy of the orthodox criminal law (except when public interest in a sensational case makes them self-conscious). But the law teachers are still inclined to disregard discrepancies between the law in the books and the law in action, and even to treat the great mass of reforms which have actually been placed on the statute books as mere 'exceptions' and the older principles as still the rule.

"Considering human frailty, this is quite understandable. It is physically and mentally easier for schoolmen to toy with abstract logical systematizations of the law than to gather field information upon what the law in practice actually is. Perhaps the latter is asking too much. Yet the fact remains that any valid systematization of what the law ought to be must be based upon an understanding of what the law is. To continue to teach abstract principles without regard to their validity in the world of experience is to continue to train students in a priestcraft when we should be turning out field workers trained to cope with a stubborn social problem.

"*Reform of substantive criminal law.* Your committee realizes that the task of reformulating the substantive criminal law in accord with present day facts is one which necessarily must be done by individual scholars rather than by law schools as such. Nevertheless, we feel there are a number of ways in which the law schools can promote this end: by understanding and emphasizing the need for such work; by encouraging scholars on their faculties to devote study to the subject and providing them with the necessary time in which to do so; and by facilitating arrangements with other departments of the universities so that legal scholars can cooperate with scholars in the various social sciences primarily concerned with the factual studies upon which any valid legal principles must rest.

"Your committee has also considered what it, as a committee, could do to promote such scholarly reexamination of the criminal law. We have taken it upon ourselves to request the American Bar Association to devote the Ross essay contest for 1938 to a topic in doctrinal criminal law, and have been assured that this request will be given consideration. We have also investigated the possibility of enlisting the aid of one of the larger philanthropic foundations to make available other and larger awards for outstanding contributions to criminal law literature. The most natural agency to undertake any systematic reexamination of the field is the American Law Institute. In January, 1935, the Institute approved a project for a Code of Criminal Law, to include 'not only the rules of substantive criminal law and procedure, but also the organization and administration of courts, police and other agencies for the prevention, detection and prosecution of crime and delinquency as well as the treatment of offenders and delinquents, including such matters as probation, detention, prison administration, parole and pardon.' This project is unfortunately still in abeyance because of lack of funds.

"Some members of the committee have suggested that much of the work required for such a project could be done without outside financial assistance by voluntary organization or cooperation of the law teachers. We recommend that the Association carefully consider the practicability of such a suggestion, and the steps which this Association should take, if any, to encourage such an undertaking. . . .

Respectfully submitted,
ARMISTEAD M. DOBIE,
LIVINGSTON HALL,
CHARLES S. POTTS,
JAMES J. ROBINSON,
CHESTER H. SMITH,
FLOYD A. WRIGHT,
HENRY WEIHOFEN, *Chairman.*"

Law Teachers' Meeting—December 28, 1936, the "Crimes" section of the Association of American Law Schools heard three papers which were presented by outstanding scholars in the field of criminal law.

Miller. Hon. Justin Miller, formerly dean at Duke and Southern California and now special assistant to the Attorney General of the United States discussed "State Governmental Organization for Crime Control," with pertinent comments upon: The typical state organization beginning with the local police organizations, the local prosecuting agencies, the local courts, up through the state attorney general's office and the appellate courts; giving consideration to state departments of police and state departments of justice; the position of the judge and his control of the administration of justice; contrasting the lack of administrative or executive control of prosecution on a state-wide basis with the situation which exists in England; the wisdom of public versus private initiation of prosecution and of summary forms of disposal of cases as contrasted with the method of judicial determination; governmental organizations within the state for the handling of persons already convicted of crime, especially as they have to do with the preparation of such persons for release, the determination of conditions of release and the provision of supervision therefor; the problem of crime prevention as it re-

lates to juvenile delinquents, adults who are potential criminals and recidivists or habitual criminals; available agencies of government for such crime preventive methods as well as governmental agencies which might be devised for such purposes; including fields for research, personnel training, and the securing of better coordination of all agencies; the relation of state governmental organization for crime control to the closely connected problems of federal, federal and state, intersate and purely local agencies for crime control.

Dession. Professor George H. Dession of Yale presented his views on "Psychiatry and the Disposition of Offenders." He declared that three limitations on the utility of psychiatry for criminal law are: 1. Psychiatry has much less bearing on the problem of appropriate standards for legal responsibility than has been commonly assumed. What shall be done with any given variety of offender, what forms of treatment shall be made available under public auspices, and how any given program is to be set up are questions of social policy and of political science quite outside the scope of psychiatry. 2. The declared psychiatric objectives of rehabilitation and prevention imply the possibility, when an offender first comes in contact with the law, of predicting on the basis of a psychiatric diagnosis whether he may at any given moment be released with safety or whether he may not. But the extent to which such predictions could be made with any scientific assurance has not been demonstrated. Also implied is a complete disregard of the gravity or lack of gravity of the offense. 3. It seems safe to assume that any realistic program for the rehabilitation of offenders as a matter of routine would imply an institutional system more exacting with respect to personnel and more elaborate and costly with respect to other facilities than any of our existing public school systems. Special environments would have to be created—and, in all probability, special communities on a very large scale. This is not to say that it has not performed an essential educational function in sensitizing both lawyers and the public generally to certain shortcomings of our criminal law.

Warner. Professor Sam B. Warner of Harvard made an interesting topic out of "The Role of Courts and Judicial Councils in Procedural Reform." He raised and answered the following questions:

1. Should control over judicial procedure be exercised entirely by the courts or divided between legislatures and supreme courts? The answer is the latter: First, some problems of procedural reform touch too closely the liberties of citizens to be decided by a body not subject to the popular will. Second, public opinion is so sharply divided on some of the more important issues that courts would be severely criticized no matter how they settled them. Third, some procedural reforms involve balancing the interest of judges against those of litigants. II. Should rule-making be entrusted to supreme courts or to rules committees composed of appellate and trial judges together with practitioners? Theoretically supreme courts are not good rule-making bodies because of their conservatism and lack of contact with trial courts and the bar. In view of the constitutional

difficulties of entrusting the rule-making power elsewhere, they should not be displaced until they prove incompetent. III. Do judicial councils aid materially in the reform of procedure by rule of court? Yes, because the changed attitude of the public implied in the creation of judicial councils and the presence of the councils have removed two of the three considerations that formerly deterred courts from rule-making. They are the lack of demand by the bar and public for such action, the absence of adequate procedure for rule-making, and the importance of having procedural reforms, unlike judicial decisions, made by people subject to popular pressure. IV. What is the ideal personnel of a judicial council? It needs a judge from each important court in the state, several practitioners, a law teacher and the chairman of the judiciary committees of the legislature. It is undesirable to add laymen.

New York Committees—A new "Crime Commission was formed in New York City in the autumn of 1936 under the name "Citizens Committee on the Control of Crime in New York" with W. P. Beazell as executive secretary. The Chicago Crime Commission, the Cleveland Association for Criminal Justice, and the Baltimore Criminal Justice Association were visited and studied and they served as models for the New York organization.

The officers are:

Chairman: Harry F. Guggenheim, former ambassador to Cuba and a leader from the beginning in this movement to make systematic effort toward a solution of the problem of combatting organized crime.

Vice Chairman: Lee Thompson Smith, foreman of the racket Grand Jury of 1935 and president of the Association of Grand Jurors of New York County.

Treasurer: Artemus L. Gates, president, New York Trust Company.

Secretary: George Z. Medalie, former United States Attorney, Southern District of New York.

All five counties of New York City except Richmond already are represented on the Citizens Committee, and Richmond will be shortly. Like representation has been given on the Executive Committee, which will have a membership of eleven with the officers sitting *ex-officio*.

Attorney General's Survey—In November 19, 1936, a Conference was held in Washington, D. C., to plan the handling of the vast amount of statistical material being gathered by the Survey of Release Procedures now in progress (see 27 J. Crim. L. 287, 480). It was recommended that the Report be in three volumes: *one*—laws dealing with release procedure; *two*—administrative and judicial methods used in applying the laws and operating release procedure; *three*—analysis of statistics.

It is in connection with the interpretation of this material and the determination of attainable objectives that the Technical Advisory Committee will make its greatest contribution. The members of this Committee are: Professor Samuel A. Stouffer, University of Chicago, Chairman; Milton C. Forster, Assistant to Chairman, Coordinating Committee, Works Progress Ad-

ministration, Professor S. S. Wilks, Mathematics Department, Princeton University, Frederick F. Stephan, Secretary, American Statistical Association, Professor Merrill M. Flood Mathematics Department, Princeton University, Dr. Thorsten Sellin, Professor of Sociology, University of Pennsylvania, Dr. W. Edwards Deming, Physicist, Department of Agriculture, Morris A. Copeland, Executive Secretary, Central Statistical Board, Works Progress Administration, and Dr. A. M. Edwards, U. S. Bureau of the Census, Department of Commerce.

The Administrative Director, Hon. Justin Miller says:

"The report of the Survey will reveal for the first time a comprehensive picture of the whole problem of release. It will then become readily apparent that the widespread attacks upon parole relate only to one phase of the larger problem. When that fact is sufficiently realized by responsible officials and others throughout the country, then we may look toward real development of these more modern phases of punishment and penal treatment."

Annual Index to Legal Periodicals—The August, 1936, number (vol. 2, no. 11) of *Current Legal Thought,* a monthly digest of law reviews, edited by Benjamin Werne of New York City, is devoted in its entirety—124 pp.—to covering the period August 1, 1935—July 31, 1936. "The 114 periodicals indexed" states the prefatory note, "include every law school review and every bar association journal available as well as a few selected American and foreign journals which offered material of interest to the profession." Thirteen foreign journals are covered—three Canadian, three British, two Indian and one each representing the Philippines, China, Australia, South Africa and Scotland. The classification system and a list of journals precedes the index proper, which is priced at $3.00 and may be secured from the editor at 245 Broadway, New York City.

—T. S.

Missouri Judicial Council—At the October, 1936, meeting of the Missouri Bar Association held in Kansas City, Judge R. E. Culver of St. Louis reported for the State Judicial Council.

Referring to the many communications making proposals for changes in criminal procedure, some from lawyers but most from laymen, the report expressed the opinion that the criminal procedure is not so much in need of change as many laymen seem to think. The failure of better enforcement of the law is due rather to weakness in administration than to defects in procedure. Like our other problems, better law enforcement could not be brought about by merely changing the rules and statutes prescribing criminal procedure. The Council believed that judges and lawyers were generally agreed that a better administration of civil and criminal justice would be brought about by divorcing the selection and control of law officers entirely from politics, by simplification of court procedure, where it is advisable, and by a better organization of our court system so that unnecessary delay may be avoided.

Indiana Conference—The first Indiana Medicolegal Conference was held at the Indiana University

School of Medicine Building in Indianapolis on Friday, December 4, 1936, under the auspices of the Medical School, the Indiana Committee, the Indiana State Police and the Indiana University Institute of Criminal Law and Criminology.

The Conference was held by and for Indiana doctors, lawyers, chemists, coroners, law enforcement officials, business men, especially insurance men and employers, and other citizens who are interested generally in the prevention and control of crime and specifically in the administration of justice in both civil and criminal cases.

The Conference subjects were: (1) Medicolegal autopsies; (2) Chemical tests for intoxication; (3) The expert medical witness and the question of insanity; (4) Scientific laboratories devoted to medicolegal and criminal investigations.

Crime Prevention—Mr. E. R. Cass, General Secretary of the American Prison Association and a member of the New York State Commission of Correction, discussed the fate of the proposed New York Crime Prevention Bureau at the annual meeting of the New York Conference on Social Work, October 21, 1936.

As a result of the Conference on Crime, The Criminal and Society conducted in 1935 by Governor Lehman of New York, the Governor recommended to the Legislature "that there be set up within the Executive Department a Bureau of Crime Prevention, the function of which shall be to assume leadership in the stimulation, development and coordination of local crime prevention activities. This bureau should:

'(a) Stimulate State departments to develop their facilities and methods to control the factors entering into delinquency and crime.

'(b) Visit, study and evaluate conditions in communities throughout the State and advise local agencies as to the organization and development of needed programs.

'(c) Collate, interpret and publicize statistics and reports relating to the problem of juvenile delinquency and crime.

'(d) As need arises, prepare and sponsor legislation bearing upon the many specific problems incident to crime prevention.'

"Governor Lehman, in his message, then outlined the personnel of such a bureau indicating that it, 'should consist of a competent director, possessed of a liberal education and technical knowledge and experience, together with special qualifications for advisory work; and an advisory council of ten members, appointed by the Governor, to include representatives of agencies interested in the fundamental problem of crime prevention. In addition there should be field workers sufficient in number and competency to do the work of the bureau.'

"Concluding his statement on crime prevention the Governor said that, 'The coordination of existing agencies, the planning to meet local needs, and above all, the stimulation, publicity and approval that the bureau can provide are essential to an effective program if we are to stop the flow of juvenile delinquency at its source.'"

Mr. Cass states that "The Prison Association, although heartily in accord with the idea of a Crime Prevention Bureau and its functions as outlined by the Governor, emphasized in its legislative rec-

ommendations that one of the important functions of this bureau should be the development of a plan of crime prevention, setting forth not only the objectives but the technique of operation, to serve as a guide in the various communities. The Association brought out the fact that there is also need for an evaluation of the work that is being done by various crime prevention organizations. This leads to the question as to whether or not there may be too many separate undertakings which well might be combined in the interest of economy and a unified administration.

"Shall we direct our attention for a few moments to the bill that was introduced in the 1936 legislature (Senate Introductory 402), and take a little time to discuss its whys and wherefores. During the early days of the legislative session public hearings were held concerning this bill. It is interesting to note that opposition to its enactment was voiced by various labor organizations and minor political groups especially strong in and about the City of New York. The opposition was to the effect that the bill was an infringement on local rights by the State; and was evidence of the extension of the police authority of the State and the development of a system of spying. One enthusiastic opponent from Kings County made frequent comparison with some of the systems prevailing in the dark days of Russia. The battle of crime must be fought on many fronts under a unified leadership, and an adequate crime prevention program cannot be instituted without the mutual cooperation of State and local governments. The battle of crime can await no man's petty quarrelling and dickering. This bill in question, as well as a companion bill appropriating $60,000 for the anticipated bureau, was in time passed by the Senate, but failed to receive favorable action in the Assembly.

"The bill, introduced by Senator Buckley, is entitled '*An Act* to amend the executive law, in relation to creating a division of crime prevention in the executive department, providing for its organization, and prescribing its powers and duties.' The bill makes provision for a director of the Bureau of Crime Prevention, to be appointed by the Governor and to hold office during his pleasure. A question at this point concerns the advisability of an indefinite term for the director, considering the fact that the term of Governor in this State is but two years. *A long range program of crime prevention requires the services of one who is not dependent upon the political situation of the State.* A possible answer to this is the appointment of a director through the competitive civil service. The bill prescribes an annual salary of $10,000 and expenses incurred in the discharge of his duties. In this regard the State is to be complimented as a good capable director is well worth this expenditure. The bill provides that the director is to appoint his assistants, field workers and other personnel as he may determine to be necessary. Here again the advisability of choosing these employees through civil service arises. Political influence must be kept entirely apart from such an undertaking as this and the proposed plan of personal appointments paves the way for questionable practices. On the other hand it is only fair that the members of

the bureau receive civil service protection, provided, of course, they are chosen as a result of a comprehensive examination. The original personnel of this bureau are in a position to either make or break it in the eyes of the public. There can be no gamble at this point as the bureau must succeed."

After further comment upon the proposed bill Mr. Cass concludes:

"During the coming legislative session this crime-prevention bill will, without a doubt, be again introduced with the sincere hope that it will receive favorable action. At this point I want to go on record as urging this conference, and other related groups interested in this problem of crime prevention, to afford strong personal support in the name of this measure. I emphasize the fact that we in this field of activity need more and better cooperation if progressive legislation is to be steered clear of technical snarls. The personal support at Albany is strongly urged on the part of this organization so that there will not be again a lack of conspicuous forces of the social work group."

Washington Study—Vol. IV, No. 2 of the Research Studies of the State College of Washington was devoted to Carl I. Erickson's statistical study "The Problem of Parole." He concludes after a six year study:

"The seriousness of the problem of parole can be indicated in three significant ways, as revealed by the data from the period of this study: (1) over one-third of those released on parole violate some of the parole regulations within one year of the time of release; (2) over two-fifths of the parole violators are known to violate by commiting a new crime; (3) over one-third of first commitments can be expected to continue in crime after release to the extent of at least one additional offense."

New York Parole Report—The Sixth Annual Report of the Division of Parole, State of New York, was issued in November, 1936. An attractively bound volume of 179 pages, it opens with a discussion of "The Need for Public Understanding of Parole." The following statements are pertinent:

"There can be no denial of certain outstanding conditions surrounding public opinion in relation to parole in this country today. The belief is widespread that all parole systems are corrupt, and that the selection of prisoners to be released on parole is determined by political pressure rather than fitness for parole; that it is unscientific; that political forces throttle it for selfish, financial and other reasons; and that parole is a menace rather than an instrument of economic and social benefit to society. This picture of parole has been so consistently drummed into the mind of the average citizen that he cannot be blamed for accepting it as true.

"But in an ever-increasing number of states this drab picture of parole is neither true nor accurate. The critics of parole overlook the fact that there are more systems of parole in this country than there are states. Few states have one co-ordinated system of parole for the releasing of offenders from reformatories or prisons. In some states may be found as many as ten separate and distinct systems of parole. The theory of parole is

sound. Its administration, however, in certain states may be justifiably criticized. . .

"The Parole Board members are not infallible. Mistakes have been made in selecting prisoners for parole and will continue to be made, for human judgment is never infallible. Particularly is this true in estimating the future human conduct of an individual who already has demonstrated his willingness to transgress the will and the laws laid down for the protection of society. But the best administration, the most honest personnel, the greatest and most sincere devotion to duty cannot function in the face of and under the continued deluge of misinformation which has been loosed in recent months about parole.

"The greatest handicap under which the parole system suffers today is the almost complete absence of any system of education connected with parole. The success or failure of parole depends almost exclusively upon the attitude of the public and the individual toward the operation of the system. If an educational program is not carried on by parole officials, the public and the press, as in the past, will be justified in accepting misinformation as fact. However, if parole and its allied law enforcing agencies are prepared, as they are capable of being prepared, to present irrefutable evidence in support of parole, it would not be long before intelligent public opinion could be so organized that parole would be lifted measurably along the road of expanded usefulness."

Parole Dilemma—The December, 1936, issue of The Osborne Association's "News Bulletin" is largely given over to a thoughtful article by Dr. William T. Root, head of the Department of Psychology, University of Pittsburgh and member of the Prison Board of the Western State Penitentiary. His article is headed "The Dilemma of the Parole." Among other very striking statements he said:

"One of the first criticisms of the public at large is that parole is a device for lessening the severity of punishment. Parole has been vigorously criticised over and over in our newspapers under some sensational titles as, 'Politicians Free Convicts,' 'Notorious Federal Parolee in New Kidnaping Gang,' 'Parolee Shoots Two G-Men,' etc., the implication being that parole is a mollycoddle device for turning loose indiscriminately dangerous criminals upon the public. The true situation is this, unless we decide to incarcerate all men for life or execute them upon their first offense, there is bound to come a time when the man will be released. . . Our present practice is to return the prisoner to society. The practical question, then, about parole is this, is it more advisable for the man to be left in a penal institution up to the last day of his sentence and then turned loose to go where he pleases without any supervision, or is it more desirable to set apart a certain portion of his sentence for release under supervision? It seems to me that there can be only one answer. The more dangerous the man was considered at the time of his sentence and the longer the period of incarceration, the greater becomes the need of parole as a transition period, a period of moral convalescence, so to speak, where the prisoner is returned to society under careful

supervision and with strict rules governing his place of residence, his associations, and his personal habits of behavior. There seems to me no answer to the logic that the longer the incarceration and the more serious the character of the moral reform needed, the greater is the need for parole and also the greater is the need for a relatively longer parole. The only alternative to this is that the man should not be released at all. . . . I would like to see the indeterminate sentence include an indeterminate parole period which could be made indeterminately long as well as indeterminately short under the supervision of a carefully selected, non-political parole board. .. It is frequently thought that the penitentiary itself is an excellent place to study the conduct of men and determine if they are reformed or not, as they are here under daily observation and can be carefully watched in all of their activities in an intimate way. This, however, is not the case and any experienced warden will tell you that among the best prisoners in an institution are those who have the worst type of recidivistic record on the outside. This is true of professionals, habituals, alcoholics, certain psychopathic cases, and the feebleminded. The prison-wise old timer is cooperative, agreeable, and frequently meticulous in his observance of all prison rules. . . The few exceptions who constitute bad disciplinary cases in an institution would, it is true, in many cases be equally bad upon release. It is also true that a few who chafe under administrative discipline and give a great deal of petty trouble inside an institution adjust fairly well on the outside. In short, good institutional behavior constitutes a very poor means of estimating a prisoner's ability to succeed when thrown on his own resources in society."