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Current Notes

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CURRENT NOTES

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Federal Aid Bill—The American Prison Association is again backing the Federal Aid Bill printed below. Mr. Cass, General Secretary, writes:

"You will please recall that last year we attempted to obtain Federal Aid to improve the prison, probation, and parole systems of the various states. The President did not feel that he could go along with us at that time, and we withheld a bill that had been carefully prepared. Except for the amounts in the bill the one now before Congress is identical. This year we ask for less money for prison construction and renovation, but the same amount for probation and parole. Those in our membership who have had the benefit of long experience and wide observation are convinced that many of the states will not be able to improve their prison systems, structurally and administratively, and their probation and parole systems, without federal aid. Therefore, the Association regards this effort as a major undertaking and invites your active participation as a member and follower. . . . It should be kept in mind that this legislation is not an attempt to force the Federal government upon the states, but instead provides a voluntary arrangement whereby the Federal government can give aid to a state if the state desires it and is willing

to comply with certain approved standards of construction and administration."

H. R. 9147

A BILL

To provide for the general welfare by establishing a system of Federal Aid to the States for the purpose of enabling them to provide adequate institutional treatment of prisoners and provide improved methods of supervision and administration of parole, probation, and conditional release of offenders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of assisting the several States and their political subdivisions thereof to provide secure and adequate housing, and constructive educational employment and treatment facilities for those who have been convicted of crime or who are held for trial or as witnesses, there is hereby authorized to be appropriated for the fiscal year beginning July 1, 1938, the sum of \$10,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this Act.

SEC. 2. For the purpose of assisting the several States and their political subdivisions to establish

and maintain, in accordance with adequate and scientific standards, properly safeguarded systems for the supervision of offenders released: (1) by probation, (2) by parole, or (3) by any form of conditional release, there is hereby authorized to be appropriated for the fiscal year beginning July 1, 1938, the sum of \$2,500,000 and for each fiscal year thereafter a sum sufficient to carry out the purposes of this Act.

SEC. 3. The sums made available under this Act shall be allotted to the several States on such terms and conditions as the President may from time to time prescribe. In determining the amounts, terms, and conditions under which the funds herein provided shall be granted, the President shall provide, among other things, for (1) financial participation by the State in any project or program; (2) equitable distribution of the funds on the basis of (a) the prisoner population of the State, (b) special institutional, probation, and parole problems, (c) the financial needs of the respective States; (3) and shall require of the States seeking Federal aid the establishment and maintenance of approved standards under which each State shall control or manage its own probation, penal, and parole systems.

SEC. 4. The President may designate such department or agency of the Government as he deems proper to assist in the administration of this Act and authorize such department or agency to certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to settlement and audit by the General Accounting

Office, make payments of such amounts at the time or times specified by said administrative department or agency. The President may also, in his discretion, establish a board of not to exceed seven qualified persons who shall serve at his pleasure and without compensation to advise him and the said administrative department or agency in the administration of this Act.

SEC. 5. The said administrative department or agency shall also collect and disseminate information to the several States and their political subdivisions concerning crime prevention, release procedure, the treatment of criminals, the instruction of personnel, and to promote cooperation between the Federal Government and the several States in the administration and the conduct of their institutional and extramural handling of offenders against the laws of the United States and the several States.

SEC. 6. The President is hereby authorized to prescribe such rules and regulations as may be necessary for the administration of this Act. As used in this Act, the term "State" means the several States, the District of Columbia, and the Territories of the United States.

Loesch Resigns—At the age of 86, Frank J. Loesch, President of the Chicago Crime Commission for ten years, resigned his office and became President Emeritus. Under the Presidency of Mr. Loesch, the Chicago Crime Commission performed valuable services to the city and remained in active operation in a period when crime commissions in many other cities found it necessary to cease their opera-

tions. During his period of service, Mr. Loesch became a local "institution" and his decision to give up his work was received with regret by the entire community.

The Commission is fortunate in having as the new President Bertram J. Cahn, who has been a member of the Chicago Crime Commission since 1921, Vice-President since 1933, and Chairman of its Committee on Courts and Prosecutions. Mr. Cahn is one of Chicago's most public spirited citizens and has been active in civic organizations for many years. Henry Barrett Chamberlin will continue as operating Director and the other officers of the Commission have been held over for further service. The Journal congratulates the Chicago Crime Commission, the parent organization of its type, for twenty years of meritorious service.

Chicago Crime—In his annual report to the Chicago Crime Commission, Henry Barrett Chamberlin, operating Director stated:

"In the first report of the operating director, nineteen years ago, appeared this paragraph:

"The abuse of special privilege in every department having to do with the administration of criminal law is appalling. There is not a single practice in the routine of procedure against crime that is not either inefficient or worse."

Today in Chicago that statement would be a libel. While crime has increased, generally, through the nation, in Chicago there has been a sharp decrease. During the past five years there has been a steady and consistent lessening of major crimes of violence. Murder and burglary are down about forty-five

per cent and robbery more than sixty per cent. Automobile thefts have dropped from one hundred and fifty a day to an average of eight and the recoveries of stolen vehicles approximate ninety-seven per cent. The economic advantage is reflected in rate reductions by insurance companies as high, in some instances, as sixty per cent."

This table shows the criminal court activity in Cook County and itself eloquently supports Mr. Chamberlin's statement:

	1937
Indictments Returned	2,038
Cases Pending as of Decem-	
ber 31	214
Time Spent on Bench, hrs. . . .	6,800¼
Cases Disposed	2,193
Death Penalty	4
Penal Institutions	910
House of Correction	338
County Jail	99
Probation	297
Verdict Not Guilty	110
Finding Not Guilty	131
Stricken Off With Leave to	
Reinstate	99
Nolle Prose	109
Jury Trials	344
Jury Disagreed	6
Jury Mistrial	29
Habitual Counts Waived . . .	58
Felony Waivers	583
Murder Counts Waived . . .	38
Gun Counts Waived	188
Robbery Counts Waived . . .	65
Burglary Counts Waived . .	164
Larceny Counts Waived . . .	7
Rape Counts Waived	3
Findings Guilty	1,949
Verdicts Guilty	197

Separate Criminal Courts?— "To the Journal of Criminal Law and Criminology:

Recently I had occasion to visit

the Court of Appeals at Albany. While waiting for the case in which I was interested to be reached on the calendar, I listened to four legal arguments before the Court; two concerning the interpretation of New York City's intricate Sales Tax Law, one for a new trial for a man, convicted of first degree murder, on the ground that his act was provoked and not premeditated, and one for an interpretation of the Election Laws. The case in which I was interested dealt with a violation of the Constitution of the State of New York.

It occurred to me while listening to the arguments of these cases that an improvement could be made in our trial and appeal courts.

Without casting the slightest reflection upon the learned judges composing this Court of Appeals, and certainly not intending the slightest contempt, it occurred to my lay mind that one would have to be a proverbial Solomon to decide flawlessly all the intricate questions presented in only these four cases.

I noticed that the two cases where the tax question was involved were argued by a representative of the Corporation Counsel's office; the one dealing with the act of murder was argued by a representative from the District Attorney's office. These are two separate branches of the law—Criminal and Civil. From what I understand from the lawyers of my acquaintance they are just as definitely distinct as the surgeon and the general practitioner are in medicine.

I do not believe that Clarence Darrow and John W. Davis could sit upon that same bench and arrive at the same conclusions upon

these two different questions of the law, one involving criminal and one involving civil violation.

This prompts the suggestion that the Court should be divided into two branches—one branch to consider cases involving criminal acts and the other branch to deal with cases involving breaches of contract between parties.

Criminal acts may arise from motives utterly different from those which provoke civil controversies. Criminal acts may be the results of heredity, social conditions, and circumstances wholly beyond the control of the perpetrator. Statutes dealing with business transactions certainly cannot be put in the same category as acts of a criminal nature. To appraise fairly and determine justly the results of one's acts in the criminal field may require a medically-trained mind equally as much as one legally trained.

Just as we have separated the prosecution of these two branches of the law into separate and distinct departments, we should, for obvious reasons, try criminal and civil cases before separate courts and before justices who are specialists in their particular field of jurisprudence.

Yours very truly,

JOSEPH LEWIS."

45 Gramercy Park,
New York.

Editor's Reply—To the above communication the Editor of this Section replied, in part: "I have considered the matter of specialized criminal courts for a number of years, and there is much to be said in favor of them. Undoubtedly, the criminal law should be admin-

istered by specially prepared judges and prosecutors. A great premium is paid to experience and, as you say, 'crimes' are different from 'contracts.' I too feel that courts should look to heredity, social conditions, and circumstances wholly beyond the control of the accused. This cannot be done if courts handle crimes just like civil controversies.

I want to point out, however, that there are arguments against the suggestion. In some States, notably Oklahoma and Texas, we have separate criminal appeal courts. It is questionable whether they perform as expected. Other States have tried such courts and have abandoned them. Briefly, here is the reason. Judges who sit for months and years on the same bench, dealing with one special field of the law, tend to decide cases upon 'precedent' and they often become more and more narrow in their rulings.

Since the State cannot appeal in criminal cases, these courts build up a 'jurisprudence of reversals,' whereas less 'experienced' judges, coming to the bench fresh and without being steeped in the intricacies of criminal procedure, seem to be more inclined to try criminal cases with the idea of rendering justice instead of merely *preserving forms*.

The more I have studied the matter the less inclined I am to agree that a separate appellate court for criminal cases would be advisable."

Has the reader anything to contribute by way of solution of this interesting problem?

Indiana Research—P r o f e s s o r Sutherland reports that the Indiana University Institute of Crim-

inal Law and Criminology, in addition to its course in police training which has been announced previously, is developing research work on the neighborhood backgrounds of delinquents. Three faculty members in the department of sociology hold weekly conferences with ten members of the classification departments of three of the state correctional institutions, in which plans are made for securing additional information on this topic, and reports are made regarding the new findings. Spot maps of commitments to all of the state correctional institutions for a ten year period are being made for each of the cities and larger towns of the state by cooperation of the departments of sociology in ten colleges. A committee which represents the Law School and three departments holds monthly meetings with representatives of the classification department to discuss the interpretations of selected cases and to formulate research problems and programs regarding these interpretations.

Recommendations for New York—Eighteen specific recommendations to the New York Legislature were made recently by the Prison Association of New York. The annual reports of this organization, while not acted upon *in toto* by the Legislature in any one session, are so important that it is thought advisable to print below those of general interest. As stated by Mr. E. O. Holter, President, and Mr. E. R. Cass, General Secretary, "We repeat recommendations because we feel that they point in the right direction and represent objectives, the fulfillment of which should be continually sought, in order to

make for better administration of criminal justice, a more intelligent treatment of the prisoner, and increased public welfare and protection."

I. CRIME PREVENTION BUREAU

Legislation should be enacted to establish a Bureau of Crime Prevention in the Executive Department, as recommended in Governor Lehman's special message (January, 1936) on the improvement of criminal law enforcement. The old adage, "an ounce of prevention is worth a pound of cure," still holds. The Governor states, "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."

This Association, although heartily in accord with the idea of a Crime Prevention Bureau and its functions as outlined by the Governor, desires to emphasize 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. There is also need for an evaluation of the work that is being done by various crime prevention organizations. While the phrase "crime prevention

among our young people," is popular, it is true that there is a variety of opinion as to the various methods of approach and technique generally, with the result that the different agencies are proceeding without the necessary coordination of effort. In other words, there seem to be too many separate undertakings which well might be combined in the interest of economy and team-work administration. . . .

III. CLASSIFICATION OF PRISONERS

The formulation and statement of a Department of Correction classification program is needed. To tie in with this for practical operation, there should be appointed a director of classification, to coordinate, under the direction and stimulus of the Commissioner of Correction, the functioning of the classification program and personnel. It is true that there are a number of institutions intended to house special types of offenders. Progress has been made in ferreting out the insane and potentially insane, as well as feeble-minded inmates. Yet the greater number of the reformatory and prison population represents within each institution a heterogeneous mass, comprising first, second, third, and fourth offenders, young and old, of varied backgrounds and attitudes. Notation is frequently made by the various psychiatric units in the Department of the psychopathic condition of inmates with recommendations as to their treatment, particularly with respect to housing, but a serious weakness of the procedure is that these units do not function much beyond the point of *diagnosing* and *labeling* prisoners. This must be changed if there is to be an improvement over the

present system of classification and distribution of inmates. Progress in classification and distribution of prisoners is noted in the U. S. Prison System, the State of New Jersey, the English Prison System, and the plan promulgated for the State of Illinois. . . .

VIII. EXTENSION OF AUTHORITY, DIVISION OF PAROLE

That consideration be given to the extension of the authority of the Division of Parole to apply to the reformatory inmates at the Westfield State Farm, the inmates of the State Vocational Institution at Coxsackie, the Albion State Training School, and the institutions at Napanoch and Woodbourne. At the Westfield State Farm it will relieve private agencies of work that is properly a State function, and at all these institutions it will make for a more uniform system of pre-parole procedure, the determining of fitness for parole, and supervision while on parole.

In order to facilitate and preserve sound and intelligent parole administration, it is recommended that serious consideration be given to the advisability of the addition of one parole commissioner, bringing the total to four. With the extension of authority, as mentioned above, this addition appears to be vitally necessary.

In accordance with Section 117 of Chapter 824 of the Laws of 1930, it is recommended that additional parole officers be appointed in order to bring about close adherence with this section, which reads as follows: ". . . a staff of parole officers for investigation for the purpose of selection for release on parole or otherwise and for supervision upon release (be appointed),

sufficient in number so that no such officer shall be required to supervise more than seventy-five persons at one time." The provision for an adequate and qualified personnel is the first step in the establishment of scientific and protective parole procedure. . . .

XVI. STATE SUBSIDY FOR PROBATION

Although probation has been used as a method of dealing with those convicted of a crime in this State for more than thirty years, and regardless of the stimulation given by the State Division of Probation and the State Probation Commission, fourteen counties still have no probation service, and five additional counties have no probation service for adults. With about three possible exceptions no community in the State has an adequate number of properly trained probation officers, and some of the large communities have as many as eight separate probation departments attached to the various courts, which function entirely independent of one another, and with no uniformity as to personnel standards or quality of work. The State Division of Probation does not have the authority to require local communities to establish probation services, to maintain minimum standards, to raise standards of existing departments, or to enforce its recommendations. Its powers are limited to inspection and supervision. The State has assumed full responsibility for the development of two forms of treatment for offenders, institutional care and parole, but has not assumed the same measure of responsibility for the development of probation, even though it is much less expensive and is proving ef-

fective in rehabilitating selected groups of offenders. *Therefore, some additional impetus from the State is needed to further the development of probation throughout the State. This should be in the form of State subsidy to local communities, as follows:*

(a) This subsidy could be based upon the percentage of local expenditure for probation, possibly 25 per cent, provided the local service meets the standards established by the State Division of Probation.

(b) These standards would necessarily be flexible, starting with the minimum agreed upon at the time the subsidy system was established and improving as time went on.

(c) It was estimated in 1934 that the total cost for probation service throughout the State was \$1,272,105. The additional cost of organizing and maintaining probation service in those counties now without probation service would not exceed \$150,000 annually, which sum would have to be provided by the counties. The total annual expenditure for all probation service in the State would then be approximately \$1,500,000.

(d) Since there are many probation services which fall below the minimum standards now recommended by the State Division of Probation, the State would not have to expend 25 per cent of the total probation budgets as soon as legislation establishing the State subsidy was passed. In view of the above, for the first year or two the State subsidy would probably not exceed more than \$200,000.

The reader will find in 28 J. Crim. L. 450 another note concerning the 92d annual report of the

Association, covering the year 1936, which contained a survey of "Crime Legislation in New York State" in which the results of the Governor's Crime Conference were detailed. Our reasons for emphasizing New York progress in the field, possibly at the expense of notes from other states are these: New York had a most interesting State Conference which resulted in much authoritative discussion; New York has as leader, Governor Lehman, who has shown enlightened interest; under the able leadership of Mr. Cass, New York has the most active and influential prison association operating in any State. Penal recommendations from New York are important, and worthy of study in all States.

Interstate Progress—The Interstate Commission on Crime recently printed and circulated its Report of Activities for the Year Ending December 31, 1937. It may be obtained from the Executive Offices of the Commission, Essex County Court House, Newark, N. J. It gives a history of the Commission, the States which have adopted the various uniform reciprocal acts (with tables), along with a detailed account of the Commission's administrative activities. Also included is the personnel of the Commission and the lists of the various committees.

Valuable Index—It was with great pleasure that we received a copy of the Index of Proceedings of the American Prison Association, 1905-1934. Its value and how it came to be published are well stated in a short introduction to the 326 page volume.

"For sixty-six years the American Prison Association has provided a forum for the discussion of topics having to do with the administration and reform of prisons and reformatories. Each year during this period an annual congress has been held, attended not only by practical men and women who are doing the work of managing penal institutions, but also by other persons, including judges, legislators, criminologists, physicians, psychiatrists, newspaper men, and other interested citizens. Through the devotion of the officers of the association and the general secretary, the papers that have been given under various subjects have been preserved together with the more important discussions, and no library which aims to keep up to date in the matter of recent developments in the care of adult offenders is without a full set of these bound copies of the proceedings of the American Prison Association.

Unfortunately, however, since 1905 there has been no index prepared or available for that year and the succeeding volumes. During 1935 the association was fortunate to be able to avail itself of the services of Edna E. Emroch and the financial backing of the Works Progress Administration, and there is, therefore, submitted, an index of the proceedings of the American Prison Association for the years 1905 to 1934, inclusive.

In the belief that the publication and the distribution of such an index would be of distinct value to public officials and students of penology throughout the United States, and in order that the investment already made by the Government in this work should be utilized to the full, the Bureau of Prisons of

the Department of Justice and the International Prison Commission, both represented by the undersigned, have caused this index to be printed.

SANFORD BATES,
JAMES V. BENNETT."

Sex Offenders—The January, 1938, "Mental Hygiene" contains a series of articles on "The Challenge of Sex Offenders." Dr. Edward A. Strecker of the University of Pennsylvania wrote the "Introduction." Austin H. McCormick, Commissioner of Correction of New York City, prepared "New York's Present Problem"; Dr. Karl M. Bowman presented "Psychiatric Aspects of the Problem" (incidentally mentioning a case of an eleven-year-old girl who seduced an old man considerably deteriorated by general paresis, and infected him with gonorrhoea!); and Dr. Winfred Overholser, Superintendent of St. Elizabeth's Hospital, closed. It was agreed that "simply passing more laws or making penalties more severe will not solve the problem."

Dr. Overholser made this interesting observation:

"An example of the neglect of existing laws may be cited. In a nearby state the judge of any court, civil or criminal, may request the department of mental diseases to examine "any person coming before the court," such examination being made without charge. Yet in a recent year, when 173,000 criminal cases were started in the district courts and over 37,000 in the superior courts, only 34 such requests for examination were addressed to the department! It is clear that what is needed here is not more law, but more interest on the part of the judges in employing helpful

procedures that are at present legally permissible."

Forthcoming Statistics—Mr. Ronald H. Beattie, criminal statistician of the Bureau of the Census, reports that the prison schedules of the year 1937 are coming in and are being edited for publication. His work in this field promises to be most valuable to criminologists and the Census Bureau should be encouraged to give generous support to his efforts.

Mr. Beattie reported to the Editor:

"Our prison statistics are much further advanced than our judicial. I am planning to make a much more specific application of our data to specific release procedures in the various States in our 1937 report. For each man paroled, discharged by expiration, pardoned, or discharged by any other method, we have the information in regard to his offense, sentence, and time served. I feel sure that we can offer an analytical summary that will be much more revealing of the practices in releasing prisoners than has been done in past reports. That is one reason why I am spending so much time checking our prison materials as they come in.

Another thing I am planning is a study of all persons discharged from prisons during the 5-year period 1933-1937 who were charged with murder, or were serving life sentences, or were charged with rape or other serious sex offenses. This study will show exactly how long such people were held in the institutions and how they were released. There is so much talk these days about how long life termers serve, or murderers, etc., but no one has as com-

plete facts in this regard as we have in our schedules over a period of years and I think we should put that factual information together and prepare it for publication. Before I am through I will have a fairly complete analysis of all penal provisions in regard to each offense in all States and, I hope, also a summary of the judicial and penal set-up in every State, which will give us a much better working knowledge of a particular jurisdiction when we come to handle the statistics reported from that State."

Calvert Lecture—The annual Calvert lecture, given since 1933 as a memorial to Roy Calvert, Secretary, 1925-1933, of the National Council for the Abolition of the Death Penalty, was presented by Dr. Stanton Coit. The National Council has printed the lecture and it has been distributed widely. Much of value was contained therein. One paragraph was of exceeding interest to the Editor and is set out below partly because of its content and partly because of the manner in which the idea is expressed.

"As I have all along been taking for granted that vindictiveness is not only wrong but is the motive of all retaliative punishments, I realize that I ought perhaps to have cited authorities for this judgment. No anthropologist or historian of law denies that retributive justice, the giving to a man of his due in return for a wrong he has done, springs from vengeance as its motive and is unjust and inexpedient. Here I can refer to one authority only. Professor Jenks in *The Book of English Law* opens his chapter on the General Principles of Criminal Law by saying that men's views as to the object or

justification of punishment are constantly changing, that, originally, it was regarded as a means of averting the wrath of Heaven from a community polluted by the offence, later as a process of gratifying the vengeance of the injured party and his kindred, later still as a sort of satisfaction to the community for the distress and shock caused by the offense. Later still it was regarded as a purely utilitarian means of preventing the repetition of the offence by striking terror into the minds of possible imitators. And last of all as a means of reforming the offender. He then adds that an historical system of law, like the English, bears traces upon it of almost all the stages through which the justification of punishment has passed. You will agree with me that the first three objects—averting the wrath of Heaven, gratifying the vengeance of the injured party and satisfying the community for the shock caused to it by the offense—are revolting in their depravity, and are almost, if not wholly, obsolete. You will also agree that the fourth object, the striking of terror into the minds of possible imitators of crime, is obsolescent. Only the fifth object, the reforming of the offender, is growing in moral favor. The principle inherent in it is eternal and must be applied so long as moral offenses condemned by the State are committed. And the existence of such offenses will not cease until social conditions provocative of crime have been reformed.”

Expert Testimony Act—Dean A. J. Harno, Chairman of the Committee which drafted a Uniform Expert Testimony Act¹ for the National

Conference of Commissioners on Uniform State Laws, caused it to be printed with detailed comments in the February, 1938, Journal of American Judicature Society. He said:

“There can be no doubt of the need for expert testimony. The problem is how to eliminate the evils of *bias* and *partisanship* which shape it. The National Conference of Commissioners on Uniform State Laws has prepared the following act which is aimed to remedy these evils. This act authorizes the court to select and summon expert witnesses; it provides for conferences and joint reports of these witnesses, for their personal examination of the subject matter of the controversy, and for the removal of the objectionable features in the hypothetical question.”

The Act reads:

A Uniform Act Empowering the Court to Appoint Expert Witnesses in Civil and Criminal Proceedings, Providing for Conferences and Joint Reports of Expert Witnesses, and the Compensation of Expert Witnesses.

Section 1. (Court Empowered to Appoint Expert Witnesses.) Whenever, in a civil or criminal proceeding, issues arise upon which the court deems expert evidence is desirable, the court, on its own motion, or on the request of either the state or the defendant in a criminal proceeding, or of any party in a civil proceeding, may ap-

¹ This Act should be compared with the Expert Testimony Statute presented to the American Bar Association in 1934 by the Committee on Medico-Legal Problems of which Dean Harno was chairman. See 25 J. Crim. L. 467.

point one or more experts, not exceeding three on each issue, to testify at the trial.

Section 2. (Notice When Called by Court.) The appointment of expert witnesses by the court shall be made only after reasonable notice to the parties to the proceeding of the names and addresses of the experts proposed for appointment.

Section 3. (Notice When Called by Parties.) Unless otherwise authorized by the court, no party shall call a witness, who has not been appointed by the court, to give expert testimony unless that party has given the court and the adverse party to the proceeding reasonable notice of the name and address of the expert to be called.

Section 4. (Agreement on Expert Witnesses by Parties.) Before appointing expert witnesses, the court may seek to bring the parties to an agreement as to the experts desired, and, if the parties agree, the experts so selected shall be appointed.

Section 5. (Inspection and Examination of Subject Matter by Experts.) Expert witnesses appointed by the court shall, at the request of the court or of any party, make such inspection and examination of the person or subject matter committed to them as they deem necessary for the full understanding thereof and such further reasonable inspection and examination as any party may request. Reasonable notice shall be given to each party of the proposed inspection and examination of persons, things, and places, and each party shall be permitted to be represented at such inspection and examination. Experts called by the court or by the parties in the pro-

ceeding shall be permitted access to the persons, things, or places under investigation for the purpose of inspection and examination.

Section 6. (Report by Experts and Filing Thereof.) The court may require each expert it has appointed to prepare a written report under oath upon the subject he has inspected and examined. This report shall be placed on file with the clerk of the court at such time as may be fixed by the court and be open to inspection by any party. By order of the court, or on the request of any party, the report shall be read, subject to all lawful objections as to the admissibility of the report or any part thereof, by the witness at the trial.

Section 7. (Conference and Joint Report by Expert Witnesses.) The court may permit or require a conference before the trial on the part of some or all of the expert witnesses, whether summoned by the court or the parties or both; and two or more of them may unite in a report which may be introduced at the trial by any party or by order of the court, subject to all lawful objections as to the admissibility of the report or any part thereof.

Section 8. (Expert Witnesses Called to Testify by Court or Parties.) At the trial the court or any party may call any expert witness appointed by the court. The fact that he has been appointed by the court shall be made known to the jury, and he shall be subject to cross-examination by any party on his qualifications and the subject of his testimony. Any party to the proceeding may also call other expert witnesses, subject to the provision of Section 3, but the court may impose reasonable limi-

tations upon the number of witnesses so called.

Section 9. (Examination of Experts.) (1) An expert witness may be asked to state his inferences, whether these inferences are based on the witness' personal observation, or on evidence introduced at the trial and seen or heard by the witness, or on his technical knowledge of the subject, without first specifying hypothetically in the question the data on which these inferences are based.

(2) An expert witness may be required, on direct or cross-examination, to specify the data on which his inferences are based.

Section 10. (Compensation of Expert Witnesses.) The compensation of expert witnesses appointed by the court shall be fixed by the court at a reasonable amount. In criminal proceedings it shall be paid by the (county) under the order of the court, as a part of the costs of the action. In civil proceedings the compensation of experts appointed by the court shall, after it has been fixed by the court, be paid in equal parts by the opposing litigants to the clerk of the court at such time as the court shall prescribe, and thereafter assessed as costs of the suit. The fee of an expert witness called by a party but not appointed by the court shall be paid by the party by whom he was called, and the amount of such fee shall be disclosed if requested upon cross-examination. The receipt by any witness appointed by the court of any compensation other than that

fixed by the court, and the payment of, or the offer or promise by any person to pay such other compensation shall be unlawful.

Stuckert Address—In a recent address over Radio Station WFBR, William L. Stuckert, Chief Probation Officer of the Supreme Bench of Baltimore City, discussed "Prison or Probation—Which?" Two paragraphs were so apt in statement that they are presented below:

"We must look for failures whether we use probation, the prisons, parole or any other method conceived by man in dealing with the criminal portion of our population. It is idle to talk about abolishing any of these methods now employed by the State, simply because of failures. When, in the history of mankind, was the value of any hospital to the community rated by its failures?" . . .

"No advocate of probation contends that probation is the cure-all for delinquency and crime. Crime is deep-rooted. It presents an intricate, complex problem, and requires incessant study. It is also certain that it cannot be ballyhooed out of existence by spectacular publicity which, if instigated or continued on a systematic basis, bids fair to become a 'racket' itself. Neither will machine guns, strong arm or hard boiled methods help society or the far greater number of offenders of the average type, whose names never appear in public print."