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Current Notes

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CURRENT NOTES

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Prison Congress—The Sixty-eighth Congress of the American Prison Association got off to a good start on Oct. 2nd at St. Paul, Minnesota, and ended enthusiastically with a Banquet on Thursday evening, October 6th. While it must be said that the general public is chiefly uninformed, misinformed or disinterested in the subjects under discussion at this Conference, the fact that three-fourths of the States were represented by some 800 delegates and that 1,500 people were at the opening session, would indicate some growing concern.

Problems of crime prevention, prison discipline, classification of offenders, and the rehabilitation of criminals were discussed in general sessions, and the half-dozen section meetings. To one who has followed the trend of these discussions, a marked swing in penal philosophy is noted from considering convicts as merely evil doers on whom society must wreak vengeance, to considering them as human social problems to be solved for the benefit of society. The discussions were based on the belief that rehabilitation, not punishment, is the purpose of imprisonment.

To be sure, there was some survival of the old idea of iron discipline "as the only cure for crime." For example, Warden Roy Best, of Colorado said: "I believe in being tough. If a convict breaks his

word we give him a liberal dose of 'the old grey mare' on that part of his anatomy which is generally considered the tenderest. It is the only thing they are really afraid of." Nevertheless, this same Warden said that one-fourth of his prisoners live on ranches without inclosures or armed guards, which indicates that something besides fear can be a motivating force.

This latter view was taken by Warden E. B. Swope, head of the McNeil's Island Federal Prison. He asserted that punishment, as a general rule, is not necessary to hold most prisoners in line, but measures to avoid trouble are more important. "Intelligent discipline," he said, "must be based upon the future adjustment of the individual rather than disciplinary obedience only. Corporal punishment, in my judgment, cannot bring this about."

The big problem confronting all prison managers at present is that of idleness, as a consequence of prison labor legislation in recent years. Wardens are at their wit's end in the management of their institutions, overcrowded with idle men. One warden said that 1,000 of his 1,700 inmates were entirely idle. A survey revealed that out of 41,000 men in 41 prisons, only 8,000 were at any productive work. An estimate from numerous reports, disclosed at least two out of three of all prisoners in the United

States are under the subversive influence of idleness. Since "The Devil always finds some mischief for the idle hands to do," it should be apparent that Society is sure to reap the whirlwind of future crime.

The principal remedy for this situation, proposed by the speakers at the Conference, was greatly expanded educational programs in correctional institutions. Dr. Charles A. Prosser, Director of Dunwiddy Institute advocated: "Training which will enable the convict to satisfactorily take his place in society when he is released is an essential to any prison rehabilitation program."

The acknowledged difficulty, however, of carrying out intelligent programs of industry and education in penal institutions is politics. To quote an editorial paragraph from the Pioneer Press: "The baleful effects of politics in the administration of prisons, probation and parole were mentioned by Major Rice M. Youell, President of the American Prison Congress, in the convention now in session in St. Paul. He said that it would be better to have no parole or probation at all than to have systems in which political considerations govern."

The major discussions of this Prison Congress, however, did not concern internal prison problems and mass treatment of prisoners as in former years. In addition to the Warden's Association, there have been added various other affiliated Organizations, such as the Probation and Parole Association, the Conference of Juvenile Agencies, the Chaplain's Association, the National Prisoner's Aid Association, and now this year the National Jail Association. All their special problems in dealing with the individual

offender, both in and out of prison, now predominate in the discussions. In other words, these "various tails threaten to wag the dog."

Prevention and classification were the dominant notes. Standardized personnel service in the institutions and intensive personal study of the individual delinquent came into their own. In one luncheon address Governor Benson said: "Broken homes, poor housing conditions, slums and other results of bad economic conditions are the breeding ground for a major part of juvenile delinquency. Government has also the responsibility of concerning itself with the conditions out of which juvenile delinquency grows."

Concerning the persistent misunderstanding by the public and the press as to the function and purpose of parole, the statements of many speakers were neatly summarized by the Pioneer Press in an editorial: "Parole is not leniency or clemency toward prisoners. It is a conditional release under supervision. It is based on the principle that a prisoner kept too long in prison and then turned out with no control or supervision, is more dangerous than one who makes a natural change from prison control to the limited restriction of good parole supervision. The remedy is not to discredit parole as a principle of penology or to abandon it. The remedy is to cultivate a popular understanding of what parole, probation and other advanced ideas in this field mean, and to strive for the introduction of suitable methods and personnel for their proper administration."

What is needed, all agreed, is less expenditure on mass treatment of prisoners and much more for supervision under conditional release

by qualified civil service personnel. "If a crime is a major problem in the United States, then probation and parole service deserves adequate support on the part of the community and those who control the purse strings. It is the best investment we can make."

One speaker traced the increase of the use of probation and parole during the last 30 years, especially in England, Massachusetts and New York, resulting in a steadily decreasing prison population, and with a fraction of the cost of institutional treatment.

In a fervent address to the Congress by Mrs. Maude Ballington Booth, she declared there were three keys to the successful solution of the crime problem. There is first the responsibility of those in charge of prison administration, then the man himself, and finally the public's share of responsibility. In this respect she said: "Society has fallen down on the job of befriending the paroled prisoner, and unless the world cares enough to find out what the parole system really means, and unless Godly men and women rise up to help, the whole purpose of the system is frustrated. We come now to the public itself—the responsibility and duty of those law-abiding citizens who should rise up and give a fair, square chance to the returning prisoner. Thousands of them wash their hands of the whole business and say, 'It isn't our job'; they do, however, say that it is up to the prisoner to come out, to go straight, and to prove himself worthy. But how can he prove himself in a critical unsympathetic world, without a foothold, without a chance?"

Austin H. MacCormick, New York City Commissioner of Correction, was elected President of

the American Prison Association. New York City was chosen for the 1939 Congress and E. R. Cass of New York City was re-elected secretary and George C. Erskine of Cheshire, Conn., treasurer.

F. E. L.

N. Y. Crime Report—The recently formed Crime Commission for New York City, The Citizens Committee on the Control of Crime in New York, Inc., has issued its first report, "Twelve Months of Crime in New York City." The report is an attractive booklet of 38 pages signed by the President, Harry F. Guggenheim, and the Secretary, W. P. Beazell, and was issued from the offices of the Committee at 50 Lafayette Street.

Due to lack of prior authentic figures the report does not contain comparisons to indicate the rise or fall of crime in New York City. Instead the statistics show only the complaints, arrests, bargain pleas, sentences, etc., for the year, July 1, 1937 to June 30, 1938. Future reports will be watched with great interest.

One significant procedure, stressed by the N. Y. Report, was "Bargaining on Guilt," discussed as follows:

"Seventy per cent of the defendants, 5,226 of the 7, 382, were convicted.

"Pleas of guilty were made by 4,445 defendants. Of these only 917 were pleas to the offenses charged in the indictments—3,528 were pleas to lesser offenses, that is, 'bargain pleas.' In the extent to which these have grown is to be found the most significant aspect of the whole procedure of prosecution.

"The plea of guilty dominates the

administration of criminal justice here. In a very real sense it is the criminal himself and not the prosecutor or judge who determines the outcome of the charges against him.

"If pleas of guilty were offered because of a realization that it was not possible for a guilty defendant to combat the case against him the situation would be ideal. But it is only rarely that this is why pleas of guilty are offered—in an overwhelming majority of instances the criminal bargains with the people for the sake of a lesser punishment.

"Of the 5,219 convictions secured during the year in the four counties on charges of felonies (seven defendants were prosecuted in county courts on indictments for misdemeanors) six of every seven came by pleas of guilty. Four of every five of the pleas were to lesser offenses, so that two of every three convictions were the result of bargain pleas.

"The theory of the people's part in bargaining for pleas is that it is better to punish the criminal for some offense than to run the risk of having him escape all punishment; that the expense of a possibly protracted trial will be avoided, and that if pleas of guilty were not accepted, under proper conditions, district attorneys and courts would not be able to bear the load put upon them. One distinguished prosecutor calls bargain pleas 'very practical appraisals of the facts.'

"Many of our best district attorneys and judges believe that frequently, especially in the cases of first offenders, the interests of justice and of society are served best by accepting pleas to lesser offenses and permitting the offender to go his way toward a better life without the lasting mark of the felon

on him. Very often this is true, and no one can find fault with it. Punishment should fit the criminal, not the crime.

"On the worst side of the bargain plea is the fact that at many times and at many places throughout the country it has been, and still is, the commonest form of fulfillment of 'contracts'—agreements entered into outside of court as to what is to happen in court later on when a defendant with 'influence' comes to the bar. When justice cannot be thwarted through the police, the arraigning magistrate or the grand jury, the bargain plea still remains. Often, for the sake of appearances, it is 'contracted' for in preference to any of the other avenues of 'escape.'"

The Report also stated that only 1445 defendants in felony cases—one in every five—came to trial. Of these, 781 were convicted and 664 were acquitted.

Discussing burglary, it was found that 34% of those arrested in New York City were between 16 and 20 years old; while five years ago the average age was 25, now it is 21, 3 months. Barely 8% of those arrested were 40 or over.

Uniform Statistics Act—At the next meeting of the American Bar Association, it will consider the Uniform Criminal Statistics Act, now finally approved by the National Conference of Commissioners on Uniform State Laws and Proceedings. This Act, reprinted below as adopted at the 1937 National Conference, was the product of an official committee consisting of Raymond T. Nagle, Helena, Mont., *Chairman*, John E. Laughlin, Duquesne University Law School, Pittsburgh, Pa., William W.

Moss, Supreme Court, Providence, R. I., William R. Shands, State Capitol Bldg., Richmond, Va., John H. Wigmore, Chicago, Ill., Albert J. Harno, University of Illinois Law School, Urbana, Ill.

"An Act to Provide for the Establishment of a Bureau of Criminal Statistics and for the Collection, Statement, Publication, and Transmission of Information, Including Statistics, Relating to Crimes and Delinquency, Criminal Justice and Offenders; to Make Uniform the Law Relating Thereto, and to Prescribe Penalties.

(Be it enacted, etc.)

Section 1. *Bureau of Criminal Statistics Established.* There is hereby established, in the office of the (Attorney-General) a Bureau of Criminal Statistics, hereinafter called the Bureau.

Section 2. *Director.* The Bureau shall function through a director [who shall be appointed, and may be removed from office, by the (Attorney-General)]. His term of office shall be coincidental with the term of office of the (Attorney-General). He shall have a seal of office in such form as he shall prescribe. His salary shall be (\$) per year, payable in equal monthly installments. He shall have such clerical assistants as he may recommend, to be approved and appointed by the (Attorney-General). The compensation of clerical assistants and all other expenses of the Bureau shall be paid out of the appropriation for his department, when approved by the (Attorney-General)].

Section 3. *Duties and Powers of Director.* The Director shall collect and compile information, statistical and otherwise, which will,

as far as practicable, present an accurate survey of the number and character of crimes committed in the State, the extent and character of delinquency, the operations of the police, prosecuting attorneys, courts and other public agencies of criminal justice, and the operations of penal and reformatory institutions, probation, parole, and other public agencies concerned with the punishment or treatment of criminal offenders. He shall also gather such information concerning particular criminal offenders as in his judgment may be helpful to other public officials or agencies dealing with them. He shall include such information as may be useful in the study of crime and delinquency and the causes thereof, for the administration of criminal justice, and for the apprehension, punishment and treatment of criminal offenders.

Section 4. *Classification of Crimes and Offenders.* The Director shall promulgate classifications and shall prepare forms for the statistical classification of crimes, of offenders, of their punishment and treatment and of all other pertinent information, to conform, as far as practicable, with those promulgated by the Federal Bureau of Investigation of the United States Department of Justice, and by the Federal Bureau of the Census.

Section 5. *Duties of Clerks of Court, Police and other Officers.* It shall be the duty of the clerk of every court, of the chief or head of every police department, or other police agency, of every sheriff and constable, of every prosecuting attorney of every probation or parole officer, and of the head of every department or institution,

state, county or local, which deals with criminals, or persons charged with crime, and it shall be the duty of every other official who, by reason of his office, is qualified to furnish information and reports, to prepare and send in writing to the Director quarterly, semi-annually or annually, as the Director may designate, all reports and information requested by the Director, to enable him to perform the duties provided in this act; but nothing herein shall preclude the gathering, by any public official, of information in addition to that required by the Director.

Section 6. *Duties of (Coroners).* It shall be the duty of all (Coroners) to transmit promptly to the Director reports and information, as required by the Director, regarding autopsies performed and inquests conducted, together with the verdict of the (coroner's) jury.

Section 7. *Access to Public Records.* Every person having custody or charge of public or official records or documents, from which information is sought for the purposes of this act, shall grant to the Director, or to any person deputized by him, access thereto, for the purpose of obtaining such information.

Section 8. *Access to Prisons and Penal Institutions.* The Director, or any person deputized by the Director, upon exhibiting specific written authorization by the Director, is authorized to enter any prison, jail, penal or reformatory institution in this State, or in any political subdivision thereof, and to take or cause to be taken fingerprints or photographs, or both, and to make investigation relative to any person, confined therein, who

has been (accused or)* convicted of a crime, for the purpose of obtaining information which may lead to the identification of criminals. The officials in charge of all such institutions are hereby required to render the Director, and all persons so deputized by him, the needed assistance to that end.

Section 9. *Filing Information.* The Director shall file, or cause to be filed, all information received by the Bureau and shall make, or cause to be made, a complete and systematic record and index thereof, to provide a convenient method of reference and consultation. As far as practicable all such records shall coincide in form and classification with those of the Federal Bureau of Investigation of the United States Department of Justice, and with those of similar Bureaus in other States, in order to permit easy interchange of information and records. Information and records received by the Bureau may not be destroyed.

Section 10. *Furnishing Information.* Upon request therefor (and payment of the reasonable cost), the Director shall furnish a copy of all available information and of records pertaining to the identification and history of any person or persons of whom the Bureau has a record, to any similar governmental Bureau, sheriff, chief of police, prosecuting attorney, attorney-general, or any officer of similar rank and description of the Federal Government, or of any State or territory of the United States, or of the District of Columbia, or of any insular possession thereof, or of

* Some courts hold it unlawful to fingerprint before conviction; but policy requires it, and a legislative act would presumably be valid.

any foreign country, or to the judge of any court, before whom such person is being prosecuted, or has been tried and convicted, or by whom such person may have been paroled.

Section 11. *Cooperation.* The Bureau shall cooperate with the Federal Government (Bureau of Investigation of the United States Department of Justice) and with similar Bureaus in other States, territories and countries, toward the end of developing and carrying on a complete and uniform interstate, national, and international system of criminal identification.

Section 12. *Director Shall Prepare and Publish Reports.* Annually, and at such other times as he may determine, the Director shall prepare and publish reports reflecting the crime situation in this State, the operation of public agencies engaged in the administration of criminal justice and in the conduct of the punishment or treatment of criminals. The Director shall point out what he considers to be the significant features regarding crime, the administration of criminal justice and the punishment or treatment of criminals, and may recommend such measures as he may consider desirable or constructive with reference thereto. Upon request therefor (and payment of the reasonable cost), the Director shall furnish copies of such reports to officers of the United States, and to any public police, prosecution, judicial, punishment or treatment official or agency of this or any other State, or territory, or country.

Section 13. *Certified Copies.* Whenever any record, photograph, picture, fingerprint, or other document or paper, in the files of the Bureau of this State, or in the files of a similar Bureau in any other

State, territory or country, or of the United States, may be admissible in evidence, a copy thereof, duly certified by the Director of any such Bureau, under seal of his office, or with the appropriate seal of state, shall be admissible in evidence with the same effect as the original.

Section 14. *Access to Files.* The Governor, the Attorney-General, and person specifically authorized by the Director, shall have access to the files and records of the Bureau. No such file or record of information shall be given out or made public except as provided in this Act, or except by order of Court in a trial, or except as may be necessary in connection with any criminal investigation, in the judgment of the Governor or the Attorney-General, or the Director, for the apprehension, identification or trial of a person, or persons, accused of crime, or for the identification of deceased persons, or for the identification of property.

Section 15. *Penalties.* Any official or employee of this State, or of any political subdivision thereof, who wilfully refuses or who neglects to comply with or who wilfully violates any of the provisions of this act, or who intentionally makes a false statement in any report required by this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than (\$) nor more than (\$) for each offense (and shall be subject to removal from office as provided by law).

Section 16. *Rewards.* No rewards (offered) for the apprehension or conviction of any person or for the recovery of any property may be accepted by the Director, or by any employee of the Bureau, but any such reward, if

earned, shall be received by the Bureau and paid into the State Treasury and credited to the (general) fund of the State.

Section 17. *Uniformity of Interpretation.* This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 18. *Severability.* If any provision of this act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not effect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 19. *Short Title.* This act may be cited as the Uniform Criminal Statistics Act.

Section 20. *Repeal.* (All acts and parts of acts inconsistent with this act are hereby repealed.)

Section 21. *Time of Taking Effect.* This act shall take effect

Books in Prison—Mr. Lee Williams, Supervising Librarian of the Bureau of Prisons, U. S. Dept. of Justice, stated in an address to the American Library Association, that "The total book collection for the entire Federal Prison System is almost 130,000 volumes—a collection comparing favorably in number of volumes with the Public Library of Dallas, Texas; Richmond, Virginia, and Wichita, Kansas. Another way of putting it is this: There are approximately eight books for each of the more than 16,000 inmates in the Federal prisons." He continued: "The tremendous circulation figures of 815,396 for the fiscal

year of 1937 in the Federal prison libraries indicate the large use made of the libraries by the inmates, an average per reader circulation of approximately 50 books and magazines during the year. This is about five times as much reading as is done by the average individual outside of prison. As may be expected, the greater portion of this reading is recreational, yet nearly one-third of the books circulated are in the non-fiction classifications and the percentage of non-fiction in some of the institutions with trained librarians is better than 40%." His conclusion was: "Probably no single factor in the life of an incarcerated man can be looked back on with more pride and satisfaction than the constructive reading he does while in prison. It is our duty to encourage this self-directed and self-sustained study and reading."

Ploscowe Appointment—Criminologists, who have studied the works of Mr. Morris Ploscowe, a research criminologist for various governmental agencies during the past few years, will be interested in his recent appointment as deputy commissioner of the New York City Department of Investigation, serving under William B. Herlands. Under the new charter this Department carries on investigations into every branch of the city administration and recently conducted the inquiry into the affairs of the prosecutor of Kings County, F. X. Geoghan. Mr. Ploscowe brings a wealth of academic training into this very important, practical work.

Pennsylvania Report—A report concerning the administration of

criminal law in Pennsylvania was published in July, 1938. It represents the very considerable studies made in the course of a year by a joint legislative commission, and extends from prevention to penal institutions. One hundred and twelve pages are allotted to findings and recommendations under eleven chapter headings; twenty-four pages of appendix contain draft acts; the table of contents affords quick reference to all topics, and there is a complete index.

In this relatively short space are compressed findings derived from 135 hearings and 13,000 pages of testimony from a total of 1152 witnesses. The material gathered by the commission should enable the Pennsylvania legislature to effect many reforms in its Criminal Law.

Rural Crime—Recently Governor Henry Horner of Illinois has organized a Rural Crime Prevention Program in recognition of a need for the State to assist local law enforcing officers in the problem of protecting the farmers against criminals. Uniting in support of the Governor's Program, T. P. Sullivan, Superintendent of the Bureau of Criminal Identification and Investigation, estimated rural property losses from crime to be more than \$1,000,000 annually. He said: "It will be the policy of the State Bureau to aid the local law enforcing officers in the solution and prosecution of crimes committed in the various counties of the state and to assist them in organizing the farmers to the end that the citizen living in the rural sections will protect his property and, above all, to educate the farmer to report his losses immediately to the Sheriff of the county who will, in turn,

report the matter to the State Bureau and to the State Highway Police.

"The State Highway Police will have an important part in this program, in that all of the more important losses will be broadcast over the State Police radio stations.

"The Director of the State Department of Agriculture has also pledged his support to this program. The many farm organizations of the state have also volunteered their cooperation. This will have a far reaching effect and aid materially to the success of the program."

Ohio Statistics—Ronald H. Beattie, Research Statistician of the Bureau of the Census, recently prepared the 1937 "Judicial Criminal Statistics" for 43 Ohio Counties. It appears in attractive booklet form and covers 41 pages of tables and interpretation. In the opinion of the Editor the Ohio study is the most valuable state report yet to appear from the Census Bureau and represents both detailed work in gathering materials and intelligence in their evaluation.

The Bureau, in cooperation with the Ohio Secretary of State and the Ohio Judicial Council, used the individual case reporting method for criminal statistics, superseding the two separate sets of tally sheets which the clerks had been filling out each year, one for the Census Bureau and one for the Ohio Secretary of State. The disadvantage of the tally sheet method was that the only information available was a comparison of disposition by offense and sentence by offense. The individual case method, as reflected in the instant Ohio study gives a much broader range of comparison.

Mr. Beattie concludes:

"Although the Bureau of the Census has been greatly interested in making available to Ohio more complete and accurate information on the functioning of its State criminal courts, it has had a still wider interest in the preparation of the present report. While the analysis of the data has been necessarily incomplete, it is hoped that it has demonstrated the obvious advantages of the individual case method, such as increased accuracy of reporting, more detailed information, and the greater possibility of analysis, and that as a result of this experiment, this type of reporting will be adopted not only in the other Ohio counties but in other States as well. It is also hoped that the values of judicial criminal statistics are sufficiently apparent to induce States to set up their own central collecting agencies, to make more detailed analysis, and to work for the improvement of judicial practices.

"Statistics, it should be remembered, do not explain conditions or solve problems. They simply make apparent the otherwise unknown relationships which exist. If one county has twice the proportion of convictions that another county has, or takes twice the time to dispose

of criminal cases, there is at once presented a relationship that needs further intensive research to find out why, and to ascertain whether such differences are due to administrative practices or to conditions inherently different between the two counties. Yet, without the actual compilation of statistical data through some reporting scheme, no one will be aware that there are differences, and that one or the other, or both, of the two counties might improve its efficiency or methods of administration. When the time comes that court records contain, in addition to procedural information, some data on the defendant, such as sex, race, and age, analyses of the individual case reports will furnish even more interesting and conclusive information."

The American Orthopsychiatric Association—The Sixteenth Annual Meeting of *The American Orthopsychiatric Association*, an organization for the study and treatment of behavior and its disorders, will be held at the Commodore Hotel, Lexington Avenue and 42nd Street, New York, N. Y., on February 23, 24 and 25, 1939, Dr. Norville C. LaMar, Secretary, 149 East 73rd Street, New York, N. Y.