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THE EFFECT OF THE DEPRESSION ON PRISON COMMITMENTS AND SENTENCES¹

Leon Thomas Stern²

I

The theory that severity of sentence increases during an economic crisis and that judges and correctional authorities are responsible therefor on the ground that severity will serve as a deterrent and a warning to those who may be tempted to engage in wrongdoing in order to obtain income or means of subsistence, has not been tested to any extent by studies and researches. However, two writers, one speaking from the German point of view and the other from studies in Poland, put the case rather strongly.

Georg Rusche writing in 1933 claims "that relationship exists between penal treatment and the character of the labor market. When the labor supply is scarce and labor therefore is at a premium, penal treatment tends to be humane, but when the labor market is glutted and chronic unemployment develops, penal treatment becomes brutal. Rusche assumes that crime is a class phenomenon and that the upper classes, who have the political power, utilize the law as a means of repressing the criminality of the worker.

When times are good and the temptation to crime is light, there is less need for force; but when the unemployed are tempted to exchange freedom for good humane treatment in penal and correctional institutions, these institutions must be made forbidding and penalties in general more severe in order to counterbalance the temptations to crime on the part of the underprivileged masses."³ The characteristics of the depression in the United States are "enormous increase in crime, great brutality in its repression . . . overcrowding in prisons . . . idleness, hopelessness and despair."⁴

Gregor Wirschubski, authority on Polish criminal statistics writing in 1934 draws as black a picture for Poland. First he cites a "regression in death sentences and their execution corresponding to the economic improvement of the years 1926-1928. This regression extends beyond the years of prosperity. In 1930 the trial courts took a rest although the unemployed increased enormously. But the year after, the economic crisis made the state engage in firmer repression and

¹ This paper was developed in a seminar in Criminology conducted by Professor Thorsten Sellin at the University of Pennsylvania Graduate School. Basic data are in part from information gathered from studies of commitments to the Eastern State Penitentiary and the Philadelphia County Prison, made for the purpose of analyzing recidivism and admission and release procedures in cases of commitments for serious crimes.

Statistical Tables have been omitted in order to conserve space.

² Secretary and Director of Research, Pennsylvania Committee on Penal Affairs of the Public Charities Association.

³ Quoted from Sellin, Thorsten, "Research Memorandum on Crime in the Depression," p. 8-9.

⁴ Ibid. p. 9.

the tendency to severity continued in 1932. The economic crisis is at a measurable distance followed by the executioner."⁵

In America, there is a milder presentation of the case. From a statement in 1937 in: "Middletown in Transition" by Robert S. and Helen M. Lynd, we learn that "under fear of crime wave and the realization of greater economic pressure on the unemployed in the depression, the courts of Muncie, Indiana, have tended to waver in their sentences. 'Sentences have tended to be heavy . . . but this tendency . . . has been offset occasionally by judicial waverings in the other direction.'⁶ Reference also is made to Edith Abbott's quotation from a report of the Eastern State Penitentiary of Pennsylvania which calls attention to a rise in criminality after the Civil War and states that "to punish the guilty and deter others, the courts have resorted to long terms of imprisonment as a terror and a penalty."⁷

This paper represents an attempt to test the validity of the hypothesis that severity of punishment increases during a depression period. For its purpose analysis has been made covering a ten year period of prison sentences of convicts committed to state prison for serious offenses.

The data presented deal with dispositions for serious offenses before and during the depression. Prison commitments and sentences were studied according to type of prison care imposed and length of sentence. Rates of com-

mitment before and during the depression were analyzed. Practices during the depression were compared with those prior to the depression. In this way the relationships between sentencing policies as reflected in prison commitments and economic change were studied.

II

In this survey we include all commitments of convicts charged with serious crimes and sentenced by courts of record either to the Eastern State Penitentiary or to the Philadelphia County Prison to serve sentences of two years or more for "penitentiary offenses" in the period from 1924 to 1933. Both the state penitentiary and the county prison were strong prisons of the maximum security type. Both had employment for inmates to some extent. Both had educational programs with a much more extensive development at the penitentiary. Up to the time of the study, the county prison had very little in the way of individualized treatment; the penitentiary had begun its development. As to severity of discipline for inmates both institutions had reputations for being "tough" and at times much more than rigorous or even harsh in their policies.

Of the two institutions, the Eastern State Penitentiary is the state prison for the eastern half of Pennsylvania receiving all long term offenders with the exception of those sent to one of the county prisons authorized to receive such offenders. By special legis-

⁵ Ibid. p. 104 note.

⁶ Ibid. p. 104 note.

⁷ Ibid. p. 104 note.

lation nine of the sixty-seven counties in Pennsylvania may retain serious offenders in their local county jails or prisons;⁵ the judge is given discretion to make such disposition when in his opinion the local institution has facilities for imprisonment in solitary confinement at hard labor. However, except in the case of Philadelphia County, the judges usually commit long term offenders to the state penitentiary.

The commitments studied, therefore, included the bulk of those made during the ten year period by the courts of eastern Pennsylvania of men guilty of serious crimes, and an examination of them has provided the basis for an adequate investigation of sentencing practices in reference to a very large group of serious offenders from representative areas of the state including metropolitan, city, town, rural and industrial populations.

The data used were obtained from a comprehensive survey made by the author of all convicts sentenced and committed to the two institutions during the ten year period. They concerned the character of the offenses, terms of sentence, time of release on parole and previous records and criminal careers of the convicted men. The investigation was official in its sponsorship and was channelled through the State Department of Welfare and the Committee on Rehabilitation and Parole of the Board of Trustees of the Eastern State Penitentiary. Therefore, it was possible to use Federal funds for staff recruitment. In 1933, the in-

quiry was begun with a corps of Civil Works Administration clerks; in 1934 and 1935 it was continued and finished with the assistance of workers supplied by the Local Works Department of the Federal Emergency Relief Administration. It was possible to study in detail all essential records due to the cooperation of the institutions and the State administration which sponsored the survey, with the approval of the Federal work-relief agencies through which the clerical personnel for the research was supplied.

The information was taken from the dockets and files of the institutions and courts by the workers assigned. The records examined were those of the penitentiary, the county prison, the Quarter Sessions, Oyer and Terminer, and Municipal Courts, those of the probation offices of the Municipal and Quarter Sessions Courts, the State Parole Office, and the files of the Police Bureau of Identification in Philadelphia.

We found it possible to study cases in chronological order from the dockets of the penitentiary. However, due to the vast number of short term commitments by the magistrates or minor judiciary of the county to the Philadelphia County Prison, the notations on individuals sentenced to this institution had to be taken from the dockets of the District Attorney and the Clerk of Quarter Sessions Court where cases of men sentenced to the county prison for terms of two years or more could be

⁵ County prisons of eight counties in eastern Pennsylvania: Philadelphia. Lancaster. Chester, Delaware. Schuylkill, Montgomery. Berks.

Dauphin; in western Pennsylvania. Allegheny County Workhouse.

located more readily and segregated for analysis.⁹

The material of the original survey was reorganized and collated in recent months for the purpose of this presentation in order to bring into focus the data necessary for analysis of sentencing practices. Other factual material useful for the purpose of interpretation has also been added.

III

In order to analyze commitment and sentencing policies which were general throughout the entire period, an examination was first made of all data for the ten years as a whole without grouping depression and predepression years separately.

From January 1924 to December 1933, commitments to the number of 13,899 were made to the Eastern State Penitentiary and the Philadelphia County Prison; 7,140 commitments, or 51.4 per cent, were to the penitentiary, and 6,759 commitments, or 48.6 per cent, to the county prison. Of the 13,899 commitments originally made to

both institutions, 9,457, or more than two-thirds (68.0 per cent), were made by the Philadelphia courts. The other courts made from less than one per cent to three per cent each of the total number of them.

The commitments were reviewed also in terms of the recidivism or previous criminal records of individuals.¹⁰ For this purpose, 13,793 commitments, representing 12,370 persons were taken. Of the original 13,899 commitments, 106 were eliminated because sentence was modified or clemency granted, or other action was taken, so that release was accomplished otherwise than through the process of parole or discharge at end of sentence.

Of the 12,370 individuals, it was found that 6,345 or 51.2 per cent, had served terms in the Eastern State Penitentiary alone; 5,683, or 46.9 per cent, had served terms in the Philadelphia County Prison alone; and 342, or 2.7 per cent, had commitments to both institutions. Of the total offenders committed, 11,135 had served one term in one of these institutions; 1,235 had

⁹ The writer wishes to express his thanks to those who made possible the gathering of this material: Dr. Louis N. Robinson, Chairman of the Committee on Welfare, Parole and Pardon of the Eastern State Penitentiary; Mrs. Alice F. Liveright, Secretary of Welfare of Pennsylvania; Charles F. Kelley, District Attorney; Warden Herbert Smith of the Eastern State Penitentiary; Superintendent William B. Mills of the Philadelphia County Prison; and Miss Ada L. Barnhurst of the staff of the Pennsylvania Committee on Penal Affairs for supervision of clerical field workers and for preparation of tabular material used in the statistics and charts.

¹⁰ A recidivist for the purpose of this study was a prisoner who had a previous conviction in any criminal court of record, and who consequently had sentence suspended, or had been placed on probation, or had a fine imposed, or had a prior commitment to a correctional institution or prison in Pennsylvania or elsewhere at the conclusion of our original study. A prisoner

having more than one criminal court conviction prior to January 1, 1934, was therefore considered to be a recidivist. A juvenile probation record or a commitment to a juvenile institution was not considered an evidence of recidivism. Arrests for which no criminal convictions were recorded were not used. Records of convictions obtained included records of prior convictions in Pennsylvania and elsewhere.

A first offender was a prisoner who had no other conviction in a criminal court of record in Pennsylvania or elsewhere; and therefore had not previously had a fine imposed, a sentence suspended, a placement on probation, or a commitment to a penal or correctional institution by a criminal court of record.

The determining factor as to what constituted the difference between a first offender and a recidivist was thus whether the prisoners had more than one criminal conviction on record when our staff finished their work.

served from two to five terms each in one or both institutions. Of the 12,370, 6,255, or 50.5 per cent, were recidivists, and 6,115, or 49.4 per cent, were first offenders. The sentenced individuals were thus fairly evenly divided between the two prisons and equally proportioned as a whole between repeaters in crime and novices.

However, a checking of the figures reveals that there was a greater tendency to send recidivists to the Eastern Penitentiary. Of the 6,115 first offenders, 3,112, or 50.9 per cent, served terms in the Eastern Penitentiary, and 3,003 or 49.1 per cent, served terms in the Philadelphia County Prison. Of the 6,255 recidivists, 3,233 or 51.7 per cent, had commitments to the Eastern Penitentiary alone; 2,680, or 42.8 per cent, had commitments to Philadelphia County Prison alone; and 342, or 5.5 per cent, had commitments to both institutions.

In order to analyze the crimes for which the 13,899 original commitments were made, their total number was divided into fifteen groups according to the standard classification adopted by the Federal Bureau of Investigation for use in compilation of police statistics and by the U. S. Bureau of the Census in the compilation of judicial and penal statistics.

The group larceny-theft (including larceny of auto) was found to be at the top of the list with 3,868 commitments, or 27.9 per cent, of the total committed during the ten year period under study. burglary ranked second with 3,249 commitments, or 23.4 per cent; robbery, third with 2,296 com-

mitments, or 16.5 per cent. Thus 67.8 per cent, or more than two-thirds of all commitments, were made for the three crimes of larceny, robbery and burglary.

For this group of 9,413 serious property crimes, 4,713 commitments were made to the penitentiary and 4,700 to the county prison. However, when we considered the offenses separately, we found that while approximately 70 per cent more commitments were made to the county prison for larceny than to the penitentiary, we also found that for robbery and burglary more commitments were made to the penitentiary than to the local prison. The Eastern Penitentiary had approximately 60 per cent more robbery commitments and approximately 35 per cent more burglary commitments.

Taking all commitments during the ten year period and analyzing the maximum sentences imposed in each disposition, we found that of the 13,899 sentences originally imposed, 6,809, or 48.9 per cent, were for maximum sentences of less than five years; 3,386, or 24.3 per cent, were for sentences of 5 to 9 years; 1,982, or 14.2 per cent, were for sentences of 10 to 14 years; 386, or 2.8 per cent, were for sentences of 15 to 19 years; 779, or 5.6 per cent, were for 20 years; 315, or 2.3 per cent, were for sentences of over 20 years; 235, or 1.8 per cent, were sentences of life imprisonment; and 7 were sentences to death. One-half represented maximum sentences of less than 5 years and another half the more severe sentences with maximum terms of 5 years and over.

When we compared the maximum sentences of those committed to the county prison with those committed to the state prison, we obtained another picture. A tabulation of maximum sentences to each institution showed that the great majority of the maximum sentences to the county prison, 4,336, or 64.3 per cent, were for less than five years; 1,541 of them, or 23.0 per cent, were for five to nine years, and the remainder, 882, or 12.7 per cent, were maximum sentences of ten years or more. Comparing these figures with those for Eastern Penitentiary sentences, we discovered 2,473 maximum sentences, or 34.6 per cent, were for less than 5 years, and 1,845, or 25.9 per cent, were those of 5 to 9 years. The 4,318 sentences of less than ten years, comprising the two lower maximum sentence groups, represented 60.5 per cent of all commitments. The remaining 2,822 commitments to the penitentiary were for maximum sentences of ten years or more.

The ratio for sentences of less than five years was approximately two to one in favor of the county prison. For the 5 to 9 year sentence group, the ratio between county and state prison was almost an even one; in the higher sentence group, ten years and over, the ratio was 3 to 1 in favor of the penitentiary. Therefore, if a man received a short sentence he was more likely to go to the county prison; if he received a long sentence he was likely to go to the penitentiary and if he received a moderate sentence he had an even chance of going to the county prison or the penitentiary.

The length of the sentence finally served by prisoners committed to each of these prisons was also affected by the parole policies of the institutions. The two prisons differed fundamentally in this respect. Parole was more difficult to obtain at the State Penitentiary; paroling was in the hands of the trustees and the State Pardon Board. The Penitentiary and the Pardon Board had strict requirements as to parole. Indeed, during the depression period, in addition to the usual requirement of a sponsor and a job, hard to get during this time, the Pardon Board required that applicants for parole must have a sum of money if they had no jobs to go to, if they were to obtain parole; otherwise they had to serve their paroles in prison.

Under the law paroles may not be granted to inmates of the State prison before their minimum sentences have expired. Such minimum is set by the judge at sentence and is sometimes commuted or reduced by a complicated process of appeal to the Pardon Board. The minimum, which the judge must set at the time of sentence, may be fifty per cent of the maximum sentence or less. It may not be more. The usual minimum term is one-half the maximum.

Inmates of the county prison, including those serving penitentiary sentences there, were parolable by the judges who committed them. The judges had no uniform standards or requirements as to parole from the county prison. Provisions in the Pennsylvania parole law work to the advantage of convicts sent to local institutions. They allow for

readier parole because the court may release on parole without reference to the Pardon Board. Parole at an early date is also possible if the judge is favorably inclined. According to a decision of the Appellate Court¹¹ an offender sentenced to the county prison may be paroled by the sentencing judge at any time after commitment is made. This may be done without regard to the minimum sentence set by the judge as required by legislation, providing for minimum sentences to county prisons and is similar to the legislation for minimum sentences to the penitentiary. The higher court also held that their decision applied to all county prison inmates regardless of the nature or seriousness of the offense; in the court's view the legislature had intended to set up two separate systems of parole, one for state prisons and another for county prisons.

Although judges in making commitment to the county prison at times had stated that they were doing so in order to make sure that the offender might not be freed too early, a sentence to the county prison of an offender who might have been committed to the penitentiary was usually considered to be one of less severity or greater leniency. This was strikingly evidenced in our examination of Paroles granted during the period under study as is indicated by the following statistical summary. Of the 3,240 committed from the eastern counties of Pennsylvania to the Eastern State Penitentiary and paroled therefrom during the ten years

from 1924 to 1933, 2,692, or 83.29 per cent, served their minimum terms of sentence, or more; of these, 2,279, or 70.34 per cent, were incarcerated for the minimum terms before parole, and 413, or 12.75 per cent, served longer than the minimum. Only 548, or 16.71 per cent, obtained release before the minimum was served through some form of clemency, pardon or commutation by the State.

Of 1,289 men sentenced from Philadelphia County to the county prison, and paroled therefrom during this period, 981, or 76.11 per cent, served less than the minimum term of sentence, and only 308, or 23.89 per cent, stayed in prison until the minimum was served. In the case of 789 men committed to the local prison for minimum sentences of 2,141 years, only 858 years, or 40 per cent of the total years imposed by the courts as *minimum sentences*, were actually served.

Summarizing the data for the entire ten year period, we found that the total commitments were fairly equally divided between the two institutions and between recidivists and first offenders. While both institutions were equally rigorous in discipline, there was some tendency to send recidivists to the penitentiary. One-half of the total commitments were for maximum sentences of less than five years and one-half for maximum sentences of more than five years. The figures also indicated that offenders sentenced for less than five years were more likely to be sent to the county prison, and offenders sentenced for more than ten

¹¹ Commonwealth vs. Renya. 124 Superior Court, 1927.

years were more likely to be sent to the penitentiary, while those committed for five to nine years might have gone to either institution. Of the serious property crimes, more larceny commitments were made to the county prison and more robbery and burglary commitments to the penitentiary. Sentences to the county prison were much

more likely to be reduced by parole than sentences to the state prison. The fact that parole from the county prison was "easier" and not so systematic as parole from the state prison made a sentence to the local institution less severe on the whole because of the greater probability that the time actually served would be shortened.

CHART A
Total Commitments for Two Years and Over



IV

In order to discover whether the depression affected commitment policies and sentencing practices, a number of comparative studies were made. They included year by year analyses of commitments and sentences in the 10 years under study and comparisons of two equal periods before and during the depression: four years of the depression beginning with January 1, 1930 and covering the years 1930, 1931, 1932 and 1933, and four years prior to the depression, beginning with January 1, 1926 and covering the years 1926, 1927, 1928 and 1929.

A. Commitments before and during depression compared.

Total commitments for each of the

ten years fluctuated between 893 in 1925 and 1,749 in 1931.

In 1924 and 1925, commitments were approximately on the same level; they then rose steadily until 1929 in which year there was a sharp decline. In 1930 they reached the same level at which they were in 1928 before the decline. In 1931 they reached the highest level of the 10 year period. (See Chart A)

We then analyzed all commitments for ten years for the most serious property crimes, taking robbery, larceny and burglary, which together constituted 67.7 per cent of all commitments under study. We selected these particular property crimes as most representative for two reasons: property crimes are considered by students of

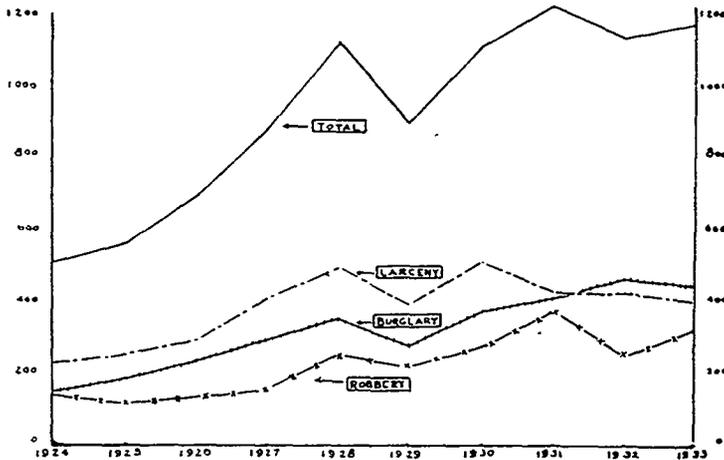
crime and economic change to be most likely to increase during depressions, and in general the public is more likely to demand discovery by the police and punishment by the courts of offenders who commit serious offenses of this nature.

We found that commitments for larceny, burglary and robbery rose sharply until 1928. In 1929 there was a steep decline. In 1930 they rose again to the 1928 level with the highest peak in 1931 and a drop in 1932 and 1933. When these crimes were taken separately, our findings were as follows: burglary commitments rose in 1928, with a drop in 1929 and a steady rise

thereafter; larceny commitments reached their peak in 1928, with a decline in 1929, a rise in 1930 and a flattening out thereafter; robbery commitments mounted until 1928, with a drop in 1929, a rise and peak in 1931, a fall again in 1932, and another rise as the 1933 year ended.

These three groups taken as a whole or separately were thus characterized by a drop in 1929. There were parallel rises in 1930 for all three offenses, with the peak for larceny first in 1930, the peak for burglary next in 1932, and the highest point for robbery in 1931. (See Chart B).

CHART B
Larceny, Burglary and Robbery Commitments



The curves of commitments for property crimes seem to have some relationship to the economic curve. In 1928, these offenses increased when there was a drop in employment and payrolls, and appeared to decrease as payrolls, employment and living costs rose, and to increase again as they dropped.

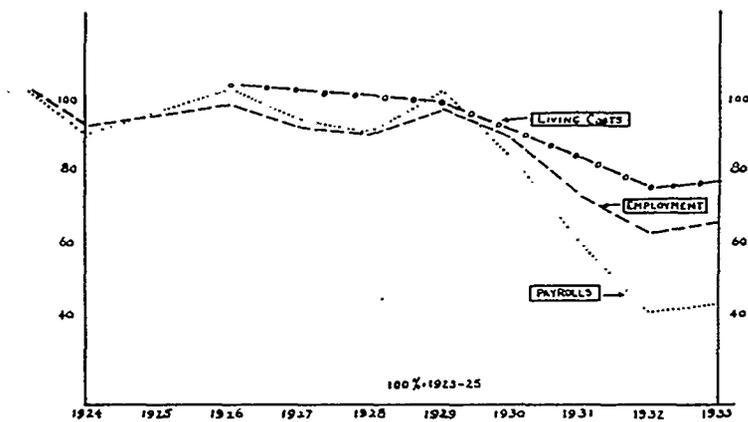
However, after 1931, in the years 1932 and 1933, the curve of economic change and the commitment curve for these property crimes did not diverge as might have been anticipated, but the economic and the commitment curves both decreased and flattened out roughly. (See Chart C).

It may be suggested that since this was the period when relief became more abundant, that it may have contributed to the unexpected behavior of the commitment curve.

According to a report of the Penn-

sylvania Secretary of Welfare,¹² the depression caused a sharp rise in outdoor relief in 1930 to 1932. In these years the number of persons on relief rose from approximately 150,000 in 1930 to 950,000 in 1932. In the fall of

CHART C
Economic Change



1932, the State Emergency Relief Board also began to function. From September 1932 to the end of 1933 its relief load rose to 2,000,000, while the load of the Poor Board, which was diminished thereafter, dropped to 600,000 in 1933, when the State Emergency Relief Board relieved them of destitution directly due to unemployment.¹³

In a previous section of this study, it was observed that a commitment to the Eastern Penitentiary was considered on the whole to be more severe punishment than a commitment to the county prison. A year by year analysis was made, therefore, of the commitments to these two institutions. Commitments to the penitentiary for

serious property crimes showed a steady rise from 1925 to 1931, after which there was a flattening out. In cases of commitments to the county prison, we found the peak to be in 1928, with a drop in 1929, a rise to 1931, a drop in 1932 and then a rise in 1933. Thus, commitments to the penitentiary for these offenses rose consistently, commitments to the county prison wavered during the depression years. It was noteworthy that there was no dip in 1929 commitments to the penitentiary, although generally the trend of commitments for these crimes dipped in all other analyses for that year. (See Chart D). The rise of commitments to the penitentiary and the wavering

¹² Seventh Biennial Report of Secretary of Welfare of Pennsylvania, Bulletin No. 59, June 1, 1932 to May 31, 1934.

¹³ Third Annual Report State Emergency Relief Board, January 1, 1936, p. 55.

of the county prison commitments in these cases may have indicated that the judges were more inclined to send convicts to the penitentiary than to the county prison during the depression years. It should also be noted that during that year there were serious riots at the county prison due to extreme brutality of treatment resulting in a public investigation and change of administration.

The differential use of the county prison and penitentiary for these three offenses analyzed by comparing the period of four years before the depression, 1926 to 1929, inclusive, with four years during the depression, 1930 to 1933, inclusive, revealed pertinent facts. In those eight years, 8,319 commitments were made for larceny, burglary and robbery, of which 3,621 were in the pre-depression years, and 4,698 were in the depression years. Commitments for these three crimes to the county prison increased 13.6 per cent during the depression period and commitments to the penitentiary increased 48.5 per cent during the same period. Commitments to the county prison for burglary increased 38.0 per cent in the depression period, and commitments to the penitentiary increased 47.8 per cent. Commitments to the county prison for robbery increased 20.4 per cent and commitments to the penitentiary increased 90.8 per cent. For larceny, commitments to the county prison showed particularly no increase; commitments to the penitentiary showed an increase of 18.2 per cent. The minimum increase in commitments was in the larceny group for the county prison,

and the maximum increase was in commitments for robbery to the penitentiary, where the increase was almost 100 per cent.

B. Year by year analysis of sentences under five years and over five years—1924 to 1933

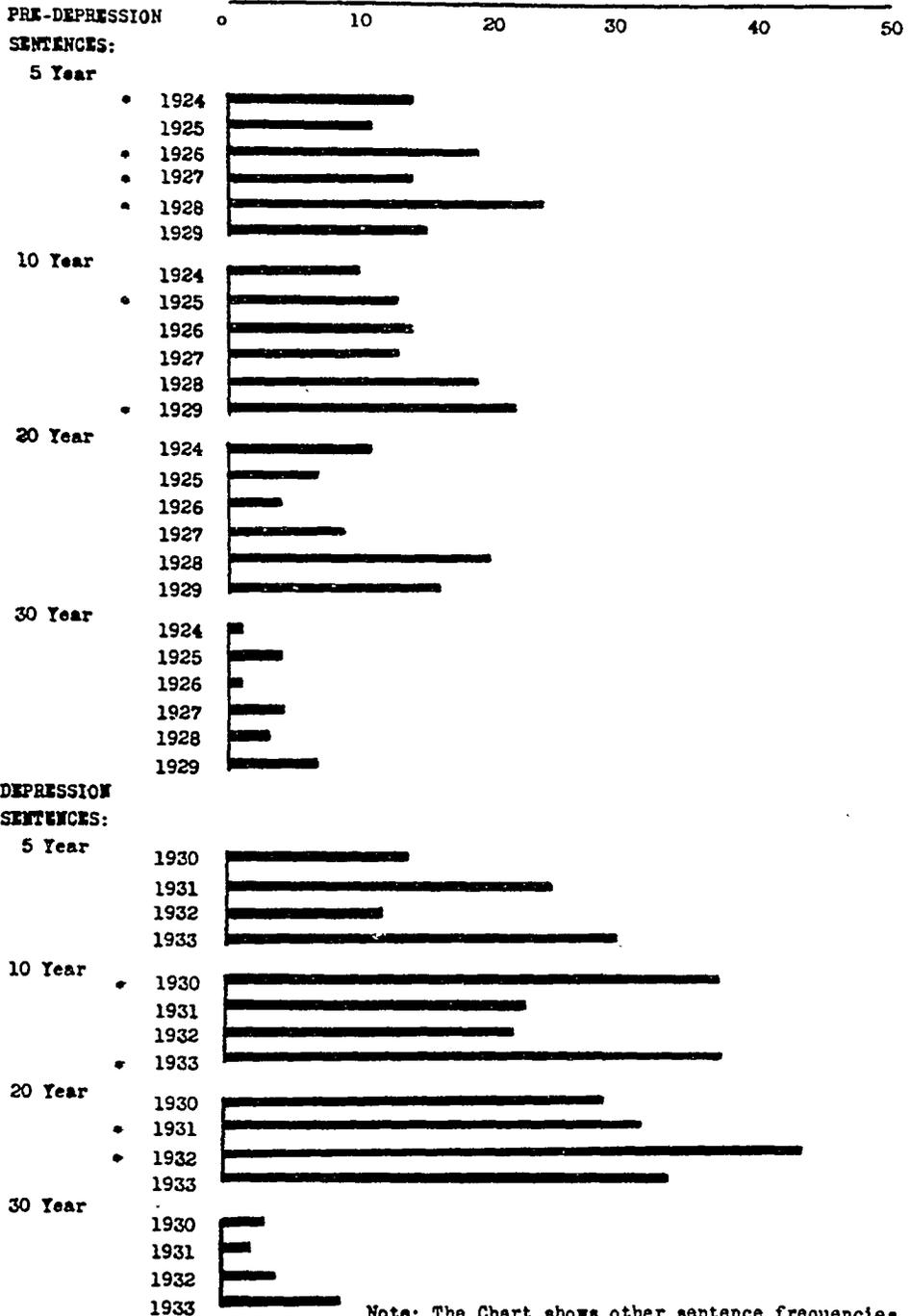
Sentences were compared year by year for the entire 10 year period. In this examination a study was made of the entire range of 13,899 sentences. Another study was made of 12,108 sentences of less than 5 years and sentences of 5 years and over, during the 8 year period, four years prior to the depression and four years of the depression. A special analysis was then made of robbery sentences.

First, checking all sentences under study we found the peak for sentences of less than 5 years was in the year 1931. There was a dip in 1929 and again in 1932 and in 1933. For sentences of five years and over, peaks practically on the same high level were found in 1931 and 1933; dips occurred in 1929 and in 1932.

For the county prison the year 1928 showed the highest level for the entire eight years for commitments both as to sentences of less than five years and sentences of five years and over. The lowest point was in 1929 for the two groups. After that year sentences for less than five years rose in 1930 but dropped again in 1931 and 1932, and rose finally in 1933; sentences of five years and over rose in 1930 and 1931, but fell in 1932 and 1933.

For the penitentiary, the year 1931 was the high point for sentences of less

CHART D
Robbery: Maximum Sentences of Recidivists, 1924-1933



Note: The Chart shows other sentence frequencies as well as that of greatest frequency, or mode. The mode is indicated by an asterisk for each year.

than five years with a drop in 1929 and a decline in 1932 and 1933. Sentences of five years and over rose steadily to 1931, with a rise instead of a drop in 1929; the drop occurred in 1932.

Short and long term sentences in pre-depression and depression periods 1926 to 1933, inclusive

When we analyzed sentences in terms of the 8 year period, four years before the depression and four years during the depression, we found for the shorter term sentences of less than five years, 3,296 commitments were made during the depression, and 2,684 prior to the depression, an increase of 612, or 22.8 per cent. For long term sentences of five years and over, 3,438 commitments were made during the depression, and 2,690 prior to the depression, an increase of 748, or 28 per cent.

However, when we compared sentences between the institutions, we found that in the county prison there was an increase of 20.4 per cent in short term sentences of less than five years during the depression, and an increase of 2.3 per cent in long term sentences of five years and over. In the penitentiary, the increase was 27.3 per cent for the short term sentences, during the depression, and an increase of 43.7 per cent for the long term sentences.

SENTENCES FOR ROBBERY

In the separate study made of 2,021 robbery sentences imposed in the 8 years, nineteen of a total of 2,040 sentences originally ordered in that period were eliminated because clemency had

been granted or disposition had been modified by the judge and the sentence changed from imprisonment to some other form of punishment. Of the total 2,021 sentences imposed, 988 were for first offenders and 1,033 were for recidivists.

Aggregate Minimum Sentences 1926 to 1929 and 1930 to 1933

The combined aggregate of all minimum sentences for robbery in the four year pre-depression period, 1926 to 1929 inclusive, was 3,852 years, and for the four year depression period, 1930 to 1933 inclusive, 6,727 years. Thus, during the depression there was an increase in the aggregate of minimum sentences for robbery over the pre-depression period of 2,875, or 74 per cent. As between first offenders and recidivists, there was an increase for first offenders of 1,273 years, or 70 per cent, and an increase for recidivists of 1,602 years, or 75 per cent. There was an average of 4.87 years per minimum sentence prior to the depression and an average of 5.31 years during the depression.

Aggregate Maximum Sentences 1926 to 1929 and 1930 to 1933

Maximum sentences for robbery in the four year pre-depression period, 1926 to 1929 inclusive, aggregated 8,956 years, and for the four year depression period, 1930 to 1933 inclusive, 15,580 years, an increase of 6,524, or 73.6 per cent. As between first offenders and recidivists, there was an increase for the first offenders of 3,065 years, or 70 per cent, and an increase for the re-

cidivists was 3,559 years, or 77 per cent. There was an average of 11.32 years per maximum sentence prior to the depression and an average of 12.46 years during the depression.

Average Sentence 1926 to 1929 and 1930 to 1933

In the eight year period there was an average of 5.2 years per *minimum* sentence for robbery. This is distributed between first offenders and recidivists in the following ratios: 4.9 years for first offenders and 5.6 years for recidivists. Six and one-tenth (6.1) years was the average for the year 1929, the highest average prior to the depression. Six and one-tenth (6.1) years was the average for the year 1932, the highest average during the depression. The high point for first offenders was 5.7 years in 1929, and for recidivists, 7.0 years in 1932. The eight year average of 5.2 years per minimum sentence was exceeded prior to the depression in one year, 1929, and in three years during the depression, 1931, 1932 and 1933. The average minimum sentence of first offenders was exceeded by the average sentence of recidivists in six of the eight years studied; the average equaled that of recidivists in the year 1927 but in the year 1933 the average exceeded that of recidivists.

In the eight year period there was an average of 12.1 years per *maximum* sentence for robbery. This is distribu-

ted between first offenders and recidivists in the following ratios: 11.9 years for first offenders and 12.3 years for recidivists. The high point prior to the depression, 13.1 years per sentence, was in the year 1929. During the depression the high point reached 14.0 years average in 1932. The high point for first offenders was 13.5 years in 1929, and for recidivists, 15.3 years in 1932. The eight year average of 12.1 years per maximum sentence was exceeded prior to the depression in one year, 1929, and in three years during the depression, 1931, 1932 and 1933. The maximum sentence of first offenders was exceeded by the average sentence of recidivists in three of the eight years studied and equaled that of recidivists in one year, 1926; in 1928, 1931 and 1932 the average was exceeded.

The highest yearly average sentence in the eight year period, therefore, was for the year 1932 when the average number of years per maximum sentence was 15.3 years for recidivists.

Modal Sentences for Robbery 1924 to 1933, inclusive

Modal sentences for robbery were determined for each year from 1924 to 1933.¹⁴ Variations in modal sentences were then observed for both minimum and maximum sentences.

For minimum sentences, which are perhaps less significant, the modal figures for recidivists prior to the year

¹⁴ The number of minimum sentences for robbery in each year were broken down into 6 month units because minimum sentences were often imposed for fractional parts of years. They began with 1 to 5 months, 6 to 11 months, 1 year to 1 year and 5 months, 1½ years to 1 year 11 months, etc.

The number of maximum sentences were

broken down into 12 month units because maximum sentences were usually imposed in 12 month periods. They began with 2 years, 3, 4, 5 and 6 years, etc. After 50 years the data include 60 years, 80 years, 83 years, 103 years, 120 years, and 140 years for maximum sentences.

In all, there were 41 groups of maximum sentences and 43 groups of minimum sentences.

1930 were: 2½ years in 1924, 5 in 1925, 2½ in 1926, 5 in 1927, 5 in 1928, 5 in 1929. From 1930 to 1933 the modal figures were: 10 years in 1930, 10 in 1931, 10 in 1932 and 5 in 1933.

For maximum sentences, the modal figure for recidivists for the years prior to the depression was found in the *five* year sentence group for the years 1926, 1927 and 1928, and in the *ten* year sentence group for the year 1929. For the depression years, the mode was observed to shift to the ten year sentences for the year 1930, and to the 20 year sentences imposed in the years 1931, 1932 and 1933.

Thus, during the pre-depression period, the modal figures were found to be in the 5 year and 10 year sentence groups, while during the depression the modal figures appeared in the 10 year and 20 year sentence groups. This shift to the longer sentences during the depression may be said to indicate greater severity of sentence for recidivists. (See Chart D). The chart shows other sentence frequencies as well as that of *greatest* frequency, or mode. The mode is indicated by asterisk.

Summarizing the data for the depression and pre-depression periods, we find there was a drop in commitments for serious crimes in the good year of 1929 before the depression and a sharp rise in 1931, with a flattening out in 1932 and 1933. The curve for commitments for serious property crimes seems to have some relation to the economic curve with a decrease in commitments appearing when public assistance was established and unemployment relief became general. However,

no point by point comparison with the economic curve can be made. For this purpose a much longer period of time will have to be studied.

There was also a differential use of the county prison and the penitentiary, with the use of the latter emphasized during the depression. Commitments to the County Prison for property crimes wavered during the depression, while commitments to the Eastern Penitentiary, which received the more serious offenders, rose steadily.

Comparing the four year period before the depression and the four year period during the depression, we find the differential use of the Eastern Penitentiary and the County Prison shows that the commitments to the penitentiary increased almost four times as fast as commitments to the county prison. The minimum increase was in commitments for larceny to the County Prison and the maximum increase was in commitments to the Eastern Penitentiary for robbery sentences which almost doubled.

Comparing sentences during the periods before the depression and during the depression, the greatest increase was in the long term sentences of five years and over to the penitentiary, and in short term sentences of under five years to the county prison.

A special analysis of the modal sentences of robbery cases showed significant variations, shifting from 5 and 10 years before the depression to 10 and 20 years after the depression as far as maximum sentences were concerned. The minimum sentences shifted from

2½ and 5 years before the depression to 5 and 10 years during the depression.

The tendency to greater severity was thus indicated in an increasing preference which the judges showed during the depression for using the penitentiary for commitments in which serious property crimes were involved, and also in the stepping up of sentences for recidivists.

No spectacular conclusions, such as those presented by Rusche and Wirschubski, can be drawn from these analyses, however. But, allowing for the fact that for years there has been a feeling in the country for more severe punishment of criminals, it can be said the data show that in the cases

of recidivists committed for serious property crimes there was a definite tendency to greater severity, both as to character of commitment and sentence.

It can be said in conclusion that this study shows that the economic situation apparently influences policies of court and penal administration. It is also important to agencies dealing with the social situation which is always affected by economic conditions. There is need for much further study on the part of staffs of these agencies and the development of research facilities in penal services in order to give continuous study to the various aspects of this very important problem.