

1945

## Current Notes

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## CURRENT NOTES

Donald E. McCall (Guest Editor)

Professor V. A. Leonard, Editor of our Current Notes section, was invited recently to survey and reorganize the Police Department in the City of Seattle. He is now in the final stages of that important work and readers of this *Journal* will have an opportunity to become acquainted with it.

Because of his commitment in Seattle Professor Leonard arranged with his colleague, Mr. Donald F. McCall, to be Editor of Current Notes in the present number.

Since July, 1944, Mr. McCall has been an instructor and laboratory technologist in the Department of Police Science and Administration in the State College of Washington. He was formerly Director of the Crime Laboratory in the Portland Police Department, and is a graduate of the University of Oregon. We are happy to have his co-operation.—EDITOR.

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**Coordination of Agencies for Handling War Crimes**—The national War Crimes Office has been established to collect evidence against enemy persons who commit murders, atrocities, and other violations of the laws of war against other Americans, including the people of any dependency such as the Philippines, and to arrange for the immediate or eventual apprehension, trial and sentence of such war criminals. By agreement between the State, War, and Navy Departments, this central agency has been established in the War Department to function jointly for the three Departments in handling war crimes.—*Navy Department Press and Radio Release*, February 10, 1945.

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**Navy Department Participation in the Prosecution of War Crimes**—Rear Admiral Thomas L. Gatch, Judge Advocate General of the Navy has announced that the Navy Department is expanding its participation with the Army in preparing for the prosecution of war criminals. An augmented staff, including representatives of the Navy, the Marine Corps and the Coast Guard, is being assigned under Lieutenant Commander James J. Robinson, U.S.N.R., Director of the Navy Division of the War Crimes Office, to assemble evidence, interview witnesses and prepare trial briefs in the War Crimes Office in Naval and other cases involving cruelties, atrocities and acts of oppression against members of the United States armed forces and other Americans.

“Bringing to justice international gangsters and their underlings has always been a special concern of the United States Navy,” Rear Admiral Gatch said in describing the Navy’s purpose in expansion of this activity. “In fact,” he continued, “the Navy was recreated after the Revolution to wipe out the Barbary pirates in order to protect American lives and property from those ransom racketeers. The Navy has always been a principal instrument in maintaining international law and order. We believe in justice. We shall do everything within our power to see that the evidence collected is true evidence and that the trials will be just. The accused will be given full opportunity to know the charges leveled against him and a fair chance to present his defense. In gathering evidence of war crimes our chief interest is the Navy’s desire to protect its own and to serve all other Americans. To do this we

believe we should be prepared so that the trials of war criminals can be held as speedily as conditions will permit."

The War Crimes Office was established last Fall by Secretary of War Henry L. Stimson in cooperation with Secretary of the Navy James Forrestal. It is under the general supervision of Major General Myron C. Cramer, the Judge Advocate General of the Army, and is directed by Brigadier General John M. Weir. The Navy has been at work assembling data regarding war crimes before and since the organization last year in London of the United Nations War Crimes Commission. Early last year Rear Admiral Gatch, acting in conjunction with Fleet Admiral Ernest J. King, U.S.N., Chief of Naval Operations, designated Lieutenant Commander Robinson to serve as the Navy's representative in war crimes matters.

The work of the War Crimes Office includes the following activities: 1. Investigation of alleged war crimes, securing evidence and statements of witnesses. 2. Organization of evidence and preparation of files of alleged war criminals. 3. Drafting charges and specifications, and trial briefs. 4. Assisting in trials and other details of prosecution. 5. Organization to carry out sentences.—*Navy Department Press and Radio release, February 10, 1945.*

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**Education of Veterans Under Public Law 346.**—Bulletin No. 78 of Higher Education and National Defense, issued by the American Council on Education, Washington, D. C., departed from the bulletins' usual character and interpreted legislative and other national developments affecting higher education. It is a summary of pertinent data regarding the veteran, a brief description of some of the special services provided by a number of colleges and universities, and an analysis of some of the problems of the education of veterans under Public Law 346—the Serviceman's Adjustment Act of 1944.

In a recent article, a prominent educator pointed out certain dangers in the broadly defined provisions of the three legislative acts regarding education at all levels and special attention was drawn to the ease with which the education of the veteran could, within the broad provisions of the Act, degenerate into a form of cheapened impractical vocational training. His proposed remedy is a modification of the Act to limit its provisions to veterans selected on the basis of competitive examinations. Legislation is not the way to prevent educational degeneration. The answer lies in the institutions themselves. If the dire prediction is proven true the blame will rest squarely upon the schools and colleges. If, however, veterans are given as great a degree of economic security as is possible in a changing economy; if they are better prepared to face local, national and world problems realistically and with calm judgment; if they have a deeper sense of values and a richer enjoyment in living, schools and colleges will have effectively met the challenge.

These ends can be achieved only by careful planning and co-ordinated effort. Rigid degree requirements must be replaced by other measures of achievement for admission and determination of course level. Flexibility can be achieved without a lowering of educational standards. Local and regional planning among schools and

colleges is essential in order that each may appraise the areas in which it can render maximum service and may refer prospective students to other types of schools or other institutions of higher education. Vested interests either of individuals or of institutions must give way to a new type of educational statesmanship and sincere cooperation.

In a personal letter sent to fourteen education officers in the several overseas branches of the armed forces, their considered judgment was asked on five questions, the answers to which are as follows:

1. *Educational Interests.* The answer to this question in all but one of the replies indicated that the educational interests of both men and women would be primarily in technical and professional fields rather than in general education. Some qualified this generalization by pointing out that younger veterans who had not completed their college education would be more interested in general education, while older veterans who had not been to college would be more interested in studies of a technical or professional nature.

2. *Intensive Courses.* There is a unanimity of opinion on the interest displayed by service men in intensive courses leading to employment. The reporting officers felt that this interest would vary greatly with fluctuation in the job market. Three felt that the adjustment to a traditional college program would be very difficult.

3. *Acceleration.* All but one of the answers to this question stated that the majority of service personnel will want education on a twelve month basis. One answer is qualified with respect to younger men who may not feel the urgency of time in completing their education and another suggests that since Public Law 346 does not require continuous education, some, at least, will welcome a return to a leisurely summer vacation.

4. *Full- and Part-time Study.* Opinions on this question divided evenly with many qualifications on both sides. One officer feels that the G.I. Bill will make full-time training desirable; another feels that maintenance allowance under the Act will be so small that the veteran will have to work and study part-time. Here, again, all opinions are qualified with respect to the job market and financial conditions. One reply suggested the desirability of in-service training in a full-time study program.

5. *Potential Number.* Estimates of the per cent of military personnel who may take advantage of the educational provisions of the G.I. Bill varied so widely that they have little predictive value. On the average it is estimated that 25 per cent of the service personnel will continue in some type of education and that 10 per cent will enter colleges and universities. These figures can not be taken too seriously. All of the officers pointed out that they were little more than guesses and that any estimate would be influenced by unpredictable economic factors. It is interesting, however, that they are markedly similar to the data based on an Army survey. There are 452,840 who definitely plan to return to full-time school and 194,570 who have tentative plans—a total of 647,410. The potential undergraduate group who will be interested largely in full-time college education will be approximately 900,000. The number expressing interest in part-time education only is 415,460.

This educational load will be distributed over the period terminating, as do educational provisions of the G.I. Bill, (Public Law 346) seven years after the termination of war. The peak will probably be within the period from six to eighteen months after final victory. Between now and the end of the war, the number of veterans returning to colleges and universities will remain small and will, primarily, be concentrated in the larger universities.

*Approval of Educational Institutions.* The Veterans' Administration has recently announced that the national office will not approve institutions for training and education under the G.I. Bill except in the specific instances in which the state agency has refused to act. Full and complete authority for the approval and disapproval of agencies and institutions for training and education is thus vested entirely in the state agency provided for in the Act and designated by the governor of each state.

*A Guide to Educational Opportunities for Veterans.* At the request of the armed forces the American Council on Education is engaged in surveying the colleges to secure information pertaining to educational opportunities for veterans. Information sought will include adequate description of the type of institutions, its costs and curricula, its plans for accreditation, advisory services, health, recreation and other provisions of interest to the veteran. The project is entitled *A Guide to Colleges, Universities, and Professional Schools in the United States*. The complete volume will be used primarily by educational officers in the Army and Navy in the counseling of service personnel *Bulletin* No. 78, Higher Education and National Defense, American Council on Education, Washington, D. C. Feb. 26, 1945.

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**Delinquency Control**—With sixteen state-wide organizations sponsoring a series of six two-day Work Shop Conferences throughout the state during the month of June, Californians charged with the welfare of the state's youth, will sit down together for serious consideration of measures of Delinquency Control. The opening conference is scheduled for the University of California in Berkeley, June 14th and 15th, where, under the local chairmanship of Chief Probation Officer Ollice Snedigar, the conferees of that locality will pay tribute to two veterans in the field, August Vollmer, Professor Emeritus of Police Administration at the University of California, and internationally known authority in his field, and Dr. Virgil Dickson, Superintendent of Schools in Berkeley. The occasion will commemorate the 25th Anniversary of the organization of Berkeley's Coordinating Council.—California, *Probation News*, March 1945 issue.

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**A Challenge to Precedent in Paternity Exclusion Cases**—In a discussion of the subject by Sidney B. Schatkin, Assistant Corporation Counsel, City of New York, and author of *Disputed Paternity Proceedings*, 1944, he states two concepts upon which expert testimony is to be judged. One is that upon which experts have conflicting opinions, and the other is the agreement of qualified experts on the results of a particular test.

*The Chaplin Case.*—We are all familiar with the recent trial of Mr. Charles Chaplin, accused of being the father of a child born out of wedlock, from which relationship he has been excluded by blood tests. The California rule that it is for the jury to pass on the evidentiary weight of a blood test *exclusion* originated in the case of *Arias v. Kalensnikoff* (1937, 74 Pac. 2d, 1043), where the defendant was adjudged the father although exonerated by the blood test. The evidence in that case disclosed: 1. The mother had been twice married. 2. She had named another man as the father on the child's birth certificate. 3. The accused was 70 years of age, and, according to his wife, had been impotent for a number of years.

The view today of the California courts is that a blood test exclusion is simply a matter of an expert's opinion, and it is therefore up to the jury to appraise its weight. The case, therefore, will go to the jury, exclusion or no exclusion, on the strength of the mother's testimony. According to the *Kalensnikoff* decision, the jury is permitted to disregard the exclusion.

The position of the California courts that blood tests are the subject of experts' conflicting opinions, is incorrect. Reputable, qualified serologists will not differ on the result of the test. The *Harvard Law Review* called the *Kalensnikoff* decision "a striking miscarriage of justice." (53:2:285, 288, Dec., 1939). The *Kansas Bar Association Journal* described the facts in that case as "standing in a niche all of their own in the judicial hall of fame" (May, 1940, pp. 479, 481). Despite that criticism, the *Kalensnikoff* case is today the authority for the California courts to brush aside an exclusion by blood tests, and proceed to declare a man the father on the basis of testimonial evidence—chiefly the woman's unsupported word.

Although California lacks a statute on blood tests, many such tests in disputed paternity cases have been carried out in that state. By 1942, 133 tests had been performed, resulting in 14 exclusions, or 10.5 per cent.<sup>1</sup> In as much as prior to 1942 only one out of three false accusations could be detected by blood tests,<sup>2</sup> it follows that about 33.5 per cent, or about 44 men in that series of 133 were not the fathers. Today what with the progress made by Wiener in the Rh factor, nearly 40 per cent of the false accusations can be detected.

Blood tests are a reality, not a novelty, and have been written into the statute books of seven states—New York, Wisconsin, Maine, Ohio, New Jersey, South Dakota and Maryland. From March 22, 1935, to December 31, 1942, 604 blood tests in disputed paternity proceedings were carried out by order of the Court of Special Sessions of the City of New York. The result was 59 exclusions, every one of which was accepted as decisive and the complaint in each case dismissed. The reliability of every one of those 59 exclusions was subsequently verified by the mother's admission—for the first time—of sexual relations with another man about the time she became pregnant<sup>3</sup>. In the City of New York, ap-

<sup>1</sup> Wiener: *Blood Groups and Transfusions*, 3d ed., 1943, p. 396, table 100.

<sup>2</sup> Schatkin: *Disputed Paternity Proceedings*, 1944, Matthew Bender and Co., Albany, N. Y., p. 105.

<sup>3</sup> *Ibid.*, p. 104.

proximately 30 per cent of the men accused, who demand a blood test, are actually not the fathers<sup>4</sup>. In Buffalo (Erie County) New York, from March 22, 1935 to December 31, 1942, 141 blood tests carried out resulted in 15 exclusions—more than 10 per cent; 30 per cent, or 42 men in that series, therefore, were not the fathers<sup>5</sup>.

Some of the documented statistics set forth in Schatkin's recent book, *Disputed Paternity Proceedings*, will no doubt be of interest. In Ohio, by 1942, a series of 75 tests resulted in 13 exclusions, or 17.3 per cent<sup>6</sup>. In 90 blood tests in New Jersey, most of which were carried out by order of the courts of Essex County, from July 18, 1939 to July 10, 1943, there were 12 exclusions, every one of which was accepted by the courts as decisive<sup>7</sup>. In Maryland, 74 blood tests resulted in 10 exclusions, or 15.5 per cent<sup>8</sup>. The courts of Continental Europe have employed the blood-test method to exclude paternity since 1920. By 1933, 8000 tests had been completed for the courts in Europe, and the resulting exclusions, confirmed beyond dispute by the mother's belated confessions, prosecution and conviction for perjury, or other facts and circumstances, convinced the Continental courts of the accuracy and reliability of the test, and its indispensability in disputed paternity proceedings. A series of 4,564 tests reported during 1930-1937, resulted in 800 exclusions, or 15.95 per cent. Blood tests have been used in practically all European countries, and exclusions are there regarded as incontrovertible proof of non-paternity<sup>9</sup>. In Denmark, 7,500 tests were carried out over a period of 12 years. In a series of 3,124 tests performed during 1933-1936, there were 775, or nearly 25 per cent that resulted in exclusions. Since 1937, there has been a blood test statute in Denmark and the test is compulsory and routine in paternity cases<sup>10</sup>. Of 764 blood tests carried out in Sweden, 99 resulted in exclusion—13 per cent. In this country also the test is compulsory and routine<sup>11</sup>.

The foregoing figures cannot fail to convince the most skeptical of the intrinsic worth of blood tests in disputed paternity cases. Blood tests are not a novelty or mere experiment but a reliable tool for obtaining scientific evidence.—*Memorandum from*: Sidney B. Schatkin, Assistant Corporation Counsel, City of New York. Author of *Disputed Paternity Proceedings*, 1944.

<sup>4</sup> *Ibid.*, p. 105.

<sup>5</sup> *Ibid.*, p. 110.

<sup>6</sup> *Ibid.*, p. 130.

<sup>7</sup> *Ibid.*, p. 135.

<sup>8</sup> *Ibid.*, p. 139.

<sup>9</sup> *Ibid.*, pp. 140-141.

<sup>10</sup> *Ibid.*, p. 144.

<sup>11</sup> *Ibid.*, p. 147.