

1946

Current Notes

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CURRENT NOTES

Thorsten Sellin and The Swedish Penal Code—Professor Thorsten Sellin, of the University of Pennsylvania, has been granted a leave of absence for the school year 1946-1947. He has been invited by the Swedish Government to work with the Commission to revise the penal code. He will also lecture on criminology at the University of Stockholm and the University of Upsala. He left for Stockholm in the latter part of August with his family, and will remain in Sweden until the fall of next year.

Ordway Hilton—Mr. Ordway Hilton, who edited the American Journal of Police Science from 1941 to 1944, and who is at present a member of the Editorial Board of the Journal of Criminal Law and Criminology, recently resumed the practice of his profession as document examiner after several years of active duty in the U. S. Navy. He has become associated with Mr. Elbredge W. Stein, a well known document examiner with offices in New York City. From 1928 until 1941, Mr. Hilton served as document examiner at the Chicago Police Scientific Crime Detection Laboratory. During that time, he carried on exhaustive inquiries into various handwriting and typewriting problems and the results of his studies were published in this Journal. Mr. Hilton's naval service, from 1941 to 1946, was confined in a large part to work in Naval Intelligence. Upon his recent release from the Navy with the rank of Lieutenant Commander, U.S.N.R., he resigned from the staff of the Chicago Police Laboratory to assume his present position in New York City.

Seminars in Legal Medicine—The Department of Legal Medicine of the Harvard Medical School will conduct three seminars in Legal Medicine. The first, a basic session for Medical Examiners, Coroners, and Pathologists (October 14 to 19); the second, an advanced session for the same group (October 21 to 26); and the third, a seminar in Homicide Investigation for State Police (October 28 to November 2). Descriptive bulletins concerning the seminars are issued by the Harvard Department of Legal Medicine, 25 Shattuck Street, Boston, Massachusetts.

Illinois Clinic on Relations of Law and Science—The University of Illinois Law School recently conducted a three-day clinic on the Relations of Law and Science. A group of psychiatrists, scientific criminal investigators, and lawyers participated in the clinic, under the direction of Professor Hubert W. Smith. The clinic was designed primarily for the Evidence Class at the University's Law School, but the various sessions were also attended by other law classes and members of the local bar.

Delinquency in Philadelphia—The Annual Report of the Municipal Court of Philadelphia for 1945 contains a study by John Otto Reine-mann of the Court's statistical department, on the geographical distribution of the residences of juvenile delinquents in Philadelphia, based on 1944 court referral figures. This study (among other results) confirmed the observation made in many urban communities that delinquency rates are highest near the center of the city.

In Philadelphia, this area of highest delinquency includes one-twelfth of the city's whole territory, a fourth of its population, and half of its delinquent children. In this area 40 out of every 1000 children had been referred to the court on delinquency charges; for the entire city the figure was 21 for every 1000.

The close relationship between high delinquency rates and substandard housing conditions was indicated by the fact that in this area of greatest delinquency 39.7 percent of the dwellings were classified as substandard by the 1940 census; for the entire city the figure was 17.8.

After-Conduct of Discharged Offenders—Sheldon and Eleanor Glueck have completed the fifth in the series of English Studies in Criminal Science, published for the Department of Criminal Science, Faculty of Law, University of Cambridge. The Gluecks were subsequently invited to prepare a report on their follow-up studies giving their views as to the "methods to be applied, the conclusions which can be reached thereby and the value of these conclusions in judicial and in penal administration."

Sketching first the background and constitution of delinquents and criminals, they review the records of recidivism of the juvenile delinquents appearing before the Boston juvenile court and of the inmates of the Massachusetts reformatory. It will be recalled that eighty-eight per cent of the children coming into the juvenile court continued to be delinquent during a five-year span after they first appeared, and in the same length of time men released from the Massachusetts reformatory offended again in eighty per cent of the cases about whom information could be obtained. Later studies of both of these groups covered longer sections of the life history of the offenders. This later decade shows gradual but uneven improvements in both groups.

Emerging from these studies is the possibility of predicting the behavior of offenders and determining the likelihood of success in various forms of correctional treatment. Predictive tables can be devised. In their recent study, *Criminal Careers in Retrospect*, the Gluecks showed how the prognostic method can be utilized by the court. Illustrations compare decisions actually made by judges and parole boards in a series of cases with the type of treatment indicated by such prediction tables. "The comparison reveals the sometimes wasted effort of judges and parole boards in prescribing treatment to which, as prediction tables indicate, particular offenders have little chance of responding."

Post-war investigation of crime and punishment will probably call for modifications of existing techniques. "It is probable that many persons are now committing and will continue to commit all sorts of crimes who, in normal pre-war times, would never be numbered among the delinquent and criminal classes. It is clear, therefore, that the follow-up studies to be made in post-war Europe will have to take into account some factors in the background and makeup of offenders not ordinarily included in such researches. It is probable that certain psychologic factors will be found highly predictive of future behavior which in normal times are not so. Specific shocking war-time experiences of soldiers, such as the horrors of Dunkirk, of various campaigns, and of shipwreck; soul-stirring experiences of civilians, such as mass evacuations from cherished homes, transplantation of city children to country regions, bombardment, brutalities

(such as the murder of innocent hostages); loss of parents or other loved ones; the post-war problems of industrial maladjustment and unemployment, and other factors growing out of war-time experiences in general as well as those peculiar to the conflagration of war, may turn out to be basically causal of most post-war delinquency and criminality. In this connection, the psychologic traumas inflicted on many of the German people themselves by the malignity of the Nazis, will present special problems of research and correctional administration." *Probation*, April, 1946.

Criminal Law and Practice in Scotland—Statements made to the police. Faced with a situation pointing to the commission of a crime, a police officer is under a strong duty to make inquiries. He may ask questions; nor need he accept, without making some effort to dispel it, an unwillingness to speak out on the part of someone obviously in a position to forward the investigation. Admittedly, he must stop short of "third degree"—no browbeating, no threats, no use of violence, no holding out of an improper inducement to speak; but, provided these prohibitions be honoured, he may press home the inquiry. If a statement be volunteered, he may follow it by questions directed to clear up any ambiguity or repair an obvious omission. These comments are, of course, subject to the overriding rules (1) that an investigating officer who has reached the point of moral certainty that his informant is involved in the crime should caution him, (2) that, having reached the stage when he would be justified in preferring a charge (even although conclusive and legally sufficient evidence may still be lacking), the officer should take steps to bring his informant, without undue delay, before a superior officer, so that he may be formally cautioned and charged and his reply noted verbatim; and (3) that, this having been done, he should be left alone.

What is not generally recognized is the distinction between the earlier stages of a police enquiry, when the public interest requires strong powers of investigation and the later stages (including the trial), in which the paramount considerations are that the Crown should discharge the onus of proving guilt and that the accused should have a fair trial. The line between the two stages is generally reached when a suspect becomes an accused. It does not follow that a statement properly taken at the start of an inquiry will be admitted to proof at the subsequent proceedings; nor does the rejection of such a statement at a criminal trial necessarily reflect upon the propriety of police action in taking it.

The observations are prompted by the decision of the Lord Justice-Clerk (Lord Cooper) in a recent murder trial (*H.M. Advocate v. Robert Rigg*). This trial came to a sudden and dramatic end when, after the judge's refusal to admit evidence of the contents of a statement made by the accused to the Police, the Solicitor-General intimated that he could not see his way to continue with the case and asked leave to withdraw the charge—whereupon the jury, on a formal direction from the bench, returned a verdict of not guilty.—*The London Police Journal*, January-March, 1946.

State Patrol Powers Clarified—An opinion was handed down recently by the California state attorney general's office which clarifies the powers of the California Highway Patrol with reference to the investigation of automobile accidents. The opinion, in substance, states that members of the Patrol have the power to investigate auto-

mobile accidents not occurring in their presence, which result in property damage, and to gather evidence for the purpose of prosecuting a person believed to be guilty of a violation of the law in connection with such an accident.

The question of a Patrol member's powers was raised because the California vehicle code contains a specific provision that members of the Patrol "shall have the power to investigate accidents resulting in *personal injuries or death* and to gather evidence for the purpose of prosecuting the person or persons guilty of any violation of the law contributing to the happening of such accident."

According to Wilmer W. Morse, deputy attorney general for California, it was contended that possibly the activities of the Patrol in such matters were limited to those cases in which personal injuries or death occurred. "In the opinion," Deputy Attorney General Morse states, "we pointed out that the Highway Patrol was empowered under general provisions to enforce all of the provisions of the code and that 'to enforce' a law usually means to cause the arrest and to coerce by actual force and punishment. We concluded that the special provisions relating to the power to investigate accidents resulting in personal injuries or death was illustrative rather than a limitation upon the powers of the Patrol."—*Police Chiefs' News Letter*, May, 1946.

California Enlarges Mental Hygiene Facilities—The California State Department of Mental Hygiene has been made the recipient of the largest legislative appropriation for construction in its history. Amounts totaling \$57,500,000 were appropriated for new construction and the replacement of condemned structures. Included in the appropriations are: an institution for epileptics, a maximum security hospital for criminally insane, a neuropsychiatric unit, and a new mental hospital.

Provision is made for 14,526 new beds and 3,305 replacements. The hospitals for the mentally ill will receive 10,934 new beds and 2,040 replacements, while the institutions for the mentally deficient are to obtain 3,572 new beds and 1,265 replacements.—*Welfare Bulletin*, Illinois State Department of Public Welfare, April 1946.

Juvenile Court Delinquency Case Load—The Children's Bureau of the Department of Labor reports that only a slight increase in the case load of juvenile courts is indicated for 1945 as compared with 1944. However, during the war years the number of boys and girls dealt with by the courts increased markedly, a wartime rise of 67 per cent in the number of cases disposed of being reported for the years 1938 through 1945. This finding is based on the experience of 56 juvenile courts in urban areas throughout the country. The decline in the number of girls' cases, noted first in 1944, continued in 1945, but over the war period the records show a relatively larger increase in girls' cases than in boys', the percentages being 79 per cent and 65 per cent respectively. Girls' cases still account for only one-fifth of the total, the Children's Bureau adds.—*Police Chiefs' News Letter*, May 1946.

Relations to be developed between the International Penal and Penitentiary Commission and the United Nations Organization (U. N. O.)—The Memorandum relative to the position and activities of the International Penal and Penitentiary Commission, and also to the aspect

of the principles for the development of relations between the said Commission and the U. N. O., evolved as a result of a careful study of the character of the Commission and of the experience gained from its collaboration with the League of Nations, has been dispatched to certain influential persons in the U. S. A. and in London, who are in touch with the Temporary Social Commission, which has been called upon to delimit and to prepare the future activities of the Economic and Social Council of the U. N. O.

Meanwhile, the Executive Committee of the Commission met, for the first time since 1939, in Berne, on April 24th-26th, 1946. In view of the fact that the President of the Commission, M. Giovanni Novelli, of Rome, had died during the war, the Vice-President, Mr. Alexander Paterson, Prison Commissioner in London, took over the interim presidency; the other members of the Executive Committee are: the Treasurer, M. Poll, honorary Director-General of the penitentiary administration at Brussels, and the Secretary-General, Professor E. Delaquis, in Berne. The following were also present at the assembly, in a consultative capacity: Mr. L. Fox, Chairman of the Prison Commission, London, and Mr. Ed. Cass, General Secretary of the American Prison Association, New York, alternate for Mr. Sanford Bates, the American delegate to the Commission, and representing the Department of State, in Washington. Mr. Cass was accompanied by Mr. Alexander, Warden of the Federal Penitentiary, Danbury, Connecticut.

The American representative stated, in conformity with instructions received from the State Department in Washington, that the Temporary Social Commission of the U. N. O. is now engaged in obtaining information regarding the international organisms which exist in the field of social activities, and that the whole problem of the future organization of this international collaboration is now being studied very carefully, although up to the present matters are still in the investigation and exploratory stage. He declared that in so far as the Commission was concerned, the three following possibilities formed a basis for discussion:

1. To make the Commission a part of a larger specialized agency in the social field which might be brought into relationship with the United Nations under Articles 57 and 63 of the Charter of the U. N.;
2. To dissolve the Commission and to transfer its functions to a Commission of the Economic and Social Council, or
3. To maintain the Commission in approximately its present form, but brought into a co-operative relationship with the United Nations in a manner open to consideration.

Mr. Cass invited the Executive Committee of the Commission to come to a decision with regard to these three alternatives and stated that he was willing to lay before the competent bodies in America any memorandum which would be drawn up on this subject.

After a careful examination of the question, the Executive Committee decided that relations with the U. N. O. should be developed in the spirit of the two essential principles proceeding from our memorandum of October, 1945: close collaboration with the new World Organization and the safeguarding of the International Penal and Penitentiary Commission's autonomy. With a view to future parlers with the competent organs of the U. N. O. the following resolution was passed by the Executive Committee:

"The Executive Committee of the International Penal and Penitentiary Commission, meeting for the first time after the war of 1930-1945, expresses the wish that, in the sphere of the prevention and treatment of delinquency and crime, close co-operation shall be established between the Economic and Social Council of U. N. O. and the International Penal and Penitentiary Commission, provided always that the International Penal and Penitentiary Commission shall retain its complete independence as a separate organization."

This resolution of the Executive Committee gives clear directions, in connection with the text of the United Nations Charter, for the examination of the three possibilities of organization, under consideration by the Temporary Social Commission.—From: Memorandum regarding the international collaboration of the International Penal and Penitentiary Commission and the development of its post-war activities. Drawn up in October 1945/May 1946 at the Permanent Bureau of the Commission, Berne.
