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Current Notes

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CURRENT NOTES

V. A. Leonard, Editor

Competency, Divided or Directed: Medical-Psychiatric Comment on Degrees or Differences of Competency and Responsibility—The concept of partial insanity has played its role in the courts, in both criminal procedure and civil litigation. While the old McNaghten Test of the knowledge of Wrong and Right is falling into disrepute, there is still a discussion going on among jurists as to whether a culprit should not be held answerable for such criminal actions as would not appear connected with his morbid ideas.

However this may be, there are few psychiatrists who will fail to recognize that patients with either brain diseases or psychotic symptoms or both, may be competent under certain circumstances. A practical case will illustrate this: A woman of 63 years, who had been an alcoholic for quite some time, suffered a stroke about ten months ago. There are neurological signs, at present, such as abnormalities in the reflexes. Mentally, the patient is orderly and polite, has good contact, is oriented as to place and persons, but is somewhat disoriented as to time. She has good immediate memory, but no memory for the time at which the stroke occurred. There is no Korsakoff Syndrome. Her understanding of sayings and proverbs is very much on the concrete side. Speech is unimpaired.

Having lost her husband due to a carcinoma, the patient has established a will bequeathing funds for research in cancer. She has given power-of-attorney to certain close friends of many years standing. Interested people have doubted her competency because of her lack of orientation in time, her former alcoholism and a slightly paranoid attitude which developed in the hospital.

The patient was given the Abstraction Test.¹

¹ W. G. ELLASBERG'S *To Examine Testamentary and Testimonial Capacity*, *JOUR. OF CRIM. L. AND*

While in this test she at first went off on a tangent. She was able to verbalize precisely the insights necessary to solve the problem, i.e., an Either-One-Or-The-Other-Formula, and transfer this to pairs of colors not yet seen. The medical-psychiatric judgment was that there is a defect, but that the personality is successfully striving to keep up the standards. She is able, by way of thought and verbalization, to orient herself on new demands as they arise in the situation. The patient's defect, i.e., a tendency toward over-concreteness in thought, is overcome, whenever she feels it is necessary to do so.

If a patient is found to be suffering from brain disease, the conclusion that such person is to be *prima facie* considered incompetent, is wrong. Even patients with motoric aphasia after a stroke, may behave in an intelligent way. Given tools for communication, such a patient might make sensible dispositions, and his will, established after falling ill, could not be contested, provided the Abstraction Test shows him of unimpaired intelligence, able to form ideas and hold on to them in his memory. If he continues to maintain friendships of former years and wants the friends to help him take care of his affairs, this militates for his competency not against it; he evaluates what he can and what he can not do correctly.

To talk of Partial Competency, in such cases, is confusing. Among laymen and likewise psychologists imbued with the spirit of the natural sciences, there prevails a tendency toward quantification, which is enhanced by the categories of language. Adjectives are used in three degrees—dull, duller, dullest; of average intelligence, very intelligent, genius.

CRIMINOL., Vol. 44, No. 3, Sept.-Oct., 1953; same author: *THINKING AND SPEAKING*, North-Holland Publishing Co., 1954.

In the I.Q.—measurements of the psychologists this primitive belief in a numerically distinguishable series built of equal units reaches its peak. The danger of this is that we overlook qualitative differences in favor of establishing abstract equal units which can be counted.

This way of thinking has led to the concept of partial competency, a parallel as was suggested above, to partial responsibility of an offender in criminal procedure. Without going into the problems of partial or diminished responsibility, it should be pointed out that the concept of quantitatively diminished partial competency is a logical misnomer. In fact, it is not the competency that is limited, but certain psychological functions which may or may not be connected with competency. Competency may be limited to certain types of transactions but it is not itself divided. Such a patient may on the basis of the test, be found in a state of mind which would allow of an overall handling of financial affairs. By overall handling is meant that he is able to give directions in a general way, without going into the details.—From W. G. Eliasberg, *M.D., Ph.D.*, New York City.

(Dr. W. G. Eliasberg, has been a regular contributor to this Journal of both original articles and reviews since 1939. His publications are inspired by his training and experience in psychology, including industrial and child psychology, and in psychiatry including psychoanalysis and psychotherapy. He gained administrative experience as the founder and secretary general of the Congresses of Psychotherapy, the chairman of the section on the Psychopathology of Work of the VIII International Congress of Psychotechnics and as psychiatric consultant to the Bulova Watch Co. His sociological interest has enabled him to deal with human relations in the specific field of crime. His publications in criminology and related fields date back to 1924. While continuing as a teacher, researcher, and associate editor of the *Journal of Group Psychotherapy*, he is in the practice of psychiatry in New York. EDITOR)

Third International Congress on Criminology: Preliminary Notice—The third In-

ternational Congress on Criminology is expected to be held in London from the 11th to the 18th of September, 1955. The general subject for discussion is Recidivism. The sessions are being organized on behalf of the International Society for Criminology by a British committee composed of the following: Dr. Denis Carroll, Chairman (President of the International Society of Criminology; Consultant Psychiatrist, Portman Clinic); Sir Cyril Burt, (Professor Emeritus of Psychology, University of London); Lord Chorley, (Chairman of Council of Institute for the Study and Treatment of Delinquency, London); Miss Margaret Fry, (former Principal of Somerville College, Oxford; former Governor B.B.C.; former Member University Grants Committee; Member of the Advisory Council on the Treatment of Offenders, Home Office and Colonial Office); Dr. T. C. N. Gibbens, (Senior Lecturer in Forensic Psychiatry, Institute of Psychiatry, University of London); Dr. Edward Glover, (Chairman of Scientific Committee, Institute for the Study and Treatment of Delinquency, London); Dr. Max Grunhut, (Reader in Criminology, University of Oxford); Dr. R. Sessions Hodge, (Clinical and Research Psychiatrist, Burden Neurological Institute, Bristol); Mr. Hugh J. Klare, (Secretary of the Howard League for Penal Reform); Professor Aubrey Lewis, (Professor of Psychiatry, Maudsley Hospital, University of London); Dr. Hermann Mannheim, (Reader in Criminology, University of London; Member of the Council and Scientific Committee and British Representative of the International Society for Criminology); Dr. Leon Radzinowicz, (Director of the Department of Criminal Science, University of Cambridge).

The subject of Recidivism will be studied under five headings:

- I. Definitions of Recidivism and their Statistical Aspects;
- II. Descriptive study of forms of Recidivism and their evolution;
- III. Causes of Recidivism;
- IV. Prognosis of Recidivism;
- V. Treatment of Recidivism.

The 11th September will be taken up with

registration and reception. The opening session will be on 12th September. On that day and during the week there will be plenary sessions in the mornings and sectional meetings in the afternoons. It is envisaged that one day will be devoted to each of the five headings. The sectional meetings are for the purpose of more intimate discussion than is possible in a plenary session and may be either multidisciplinary in membership or wholly representative of one group of sciences. Reports and papers under each of these five headings are invited. In addition, national reports descriptive of recent progress and the present state of affairs in each country are being requested through the Society's national representatives. It is planned that on the basis of these national reports and any other papers received in time, the general rapporteurs selected for each heading will compile brief general reports which will serve as the main basis of discussion at the Congress.

Apart from these national and general reports, it is anticipated that there will be one plenary session and several sectional meetings at which will be read brief papers from individual members of the Congress on any appropriate topic in criminology. To avoid inconvenience, it is suggested that those intending to prepare such papers, should send to the Organizing Secretary as soon as possible a brief outline of the paper to enable the Organizing Committee to select those most suitable for presentation should there be insufficient time for all. The last day of the Congress will be taken up with the general meeting of the International Society for Criminology and will be open only to members of that Society. During the evenings of the Congress week and throughout the succeeding few days, social events and visits both to places of general interest and criminological interest will be arranged. The official languages of the Congress will be English, French and Spanish.

Membership is open to all scientists, medical men, judges, magistrates, lawyers, officials dealing with crime and criminals, penal administrators and officers, police and police scientists, probation officers, social workers and others

who are seriously interested in, or concerned with the subject of criminology in general or recidivism in particular. A cordial invitation is extended to Government Departments, Universities, Faculties, Societies etc. to send representatives.

It will be helpful if all those thinking of attending the Congress will first send in their names and addresses so that they can be informed of future arrangements. All communications concerning the Congress should be addressed to: The Organizing Secretary, Third International Congress on Criminology, 28, Weymouth Street, London, W. 1., England.

Highlights of Uniform Crime Reports, January-June 1954—The nation's crime record is not encouraging. An estimated 1,136,140 major crimes were committed during the first six months of 1954. This represents an increase of 88,850, or 8.5 percent, over a similar period last year. If this trend continues, major crimes will reach an all-time high during 1954. A major crime was committed every 13.8 seconds. Each day during the first six months of 1954, it is estimated that an average of 35 people were feloniously slain and 252 other felonious assaults were committed; 48 rapes were committed; 608 cars were stolen; 197 robberies and 1,454 burglaries were committed. It is estimated that during the period from January to June, 1954, a crime of murder, manslaughter, rape or assault to kill was committed every 4.3 minutes.

The timetable for crime during the first half of 1954 is as follows: one murder or negligent manslaughter every 40.9 minutes, one rape every 29.8 minutes, one robbery every 7.3 minutes, one aggravated assault every 5.7 minutes, one burglary every 59 seconds, one larceny every 23.5 seconds, one auto theft every 2.4 minutes. Robbery jumped 20.4 percent while burglaries rose 13.2 percent and larceny 9 percent during the first six months of 1954. Estimated murder figures rose 0.9 percent and aggravated assaults showed no change. Rape offenses declined 1.2 percent and auto theft and negligent manslaughter were down 2.3 and 3.9 percent, respectively. Victims of

killers in the United States totaled 6,380 while more than 54,000 other individuals were feloniously assaulted by potential killers or rapists. Robbers jeopardized the lives of 35,650 victims.

Urban crime rose 7.2 percent. Urban robberies increased by 22.6 percent, while burglaries and larcenies in urban areas increased by 11.8 and 7.1 percent, respectively. Urban murders decreased 2.1 percent, and negligent manslaughter declined .64 percent. Auto thefts in the cities decreased 2.7 percent, while aggravated assaults in urban areas declined by only 0.5 percent. Urban rape increased 0.6 percent. Rural crime increased 11.9 percent in the period from January to June, 1954. Burglaries and larcenies, in rural areas increased 16.7 per cent and 13.6 per cent, respectively. Robberies were up by 10.8 per cent in the rural areas, while murders increased 5.8 per cent. Rural aggravated assaults increased 1.8 per cent, but rape declined 3.5 percent. Both negligent manslaughter and auto thefts showed declines of 0.6 per cent and 0.8 per cent, respectively, in rural areas.

Although a decrease is noted over the first six months of 1954, auto theft continues as a major criminal problem in the United States. During the first six months of 1954, an estimated 110,060 cars were stolen as compared with 112,600 in the same period last year. More than nine out of ten homicides committed in 1953 were cleared by arrest. Police cleared by arrest 75.5 per cent of crimes against the person, namely, murder, rape, negligent manslaughter and aggravated assault. By contrast, only 22.9 per cent of property crimes were cleared by arrest.—SHERIFF AND POLICE REPORTER, October, 1954.

A Day in New York—In an attempt to rouse the citizens of New York from their apathy towards crime the Police Commissioner, Mr. Francis Adams, recently gave the following graphic account of a day in the city: "Before this hot August Sunday is over one of us will have been murdered, and another of us will have died as the result of criminal negligence; 27 of our people will have been feloniously assaulted; three women will have been raped;

140 of our homes and business will have been burglarized; 40 of us will have had our cars stolen; 31 of us will have been held up and robbed in the streets; and 69 grand larcenies will have taken place. The property which will be stolen from New Yorkers on this one day will amount to more than 140,000 dollars, enough to pay the salaries of 28 Policemen for a year."

This shocking indictment of the lawlessness prevailing in the wealthiest city in the world was followed by a warning that New York was "on the verge of becoming a community of violence and crime". To prevent this happening Mr. Adams proposes that 7,000 more men should be added to New York's 19,800-strong Police Force, and that Police pay should be increased to attract the right type of man. Effective law-enforcement by a Police Force which has the confidence and respect of the public is no doubt a first and essential step towards restoring law and order. New York has found that a saving on Police is false economy, and its experience is shared by London, which, in the words of Sir Harold Scott, has saved the cost of some 4,000 Police officers at the price of a doubled prison population and a record level of crime.—POLICE REVIEW, (London), August 27, 1954.

Notes on Arson—The annual report of the National Board of Fire Underwriters indicates substantially the same number of arson cases for this year as for the previous year. One exception to this has been a sizeable increase in arson cases involving juveniles. The National Board's report shows a total of 604 arrests in the 12-month period ended May 1, 1954. In that same period there were 334 convictions and 50 acquittals. Major increase in arson in the past year was in the field of juvenile arsonists. A nation-wide survey indicated that nearly one-third of all incendiary fires were set by juveniles, and that this type of fire was definitely on the increase.

Due to the end of hostilities in Korea and the return of the United States to a "peacetime" economy, with the attendant cutback in industrial and economic activity, it is the feeling

that the next year will see an increase in the number of arson cases throughout the country.

Of interest to all law enforcement officers is House Bill No. 7740. This bill would amend the fugitive felon law so as to make it a federal offense to move or travel across state lines with the intent of avoiding prosecution for the crime of arson.

Considerable progress has been made in the nation in the last year in making specialized training available to arson investigators who desire a greater knowledge in their field. Several universities and colleges throughout the country have established special institutes or seminars on arson investigation and attendance at these sessions has been excellent. Among the outstanding meetings held in the last year was the annual Arson Seminar at Purdue University, attended by some 360 arson investigators from all sections of the country.

The third annual Arson and Fire Prevention Conference was held at the Monteleone Hotel, New Orleans, Louisiana on July 13-16, 1954. It was sponsored by State Fire Marshal Sidney S. Bowman. The actual number of persons who registered for the conference was 350, but there were well over 400 in attendance. Those who

registered represented 92 different organizations, including all of the military services, various fire departments, and private business and industrial firms. In attendance there were 44 fire chiefs and six fire marshals. In all, nine states and the District of Columbia were represented.

The first short course in arson investigation was held at the University of California, Berkeley, June 21-25, 1954. Participants included 200 arson investigators from fire and police departments and other organizations in California, Oregon, Washington, Idaho, Nevada, Utah and Arizona. The second annual conference on modern methods in law enforcement dealing with problems in policing, crime detection and criminal justice administration was held at New York University, New York City on August 2-6, 1954, and included several lectures on arson investigation.—NEWS LETTER, International Association of Arson Investigators, Vol. V, Number 1, July-August-September 1954 (edited by Richard C. Steinmetz, Chief Special Agent, Mutual Investigation Bureau, 20 North Wacker Drive, Chicago, Ill.).

ILLINOIS ACADEMY OF CRIMINOLOGY

The second meeting of the Illinois Academy of Criminology for the year 1954-1955 was held on Monday, November 29th, 1954. The program was as follows:

CURRENT PROBATION AND PAROLE DEVELOPMENTS IN GERMANY. By Ben S. Meeker, Chief U. S. Probation Officer, Northern District of Illinois. Discussant: Fred Inbau, Professor of Law, Northwestern University.

Mr. Edward H. Stullken opened the meeting and introduced the speaker, Mr. Meeker, who has recently returned from a tour of duty in Germany in connection with the development there of probation and parole services. An account of his visit is given here in abstract.

Probation is not an entirely new concept in Germany but has been proposed for some fifty years. In the 1920's, some legislation provided for probation in the Juvenile Court

but it was used sporadically. During the Nazi period there was no interest in probation, but a post-war revival occurred mainly thru the influence of some of the more progressive judges. Since 1950 the movement has shown some popularity and the term *Bewahrungshilfe*, or probation assistance, has become familiar. One important influence was the utilization by the U. S. Military Government and the Occupation Forces of some features of probation and parole in their work.

In 1953 some new laws were enacted in the Federal Republics of Germany. These delegated powers of administering probation and parole to the states. The adult law authorized:

1. Stay or suspension of prison sentences and the placing of persons on probation;
2. Release of prisoners on parole following completion of two-thirds of their sentence;
3. The obtaining of back-ground information as a basis of selection for probation and parole;

4. The appointment of full-time probation officers.

The Juvenile Court law was more complex and was patterned on American and British practice. Age limits for juvenile delinquents are considered to be between 14-18 years. Under 14 years they are considered as problem or dependent children and there is a network of homes or schools for treating these problems. Persons between 18-22 years may, at the discretion of the judge, be considered as juveniles if there is marked personality immaturity. A unique aspect of this law, in relation to German legal traditions, is that the judge may defer sentence until he obtains further information about the offender. This distinction between a finding of guilty and the process of sentencing represents a new concept in Germany.

This three and one-half month assignment was spent mainly in traveling throughout Germany and lecturing with various officials. In over thirty cities a daily routine was followed of conferences with groups of judges, prosecutors and court officials and in meetings with welfare and probation officers. Lectures were given on probation and parole. The United States "Manual on Pre-Sentence Information" was translated and adapted to German use. Emphasis was placed on the problems of administration of probation, such as the source of funds for supporting probation, and the recruitment and training of probation officers. An attempt was made to digest the new law and to interpret it to lawyers, judges and other welfare workers who lacked the background and experience of the United States in this new field. Discussions were held on the concepts of the role of the probation officer, the kinds of supervision necessary, and the administrative structure. There were also discussions with educators on utilizing university programs for training probation officers. One question frequently raised concerned the use by the probation officer of his own home rather than the Court House as an office. This is more of a problem in Germany than in the U. S. because of the much greater formality of the courts.

Some other observations on German court organization may be noted. The court system in

Germany is one of the most stable institutions and was relatively less affected by the Nazis; the younger judges particularly represent a more democratic group. Juvenile Court procedures are in some respects similar to those of the United States, for example: use of chamber trials, and authorization to delete juvenile records after a time. German prisons show great variation in quality; some are quite obsolete. In Hamburg there is a very modern prison. There is some awareness of the classification system. In Germany there is no distinction between probation and parole; both are granted by the judge.

Professor Fred Inbau then discussed some of his experiences as Visiting Consultant for the Office of the United States High Commissioner for Germany during the summers of 1951 and 1952.

The Germans have the same objectives we do in their criminal law procedure. One difference in practice is that the trial court may have before it full information on past criminal records in a particular case. With reference to search and seizure process, this is generally condemned there. The exception is that the police can search a house without a warrant if necessary to prevent the defendant's flight or the destruction of evidence. These differences actually have correlates in U. S. practice, for example: the habitual criminal trial, and the use in court of illegally seized evidence.

With reference to the problem mentioned by Mr. Meeker of the location of the probation office, this may be understood in terms of the austerity of the German Courts. There is exaggerated respect for rank and authority. In general, fewer arrests are made in Germany and these usually follow collection of evidence and certainty of guilt. The problem of possible escape of a suspect is not as great because of restrictions on ease of travel. The deficiency may be noted in terms of the American concept of speedy trial; the pre-trial detention period can be much longer than it is here. There is also a marked difference in German attitudes towards sentences. In general, much shorter sentences are used.—From Dr. A. A. Hartman, Vice President of The Society.

THE SOCIETY FOR THE ADVANCEMENT OF CRIMINOLOGY

The Society for the Advancement of Criminology—held its annual conference in Berkeley, California, on December 28. *Education in Criminology* was the theme of the conference which was arranged by President William Dienstein, Associate Professor of Criminology at Fresno State College, Fresno, California. A number of papers were presented on this theme, including: *General Philosophy for Criminology Programs*, by O. W. Wilson, Dean, School of Criminology, University of California, Berkeley; *Law Enforcement*, by Richard Simon, Deputy Chief and Commander, Bureau of Administration, Los Angeles Police Department; *Penology*, by Austin H. MacCormick, School of Criminology, University of California, Berkeley; *Psychology*, by Douglas M. Kelley, M.D., School of Criminology, University of California, Berkeley; and *Criminalistics*, by Paul L. Kirk, School of Criminology, University of California, Berkeley.

The Society for the Advancement of Criminology, American affiliate of the International Criminological Society, was founded some ten years ago for the following purposes: 1) to promote the study of criminology and its related studies in American colleges and universities; 2) to stimulate research in criminology; 3) to professionalize the preliminary

training of young men and women entering the field of law enforcement, probation and parole, prison administration, and other occupations directly or indirectly connected with the phenomena of crime; and 4) to provide advanced in-service training at the adult-education and post-graduate levels for careerists in criminological fields. The Society provides an information service for foreign criminologists, assists in the placement of personnel, and advises on the publication of articles and monographs. The Society publishes a Directory of Criminological Studies, a monthly newsletter, and distributes occasional brochures, reports, and other items of interest to its members. Its official journal is *The Journal of Criminal Law, Criminology, and Police Science*. Included among the new slate of officers elected for the ensuing year were Richard Simon, President (Deputy Chief and Commander of the Bureau of Administration of the Los Angeles Police Department); Inspector G. Douglas Gourley, Secretary-Treasurer (also of the Los Angeles Police Department); and Richard Hankey, Vice-President (Director of Law Enforcement, College of the Sequoias, Wisalia, California).—
Announcement to the Editor.