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An International Association of Crime Prevention—In December, 1934, The French Society of Crime Prevention (Société Francaise de Prophylaxie Criminelle) took the initiative step toward the organization of an International Association of associations interested in the study of crime and its prevention. The meeting was attended by the leading jurists, psychiatrists and criminologists of France, Italy, Belgium, Germany, England, Austria, Czechoslovakia, Sweden, Switzerland, Spain, Jugoslavia, and Brazil. A committee composed of Professor Weygandt (Germany), Dr. Vervaek (Belgium), Professor Ribeiro (Brazil), Dr. Toulouse (France), Professor Di.Tullio (Italy), and Dr. Bersot (Switzerland) was appointed to draft the constitution and by-laws of the new association and to organize its first international congress. The committee met in Brussels recently and decided to issue invitations to such a congress to be held in Rome in November, 1935. It is hoped that the United States will be represented on this occasion. Inquiries may be addressed to Professor Thorsten Sellin, University of Pennsylvania, Philadelphia, Pennsylvania.

Following the principles indicated in the report made at the annual meeting for 1934, all offenses
are divided into six grades, known respectively as crimes of the first, second, third, fourth and fifth grades and petty offenses. The criterion of allocation to the several grades has been, as far as practicable, that of the relative danger to society rather than the objective gravity of the offense. It is this, for example, which has induced the Committee to assign an attempt to commit an offense to the same grade as the completed offense. From the outline of allocation contained in the report, which outline was necessarily a rough one, certain instances of variation will be found in the completed draft. Thus, as a line of demarcation between theftuous offenses of the second and third grades, there has been retained a value of $1,000, but unaggravated stealing involving a value of not to exceed $10, and certain other minor theftuous offenses have now been classed as petty offenses. It has been thought proper, also to import into malicious mischief, the idea of pecuniary value, namely, the same criterion of $1,000 as determining the allocation of certain offenses of this character as between the second and third grades. Of these and the other instances of variation from the report, in the present regard, it is only to be said that they represent the more matured judgment of the Committee in the light of its further deliberation. It should be noted also that although the report proposed to abolish the distinction between felonies and misdemeanors, the Committee on further consideration decided to retain it as collateral to the classification adopted. In view of the fact that the non-statute law and various statutes outside of the criminal code speak in terms of the traditional distinction, it was thought that embarrassment or complication might result if that distinction were wholly discarded. Accordingly it is provided that a felony is an offense punishable by death or imprisonment in the penitentiary, while every other offense is a misdemeanor. Thus all crimes of the first and second grades are felonies and offenses of all the lower grades are misdemeanors. The draft, however, speaks throughout in terms of grades and not in terms of the old distinction thus collaterally retained.

The premise of the present draft, as has been seen, is its unique principle of the six grades of offenses. Were it not for this feature it would have been in order to employ some scheme of classification, such as characterizes the best of contemporary codes, based upon the object or interest affected by the crime, and to deal, for example, with offenses against the government, offenses against the person, offenses against property and so on as separate heads. But the sextipartite division adopted forbade any effort in this direction. For classification of the sort referred to would necessarily have had to be made within the grades, with the result that the product would have been complicated by a maze of academic refinement. Accordingly, the simple expedient has been adopted of listing the offenses alphabetically within the several grades. Any scientific heresy involved in this method is in the Committee's judgment amply atoned for by its practicality and the facility of reference which it affords. As a corollary, the Committee has sought to find for every offense a brief distinctive name—a feature which it believes
will be of important aid to the courts and to practitioners.

Attention is particularly invited to the provision with reference to the test of insanity as a defense. It has seemed to the Committee that the time has come to discard the existing legal tests, that is to say, the right and wrong test and that of irresistible impulse. In their stead it has substituted the inquiry whether the accused at the time of the offense was "insane, in the sense of being afflicted with a mental disorder or mental defect which is the direct cause of the commission of the offense." This allows full room to the progressing development of science as an aid in determining the fact of insanity, represents the real question which even under existing law the jury as a practical matter propounds to itself, and, insisting, as it does, upon the existence of mental disease or defect, excludes from consideration, the non-pathological emotional disturbance which so often has defeated justice under the guise of temporary insanity.

The matter of penalties has undergone certain changes from the ideas expressed in the report, resulting like other variations, from a maturing of the Committee's views. As the case now stands, treason is punishable by death, while the other capital offenses, murder and kidnapping for ransom, are punishable (1) by death, (2) by life imprisonment or (3) by an indeterminate imprisonment of from 14 years to life. For the remaining crimes of the first grade the penalty is indeterminate imprisonment of from one year to life. Crimes of the second grade are punished by indeterminate imprisonment of from one to fifteen years. Third grade crimes involve imprisonment for five years, fourth grade crimes imprisonment for three, the imprisonment in either case being terminable at any time by parole. For crimes of the fifth grade, the penalty, to be fixed by the court, is a definite period of imprisonment not exceeding six months or a fine not exceeding $1,000 or both. Petty offenses likewise involve a definite period of imprisonment or fine or both, to be fixed by the court, the maximum here being thirty days and $200.

The principle of increase of punishment for the recidivist expressed in the report has been adhered to and reinforced. In the case of the offender convicted of a non-capital crime of the first grade who has been previously convicted of a crime of the first or second grade, the normal penalty of imprisonment of from one year to life becomes imprisonment of from five years to life. A person found guilty of a crime of the second grade who has been previously convicted of a crime of the first or second grade becomes punishable as for a first grade crime, but with the minimum term of imprisonment fixed at three years instead of one. The third grade offender, previously convicted of a crime of the third or a higher grade is punished as for a crime of the second grade, but if previously convicted of two or more unrelated offenses, each of the third grade or higher, he is punishable as for a crime of the first grade, with a minimum term of imprisonment of three years. In no case is the fact of previous conviction to be alleged in the information; it becomes a matter of proof to the court after verdict of guilty, pursuant to notice given by the State's Attorney before the commencement of the trial. But even if the fact of previous convic-
tion first comes to light after commitment, it will be operative to enhance the punishment, through the requirement that the parole authorities, upon ascertaining the fact, hold the offender for the minimum period appropriate to his case, just as if the fact had been stated in the sentence. Since in all these cases the sentence operates to empower the holding of the prisoner for the maximum term, there is in this requirement nothing running counter to the sentence itself. In cases below the third grade there is no enhancement of punishment so far as the sentence is concerned; in the case of fourth grade offenses the fact of previous conviction remains simply an element to be taken into consideration by the court in determining the question of probation or by the parole authorities in determining the question of release on parole.

The place of imprisonment for persons guilty of or punished as for crimes of the first and second grades will be the State penitentiary. It is, however, of the essence of the present proposal that a proper state institution or institutions other than the penitentiary be provided for the imprisonment of third and fourth grade offenders. For the execution of sentences of imprisonment in the case of crimes of the fifth grade and petty offenses existing places of confinement will suffice.

From what has been said, it will be seen that the benefit of parole is accorded to all offenders serving a term of imprisonment under conviction for any offense falling within the first four grades, whether such imprisonment is in the penitentiary (crimes of or punishable as of the first or second grades) or in the appropriate state institution other than the penitentiary (crimes of the third and fourth grades). This as pointed out in the Committee's report involves an extension of that benefit downward—a result which for the reasons there set forth is deemed a highly desirable one.

The matter of probation follows the suggestion contained in the report. It may be accorded to any offender except one guilty of a crime of the first grade or of a crime punishable as a crime of the first grade. This involves certain changes in the present Probation Law, all, as the Committee believes, in the interest of a better balanced administration of this important institution.

Of the procedural part of the draft the most conspicuous feature is the abolition of the Grand Jury and the creation of a body of seven persons designated as the Board of Inquiry. These seven persons are to be drawn from the jury list, provision being made for the simultaneous drawing of seven regular nominees and fourteen alternate nominees, so that the body can be constituted without delay. Unlike the Grand Jury, the Board of Inquiry is not called into existence at stated intervals, but only at the request of the State's Attorney or Attorney General or on the court's own motion.

All prosecutions are to be by information, presented (a) by the Attorney General or State's Attorney, (b) by the Board of Inquiry or (c), in case of offenses below the second grade, by any person having knowledge of the facts. In all cases of crimes of the first and second grade, a preliminary examination or its waiver is a prerequisite to the filing of an information, except where the information is presented
by the Board of Inquiry and in a few other special instances. Informations in other cases must be preceded by an examination for leave to file held before the court or judge, with the finding of probable cause. Presentment by the Board of Inquiry, while normally coming as the result of inquiry into matters signified to it by the prosecuting officer, may nevertheless be upon its own initiative. It is to be observed that, unlike the present Grand Jury, the Board of Inquiry will never traverse the ground already traversed on preliminary examination. The fact of the preliminary examination dispenses altogether with the functioning of the Board. The expectation is that the Board will be called into existence only as an occasional measure to deal with matters which require exceptional handling.

In the procedural chapters the Model Code of the American Law Institute has been extensively placed under contribution. In particular the system of pleading prescribed has been largely drawn from that Code. As regards the information the principle is that this need not state all the essential elements of the offense charged, but that the defendant may require it to be supplemented by bills of particulars. He is entitled to obtain by bill of particulars such information as is necessary to enable him to prepare his defense or such as he is entitled to under the constitutional requirement that he be informed of "the nature and cause of the accusation against him." This principle which was adopted by Massachusetts as long ago as 1899 is the principle of the Model Code. In its application the Model Code goes considerably further than the Massachusetts statute. The present draft, however, has tempered somewhat the provisions of the Model Code in this regard.

Like the Model Code, the present draft confines the defensive pleadings to the motion to quash and the plea of not guilty. The grounds of the motion to quash are made to include the defense of immunity and that of former jeopardy. But the draft departs from the Model Code in providing for jury trial on an issue of fact arising on a motion to quash. Under the plea of not guilty may be presented any defense other than such as may be taken advantage of by motion to quash. As by the Model Code notice of the defense of insanity is required under the plea of not guilty. To this the draft adds the requirement of notice of alibi, the notice to furnish specific information of the place at which the defendant proposes to show he was at the time in question. The notice in each case is to be given five days before trial, and in each case the court is empowered to admit the evidence despite the lack of notice, upon a showing of good cause for the failure to give it.

In the matter of evidence, following the current trend of thought, provision is made to the effect that the husband or wife shall be a competent witness for or against the other, suitable reservation being made for the protection of confidential communications. It is also to be noted that the granting of immunity in the case of a witness giving testimony tending to incriminate himself, possible under the existing law only in certain special cases, is made applicable in all criminal prosecutions.

The motion in arrest of judgment is preserved but confined to two
grounds, namely, the failure of the information to charge an offense, or the fact that the court is without jurisdiction. Other grounds proper to the motion in arrest under the Model Code are made grounds of new trial, with the idea of leaving to the motion in arrest only such grounds as operate to make an end of the case.

In the matter of review, the significant step has been taken of assimilating criminal review to civil. The review is by notice of appeal and except as otherwise provided the proceedings are to follow the rules prescribed for civil cases. Appeal may be taken by the defendant as a matter of right within 120 days from the date of the sentence. After the expiration of this period and within two years from the date of the sentence he may appeal by leave of the reviewing court. Appeal by the State—from an order quashing an information or an order entered after final judgment—is to be taken within 60 days from the date of the order. An appeal from a death sentence stays execution, but when the sentence is one of imprisonment, stay is to be granted, either by the trial judge or the reviewing court, only upon a finding of probable cause for reversal. When the offense is bailable as of right before conviction, the stay order entitles the defendant to be admitted to bail.

The powers of the reviewing court on appeal are specifically regulated and include in the case of appeal by the defendant the power to pronounce such sentence as in its opinion should have been pronounced by the court below.

It is to be added that the rule-making power as to procedure in criminal cases is expressly conferred upon the Supreme Court in the same manner and to the same extent as under the Civil Practice Act. Whether any and, if so, what portions of the procedural provisions contained in the draft should be transferred to a schedule, subject to modification by rules of the Supreme Court, is a question which remains for determination before the draft is put in the form of a bill.

In the foregoing observations it has been sought to exhibit the general lineaments of the system presented by the draft. To mention in even a general way all the new features which it exhibits in the substantive as well as in the procedural field would be impracticable within the limits of this introduction. In neither field has the Committee withheld its hand when improvement seemed desirable and feasible. In the matter of definition of offenses the draft has introduced order and method, and has succeeded in greatly reducing the bulk of the present statutory material in this regard. The scheme of penalties which it offers, in the judgment of the Committee, effectively responds to the idea advanced in its report of reconciling considerations of uniformity of penalties with the principle of individualization of punishment. And, for the procedural part, it has, out of materials furnished by the existing law, by the Model Code and by suggestions coming from elsewhere, constructed a system which, without prejudicing any substantial right of the defendant, is bound to bring about a more adequate administration of criminal justice.”

Philadelphia Lawyers Disbarred—On April 15, 1935, six of eight lawyers cited for professional miscon-
duct by the Philadelphia Bar Association were disbarred and the others were censured and reprimanded by a board of five President Judges. This action was the result of a year's investigation by a special committee of the Bar Association and the Judges have been widely commended in that "they ripped aside, once and for all, the mask by which 'legal ethics' so often has been used to cover up malefactors within the profession." While conceding that the disbarment alone will improve the administration of criminal justice, pressure has been brought to bear upon the prosecutor to initiate criminal prosecution due to a statement made in the decision:

"Such an agreement, to stand ready to defend future crimes, amounts to an agreement to encourage the agents to go on with the conspiracy. It promises comfort to the criminal, and makes his pathway as easy and safe as circumstances will permit.

We have no doubt that an attorney who accepts such a retainer is as much a principal in the conspiracy as is the 'banker' who retains him, or the 'pick-up' man, or 'writer' who gets the benefit of the agreement.

An attorney so acting could be properly indicted as a principal in the crime.

The principal question in this connection is that of proof that may be required to sustain such a charge.

We conceive it clear that an admission of acceptance of a retainer, periodically paid, to defend persons, when, if and as they may be arrested for acts to be done in carrying out a criminal conspiracy, is ample proof not only of unprofessional impropriety, but, as we have said, of actual participation in the crime."

Commenting upon this statement the Record remarks: "Entirely aside from the question of unprofessional conduct, if any of these attorneys can be proved to have been involved in a conspiracy to cheat justice they should answer in court the same as any other citizen would have to do under similar circumstances."

Michigan Reorganization — The April, 1935, issue of News Bulletin of the Osborne Association contains an account of developments in Michigan, following the survey made in that state by the Association last year.

Governor Fitzgerald is now sponsoring a movement for a complete reorganization of the administration of the prison and parole system of the state. The plan has been presented to the legislature in the form of a bill and has received favorable action in the state Senate without a dissenting vote. It is now before the House for action, where it is to be hoped the bill will be promptly enacted into law.

The plan provides for the establishment of a state corrections commission consisting of three unsalaried members, appointed by the governor for staggered six-year terms. In addition to directing the policy of the Department of Corrections, this commission will be charged with the complete responsibility of managing the correctional institutions, granting of and supervision of paroles, and supervision of probation as well as for the appointment of an executive director, a superintendent of probation, a superintendent of parole, a superin-
tendent of prison industries, wardens, probation officers, parole officers, and all other subordinate officials. The bill also provides for the establishment of civil service rules and regulations governing all appointments.

Provision has also been made for the psychiatric examination of all inmates. The development of a modern classification system can and should be the next step.

This bill is also broad enough to provide for the establishment of modern and effective probation and parole work.

When and if the bill is finally enacted into law, all that will be needed to bring Michigan to the forefront of progressive states will be an appointment of competent personnel and adequate appropriations to carry out the provisions of the plan.

Crime in Baltimore—The Twelfth Annual Report (1934) of the Baltimore Criminal Justice Commission contains the following general information, supplemented by more detailed data:

"During the year 1934 serious crime in Baltimore City decreased by approximately 7 per cent over 1933. The more serious offenses of Murder, Burglary and Robbery all decreased. The ratio of arrests in relation to reported felonies showed an increase of 2.2 per cent. Fifty per cent of all serious crimes were followed by arrests. In only one year, since the Commission began compiling statistics twelve years ago, has this record been surpassed and then by only one per cent in 1930."

New York Legislation—The bill, printed below, introduced by State Senator Howard of the New York legislature, has passed both houses and is expected to be approved by the Governor. The bill was sponsored by the Governor's Commission on the Study of the Educational Problems of Penal Institutions for Youth. Mr. E. R. Cass of the Prison Association of New York, who worked on the bill along with Dr. Engelhardt of Teachers College, Columbia University, and Dr. Branham of the New York State Department of Correction, writes: "The Director of Education is already at work and is continuing the educational project at Elmira. He is beginning a new one at our Medium Security Prison at Wallkill and at Clinton Prison, Dannemora. The bill writes into the statute the position of Director of Education, thereby making possible a central stimulating and energizing position in the Department. It also clothes the Director with certain powers."

15-b. Education. The present director of vocational education shall be the director of education with the powers and duties of the director of education and hereafter shall be appointed by the commissioner. The director of education, at any time appointed, shall be a person whose education, training and experience shall cover fields of penology and of professional education. The educational qualifications shall include the satisfactory completion of three years of graduate work in education, penology, and allied fields. The head of the division of education shall have the direct supervision of all educational work in the department of correction and shall have full authority to visit and inspect all institutions of the department to observe, study, organize, and develop the educa-
tional activities of such institutions in harmony with the general educational program of the department. He shall be responsible to the commissioner and deputy commissioner of correction.

Sec. 3. Section one hundred and thirty-six of such chapter, as thus renumbered and last amended by chapter two hundred and forty-three of the laws of nineteen hundred twenty-nine, is hereby repealed, and such chapter is hereby amended by inserting therein a new section one hundred and thirty-six, to read as follows:

"Sec. 136. Prison education. The objective of prison education in its broadest sense should be the socialization of the inmates through varied impressional and expressional activities, with emphasis on individual inmate needs. The objective of this program shall be the return of these inmates to society with a more wholesome attitude toward living, with a desire to conduct themselves as good citizens and with the skill and knowledge which will give them a reasonable chance to maintain themselves and their dependents through honest labor. To this end each prisoner shall be given a program of education which, on the basis of available data, seems most likely to further the process of socialization and rehabilitation. The time daily devoted to such education shall be such as is required for meeting the above objectives. The director of education, subject to the direction of the commissioner of correction and after consultation by such commissioner with the state commissioner of education, shall develop the curricula and the education programs that are required to meet the special needs of each prison and reformatory in the department. The state commissioner of education, in cooperation with the commissioner of correction and the director of education, shall set up the educational requirements for the certification of teachers in all such prisons and reformatories. Such educational requirements shall be sufficiently broad and comprehensive to include training in penology, sociology, psychology, philosophy, in the special subjects to be taught, and in any other professional courses as may be deemed necessary by the responsible officers. No certificates for teaching service in the state institutions shall be issued unless a minimum of four years of training beyond the high school has been secured, or an acceptable equivalent. Existing requirements for the certification of teachers in the institutions shall continue in force until changed pursuant to the provisions of this section."

Minnesota Report—The Minnesota Crime Commission recently published a lengthy (pp. 217) Report containing the recommendations of the Committees on Detection and Apprehension; Criminal Law, Procedure and Practice; Punishment; Parole and Pardon; and Criminal Records and Statistics. Included in the Report are abstracts of materials taken from various crime surveys and a statistical study of 361 criminal cases in Hennepin and Ramsey counties. The Minnesota Crime Commission's officers are Honorable John P. Devaney, Chairman, Orlando J. Rudser, Secretary, and Professor George B. Vold, Consultant. A summary of the recommendations dealing with detection and apprehension and criminal procedure follows:
Detection and Apprehension

1. That the powers, duties, functions of the Bureau of Criminal Apprehension be enlarged, and the personnel be increased by the addition of not less than twenty-four agents.

2. That a central school for the training of police officers, patrolmen, recruits and other peace officers be established at the University of Minnesota, if acceptable to it, and, that an appropriation of $25,000 be made for this purpose.

3. That a state-wide system of police communication be established.

Criminal Law, Procedure and Practice

4. That counsel for the defense be required to open his defense immediately after the prosecution has opened and before any evidence is submitted by either side.

5. That the defendant be required to give advance notice to the county attorney of the particulars of an alibi defense.

6. That the defendant be required to give notice on arraignment or before trial of intention to rely on the defense of insanity at time of commission of the offense.

7. That the court and the county attorney be given the right to comment on the failure of the defendant to testify.

8. That in the discretion of the court those jointly indicted (or affected by one information) may be tried jointly.

9. That the state enter into reciprocal agreements with other states for the extradition of witnesses in criminal cases.

10. That the state as well as the defendant be permitted to take depositions of absent witnesses under terms to be fixed by the court.

11. That the defendant be permitted to waive trial by jury.

12. That the trial court be given the power to examine the prospective jurors on voir dire without limitation of the right of the state or of the defense to further examine such jurors.

13. That the full jury be called before the exercise of the alternative peremptory challenges by either side.

14. That the state be given the same number of peremptory challenges to jurors as the defense in all cases.

15. That art. 1, sec. 7, of the state constitution be amended to permit the enactment of legislation regulating admission to bail before trial similar to section 70 of the American Law Institute's Code of Criminal Procedure.

16. That jumping bail be made a felony where defendant was charged with the commission of a felony and a misdemeanor in all other cases.

17. That the state be given the right to appeal on questions of law from any adverse ruling or decision of the trial court except a verdict or judgment of not guilty.

18. That if the defendant appeals the Supreme Court at the request of the county attorney may pass on important matters of ruling adverse to the prosecution.

19. That the state be given the right to reply to the argument of the defense to the jury.
20. That the power of the county attorney to file information be extended to all felonies except those punishable by life imprisonment, and, that defendant must be represented by counsel if he pleads guilty thereto.

21. That all persons engaged in the practice of healing, as defined in Mason’s 1927 Minn. Stat., sec. 5705-1, hospitals and nurses be required to report immediately all cases of injuries due to dangerous weapons.

22. That the time to appeal from a judgment of guilty or from an order denying a new trial be limited.

Waiver of Jury Trials—One of the last publications of the Institute of Law of The Johns Hopkins University was a study entitled “The Waiver of Jury Trial in Criminal Cases in Ohio” by Kenneth J. Martin. This work was based upon a questionnaire sent to judges, prosecutors and attorneys of Ohio concerning the desirability of waiver, and a comparative statistical study of the use and results of non-jury trial in Ohio and Maryland during a two-year period.

“As a consequence of this two-fold investigation, information was secured in regard to the extent to which the jury is waived; the factors which cause the waiver of jury trial; the class of cases in which the jury is waived; the number of convictions and acquittals in jury and non-jury trials; and the general effect of this practice upon criminal procedure. In addition, the study assembles the views of competent observers with respect to the effects of the waiver of jury trial upon the criticism of the bench; the advantages and disadvantages of this practice to the state and to the accused; the possibility of changes which may result in improvement; and the desirability of allowing the waiver of jury trial.”

“Perhaps the most significant information brought to light by the inquiry is the notable majority of judges, prosecutors, and attorneys who favor the practice of allowing the waiver of jury trial; and, on the other hand, the comparatively small extent to which the jury is waived in Ohio.”

One of the most interesting statements in the study presented a practical aspect of waiver which deserves careful consideration in view of the somewhat general criticism of the vast amount of power lodged in the prosecutor due to his opportunity to dispose of criminal cases through administrative discretion. Mr. Martin says:

“The prosecuting attorney who is confronted with a crowded docket and a large number of jury trials may consider it to his own interests and to the interest of the state to secure as many pleas of guilty as possible; but if court trials may be had, the resultant rapid disposal of cases might make the prosecutor willing to allow the case to go to trial. The defendant, who pleads guilty because he feels it will enable him to secure better treatment, might really prefer to be tried by the court; and if this occurred, the case would be disposed of by judicial determination rather than by administrative discretion. The judge, who is generally regarded as the official who should decide cases, would be given that opportunity.”

Rule Making Authority—In an article in the Journal of the American
Judicature Society (XVIII-187, April, 1935) attention is drawn to the fact that reformers of criminal procedure usually resort to attempts to secure remedial legislation which quite often meets opposition by lawyer members of the legislature. The writer remarks:

"And why should not the host of eager criminal procedure reformers take part actively in the campaign for rule-making authority? They have bumped their heads often enough, one would think, in their efforts to get past judiciary committees. It might be no harder to change the entire system of formulating rules of procedure than to get a single petty concession. . . .

"Beginning January 1, 1935, Wisconsin will benefit from a rule which requires the pleading of an alibi defense in all courts of record on the day of arraignment. It is to be presumed that under this rule the practice will be to take whatever time is reasonably required for the state to investigate. Four or five days might be insufficient and in such case the court could defer trial until the prosecutor has information to enable him to nol-pros or to meet the special defense.

"Another interesting thing about the Wisconsin rule is that it was adopted by the supreme court. Instances of the reform of criminal procedure by court rules are not yet common but the power exists in a few states. It is possible that in the campaign for rule-making authority the proponents have considered it impolitic to suggest court rules in criminal cases, though the text of their draft acts are inclusive. They may well fear stirring up a hornet's nest of opposition."

For the possibilities in securing reforms indirectly through court decision and by court made rules which might be impossible to obtain directly by law making see "Recent Criminal Cases" in this Journal XXV, p. 634, XXII, p. 113, XXII, p. 430.

It is interesting to compare the Wisconsin rule with the unsuccessful effort in New York to secure an alibi notice law. On March 20 in an address at Troy Attorney General John J. Bennett, Jr., said: "Since 1932 I have urged the adoption here of an Alibi Bill, the purpose of which is to give public prosecutors adequate notice where the alibi is to be used as a defense. Measures similar to mine are in force in several states and have proved so effective that in some of these commonwealths, notably in Ohio, the alibi is seldom used now as a defense. Why should not the Alibi Bill be adopted? Everyone who knows anything at all of the criminal courts knows that the alibi is a surprise defense—one that lends itself to perjury more than any other. Why should any defendant having an honest alibi defense object to giving the prosecutor the facts of his defense in advance so that they may be investigated? Yet although this bill has been endorsed by district attorneys and organizations devoted to fighting crime, up to now it has not been enacted into law."

State Police—Assembly Constitutional Amendment Bill No. 67 providing for an amendment to the Constitution of California creating a state Police System was introduced on March 13, 1935. Since there is great interest in legislation on state police it is reprinted.
ARTICLE XXXVI

"Section 1. There is hereby created a California State police under the control of a chief of State police.

Sec. 2. (a) The chief of State police shall be appointed by a commission composed of the Governor, the Attorney General and the president of the State Personnel Board, who shall likewise fix the salary of said chief.

(b) No person shall be appointed chief unless he shall have demonstrated ability in police work with at least five years experience.

(c) The chief of State police shall serve during good behavior. He shall be removable by the commission empowered to appoint him only for cause and after written charges have been preferred against him. If he shall so request, he shall be entitled to a public hearing before said commission. The Legislature shall have power to determine grounds for removal.

Sec. 3. The California State police shall have the power of peace officers in all parts of this State. Subject to the provisions of this Constitution, it shall be the duty of the California State police to enforce the laws of the State and to prevent and detect crime and apprehend criminals.

Sec. 4. The Legislature may by law transfer to the State police the duty to enforce the laws of the State now imposed by law upon sheriffs and constables and may impose other related duties upon the State police, and shall make appropriations or designate funds for the payment of expense thereof.

Sec. 5. California State police are empowered to cooperate and exchange information with Federal authorities, with authorities of other States, and any other department of the State, and with local authorities in the prevention and detection of crime, apprehending of criminals and the preservation of law and order.

Sec. 6. Any municipality is hereby empowered, in accordance with law or any charter adopted under the provisions of this Constitution, to contract with the chief of police of the State for the California State to provide police protection to such municipality, or to furnish or receive communication services for police purposes.

Sec. 7. The chief of the State police shall have the power to appoint all police employees of the California State police, and to dismiss them.

Sec. 8. Subject to the approval of the commission empowered to appoint the chief of State police, the chief of State police is hereby empowered to prepare and amend an administrative code which, when so approved and promulgated by authority of the chief, shall bind and control all members of the State police. Such a code shall:

(a) Provide a plan of organization for the California State police which may include administrative divisions and districts for the maintenance of a police patrol throughout the unincorporated territory of the State and in municipalities contracting with the State police for police services.

(b) Classify members of the State police as police employees and clerical employees. Police employees shall be those persons who shall have powers of peace officers, and they shall be exempt from the civil service provisions of Article XXIV of this Constitution and shall be governed as this section shall provide.
(c) Establish a classification of ranks and grades and positions for police employees, and for each rank, grade and position designate the authority and responsibility, set standards of qualification, and fix prerequisites of training, education and experience.

(d) Provide for the direction, control, discipline and conduct of police employees, and for promotion on the basis of seniority of service, qualifications being equal.

(e) Prescribe standards of qualification for admission to the police training school and courses of instruction to be given, and provide for the satisfactory completion of certain courses as a mandatory requirement for the appointment and promotion of police employees.

Sec. 9. (a) The chief is hereby authorized to establish and conduct a school for the instruction of law enforcement officers of the State and of the cities and other political subdivisions thereof, to be known as the police training school.

(b) On and after two years from the effective date of this section, no person shall be appointed as a police employee who shall not have received a certificate of qualification in police training and admission from the police training school, or from a school having standards of police training approved by the chief of State police.

Sec. 10. The chief of State police shall have complete power to assign police employees to divisions and to districts of the State police as he may deem necessary; provided, police employees may be assigned to the Attorney General upon his request, and they shall be responsible only to him for the period of the assignment.

Sec. 11. Police employees shall not act within the limits of any municipality which maintains a police force or has not contracted with the State police for police services except:

(1) When in actual pursuit or in search of an offender or suspected offender wanted for a crime committed outside of the limits of the municipality; or

(2) When requested to act by the chief executive officer of a municipality, its chief police officer or the district attorney of the county in which it is located; or

(3) When the Governor has declared a state of emergency exists and violence has occurred therein.

Sec. 12. The Legislature by law may provide for the establishment of a metropolitan police district in any area of the State containing a population of more than five hundred thousand, which shall include two or more cities and county territory contiguous thereof, for the organization and operation of police services within such district, for the manner in which existing police organizations may be consolidated, for the payment of costs of police protection, and for coordinating the police services within the district with the California State police.

Sec. 13. The Legislature shall pass such laws as may be necessary to carry into effect the provisions of this section, and no such laws shall restrict the powers of the chief of State police to appoint, supervise or control the police employees of the State police.

Recently the Consulting and Research Division of the Public Administration Service, Chicago, Illinois, issued its Model State Police Act prepared by Professor E. W. Puttkammer of the University of Chicago Law School and Donald C.
Stone, Director of the Consulting and Research Division. It will be recalled that these men prepared a companion act “Draft of an Act Creating a State Bureau of Criminal Identification, Investigation, and Statistics” for the Committee on Uniform Crime Records of the International Association of Chiefs of Police in December, 1934. The Model State Police Act has been designed for the guidance of states contemplating establishment of state police and is made elastic enough to become applicable to varying conditions. A comment on each section is included by way of amplification or explanation. Copies may be obtained from the Public Administration Service, 850 East 58th Street, Chicago.

Missouri Bar Recommendations—
The committee on the Legal Aspects of Criminology of the Missouri Bar Association has proposed the following amendments to criminal procedure in Missouri and its report was approved by the Association's Executive Committee. Bills covering each topic are now pending in the Missouri Legislature.

1. To give the trial judge the discretion to grant or refuse bail after conviction for highway robbery, burglary or kidnapping or in cases where the person convicted has been previously convicted for felony within or without the state.

2. To provide more stringent requirements for the qualifications of sureties on bail bonds.

3. To provide a method for summary judgment on bail bonds in default.

4. To require the defendant to give advance notice of insanity or alibi defense, provided, in case of alibi, that the state has specified in advance with sufficient particularity the time and place of the alleged crime.

5. To give the trial judge the discretion to grant or refuse separate trials to defendants jointly indicted or informed against.

6. To require the arresting officers to fingerprint all persons arrested for a felony and transmit a copy to the Bureau of Investigation at Washington, D. C.

7. To permit counsel to comment on the failure of an accused to testify where the accused introduces testimony in his behalf.

8. To permit the taking of depositions by the state in criminal cases.

Three other proposals also are urged. These relate to: (a) Shortening time for appeal in Criminal cases from one year to four months. (b) Changes of venue; so as to allow such changes only for actual cause shown. (c) Challenges of jurors; so that the State shall have the same number as the defendant.

Crime News—Two articles appearing in the April, 1935, issues of widely read journals circulating in dissimilar circles of readers offer an interesting contrast. The American Mercury contains an article by Newman Levy “Justice Goes Tabloid” based upon the “journalistic orgy” of the Hauptmann trial which was covered by 300 reporters who wrote 10,000,000 words about it and “virtually every newspaper overstepped the bounds of fair comment.” He made this pertinent comment: (XXIV, p. 392) “Certainly, the press has a social responsibility that transcends the
mere obligation of giving the public what it wants—if it does want it.”

In the Harvard Law Review (XLVIII, p. 885) Arthur L. Goodhart, editor of the Law Quarterly Review and Oxford Professor of Jurisprudence, writes about “Newspapers and Contempt of Court in English Law” pointing out that comments upon the evidence during trial and other features of the “journalistic orgy” would have resulted in prompt fine and possibly imprisonment under English practice through contempt of court. This weapon is possessed by American Judges but its use has atrophied in this country.

Miscellaneous—

The 2nd Annual Meeting of the Central-States Parole Conference, George T. Scully, President, was held in Louisville, Kentucky, May 6-9, 1935. The subjects for discussion were: parole—its advantages, abuses; supervision and after care; interstate compacts and apprehension of fugitives; probation; institutional care; pre-parole education; vocational training; home investigation; general case work; sponsorship and employment; co-operation between case and problem workers, peace officers, etc.; classification and segregation of felons.

Edwin H. Sutherland, who has been professor of sociology in the University of Chicago during the last five years, has been appointed chairman of the department of sociology in Indiana University at Bloomington, Indiana. He will begin his work there in the autumn of this year. Professor Sutherland recently was appointed to membership on the Social Science Research Council Committee on Delinquency which has Professor Thorsten Sellin as Chairman. Both recently served as members of the international honorary committee of the International Criminalistic Association which recently held a celebration in Brussels in honor of Adolphe Prins.

In an article appearing in the April, 1935, issue of Probation, Austin H. MacCormick, Commissioner of Correction, New York City, made this statement:

“We cannot machine-gun crime out of existence. We cannot burn crime to extinction in the electric chair. As I have said before, if we are ever to bring crime under control in America, it must be not alone by our armed forces, but by our social forces. We must attack it at its sources and in its development, not alone when it is running rampant through the land. Some day we shall put out labels not only on Public Enemy No. 1, but also on Public Enemy Cradle No. 1, Public Enemy Slum Area No. 1, Public Enemy Breeding Place No. 1. Our pride should not long permit us to go on breeding delinquents and criminals by allowing bad social and economic conditions that are eradicable to exist, and then confirming and strengthening them in their delinquency by a wasteful and ineffective penal process. We do not follow this method in our attack on disease. Prevention and treatment go on together, and both are based on intelligence rather than emotion, on scientific knowledge rather than guess-work.”

A rejoinder to the Gluecks’ reply to the Critique of “One Thousand
Juvenile Delinquents" was recently reprinted from the American Journal of Orthopsychiatry (V, No. 1, January, 1935) and circulated by the authors, Drs. Henry B. Elkind and Maurice Taylor. The Critique and the reply were published in Mental Hygiene, XVIII, No. 4, October, 1934.

The Pennsylvania Committee on Penal Affairs recently drafted a bill to establish a State Department of Corrections which proposes to transfer from the State Department of Welfare to the proposed Department of Corrections all correctional administration, and from the Attorney-General's office the division of parole supervision. The bill will soon be introduced into the legislature.

The American Bar Association has prepared a table to show the "legislative consideration" of the Association's Criminal Law Recommendations and Uniform State Laws dealing with crime. This table indicates the activity in the 44 state legislatures meeting in the Spring of 1935. It was published in the Journal of the American Bar Association (XXI, 255, April, 1935).

Professor John H. Wigmore of Northwestern University Law School left on March 16, 1935, for a three months visit in Japan. His trip was at the request of the Japanese Government and during his stay in Japan Professor Wigmore will complete a study of Japanese Legal History.

Harry M. Shulman, formerly Research Director of the New York State Crime Commission, was appointed on March 1, 1935, as Director of the Hawthorne-Cedar Knolls School for Problem Children of the Jewish Board of Guardians. Mr. Shulman will initiate a new program at the School.

The United States Department of Labor through its Children's Bureau has just released for general distribution a bulletin as follows: Pub. 226. Juvenile-Court Statistics and Federal Juvenile Offenders, 1932. Owing to limited printing funds this publication will not be sent to the Bureau's mailing lists, but as long as the free supply lasts it will be furnished to anyone requesting it.

The National Probation Association's Year Book for 1934 was recently received. It contains a symposium of "Constructive Opinion on the Causation and Treatment of Delinquency and Crime," Constituting a Record of the 28th Annual Conference of the Association held in May, 1934, at Kansas City.

Two interesting studies of homicide appeared recently. Louis I. Dublin, statistician of the Metropolitan Life Insurance Company, and Bessie Bunzel, research assistant prepared an article "Thou Shalt Not Kill"—a study of homicide in the United States—for the March, 1935, Survey Graphic, containing many interesting statements concerning the increase in the homicide trend. J. V. De Porte and Elizabeth Parkhurst made a study of "Homicide in New York State"—a statistical study of the victims and criminals in thirty-seven countries in 1921-1930—which appeared in Human Biology, February, 1935.