Current Notes

Follow this and additional works at: https://scholarlycommons.law.northwestern.edu/jclc

Part of the Criminal Law Commons, Criminology Commons, and the Criminology and Criminal Justice Commons

Recommended Citation

This Note is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.
American Bar Association Meeting—At the Annual Meeting of the American Bar Association, held July 15, 16, in Los Angeles, the Section of Criminal Law heard the reports of the seven standing committees and the addresses of several speakers. Gordon Dean of the Criminal Division, U. S. Department of Justice, discussed the same subject which he presented to the Attorney General's Conference on Crime, in Washington, D. C., last December—"Interstate Compacts Relating to Criminal Law." Earl Warren, the District Attorney of Alameda County, California, spoke on "The Place of the County in the Administration of Criminal Law." At the dinner meeting two topics were debated: "Police Protection in Industrial Disputes," by Paul Scharrenburg, secretary of the California State Federation of Labor, and Hon. W. A. Beasley, Referee in Bankruptcy in San Francisco, and "Should the Public Defender Be Substituted for Defense Counsel in All Criminal Cases?" by Mayer C. Goldman, Chairman of the Committee on Public Defenders of the New York State Bar Association, and Hon. Charles W. Fricke, Judge of the Superior Court of Los Angeles County. Reports of several committees are in part reprinted below:

Medico-Legal Problems—In making its report this year, the Committee on Medico-Legal Problems invites the attention of the Section on Criminal Law and of the American Bar Association to two measures which the Committee deems fundamental to any program looking toward an improved administration of the criminal law. The first bears on the establishment of agencies through which scientific methods may be applied in combating crime. The second relates to the utilization of scientific evidence for the determination of controversies in the court room. The first of these measures involves the setting up of medico-legal institutes. The second calls for changes in our law regulating the admission of expert testimony.

Medico-Legal Institutes. The crime situation has caught the attention of the American people. The Attorney General's Conference in Washington last fall and the nation-wide comment on this Conference bear evidence, if, indeed, any is needed, of the interest in this problem. Much emphasis is centering on procedural reforms on the hypothesis that the solution will be found through them. The Committee on Medico-Legal Problems is fully in accord with the various cur-
rent movements for the reform of criminal procedure. It does not wish to minimize or detract from the importance of measures to that end. Nevertheless, it is convinced that the primary difficulty with criminal law administration lies, not in procedural defects, but in the inadequately trained and equipped personnel of our law-enforcing agencies. The improvement of these agencies is the *sine qua non* for any program looking toward more effective administration of criminal justice. The American Bar and the American people should realize that here lies the crux of the problem. We must come to understand that crime, in the complexities of modern civilization, cannot be adequately dealt with by untrained and unequipped persons. The service calls for men and women fitted for the work by physical and mental training, who are willing to devote their lives to it. With such persons in charge, and adequately equipped, the two major evils, incompetence and corruption, would be substantially diminished. Men and women who take pride in their work and who find their careers in it are not likely to be either incompetent or corrupt.

The Committee on Medico-Legal Problems urges the establishment in this country of medico-legal institutes which, in addition to giving service in the detection and suppression of crime, will train men and women for fighting crime and for rendering scientific aid in crime detection. The Committee, in former reports, has pointed out that this is not an untried experiment. Medico-legal institutes have been operated for years in other countries with excellent results, and some fine pioneering work has been done in this country, for example, by the Scientific Crime Detection Laboratory of Northwestern University. These institutes can be operated with comparatively little cost in connection with well-equipped universities.

In order that these studies may be as helpful as possible to a state or a community interested in setting up medico-legal institutes, the Committee proposes an organization with the following divisions:

*I. Division of Medical Laboratory Science.*

This division would act through or for the coroner or medical examiner and the public prosecutor. It should be staffed and equipped to be able to handle the work of the following departments:

1. Pathology.
2. Bacteriology and Immunology.
3. Toxicology and Chemistry.
4. Records, Photographs, Museum and Library.

*II. Division of Clinical Medical Science.*

This division would function in rendering unbiased expert opinion to prosecutors and to courts. It should be so organized that it could carry on the work of the following departments:

1. Psychiatry.
2. Abnormal Psychology and Delinquency.
3. Criminal Anthropology.
4. Medical Opinion (in cases of non-fatal violence).

*III. Division of Police Science.*

This division would function through or for the police agencies, including the municipal police force, the state constabulary, the prosecutor's office, and the sheriff. It should consist of bureaus or departments for the following:

1. Police Administration.
the better organization and administration of police work.

2. Identification. For the utilization of every scientific procedure that has been found to be of value in the identification of criminal suspects, victims of crime or accident, and unknown persons.

3. Public School. For the training of the ordinary patrolman in his own duties, in the fundamentals of the work of the department as a whole, and in the essentials of the work of the police laboratory.

4. Police Laboratory. The police laboratory must be prepared to use, when necessary, the various medical and other sciences that may aid in the evaluation of clues, and circumstantial evidence, and in the apprehension of suspects. It should train its own experts in those activities frequently required in the work of the police, and should have access to university faculty members or other experts in lines only rarely needed in the usual work of the police department.

**Expert Testimony**

The Committee has given consideration to the question of expert testimony. It has previously pointed out the chief defects in the law regulating the admission of such testimony. The problems here involved touch not only the field which is within the jurisdiction of this Committee but a wide range of matters outside of that field. It might therefore be contended with force that this subject does not fall within the Committee's assignment. Nevertheless, if the law is to avail itself of scientific knowledge, it must devise adequate procedure to bring this knowledge to bear in administering justice. Obviously, too, there is less point in setting up a scientific agency, such as a medico-legal institute, as an aid in the administration of law, if the results of that agency's activities cannot be made available in settling controversial matters.

The objections to the methods now governing the admission of expert testimony are well expressed in the following statement by Mr. Wigmore:

"But the practice under the present method has for years exhibited shortcomings which are lamentable. Extreme cases, of frequent occurrence, have shaken the faith of juries in expert witnesses. Professional men of honorable instincts and high scientific standards look upon the witness box as a golgotha, and disclaim all respect for the law's methods of investigation. By any standard of efficiency, the present method registers itself as a failure, in cases where the slightest pressure is put upon it. . . .

The principal feature of the breakdown seems to be the distrust of the expert witness, as one whose testimony is shaped by his bias for the party calling him. That bias itself is due, partly to the special fee which has been paid or promised him, and partly to his prior consultation with the party and his self-committal to a particular view. His candid scientific opinion thus has had no fair opportunity of expression, or even of formation, swerved as he is by this partisan committal.

The remedy therefore seems to lie in removing this partisan feature, i.e., by bringing him into court free from any committal.
to either party. Such a status for the expert would indeed not secure perfection. But it can be asserted that no measure can be effective which does not secure such a status for the expert witness.

How can this be done? The essential features, in the abstract, are that the State, not the party, shall be the one to pay his fee, and that the Court not the party, shall be the one to select and summon him . . . .”

The Committee proposes the following model statute:

1. Whenever, in a criminal or civil case, questions arise upon which expert or opinion evidence is necessary or desirable, the court on its own motion, or on the request of either the State or the defendant in a criminal case, or of either party in a civil case, may appoint one or more experts, not exceeding three on each question, to testify at the trial.

2. In a civil case the court may, before such appointment, attempt to bring the parties to an agreement as to the experts desired, and if the parties agree as to the experts desired, these experts shall be appointed by the court, and the court shall allow no other experts to testify at the trial.

3. The appointment of expert witnesses by the court shall be made only after reasonable notice to the parties of the names and addresses of the experts to be called and the nature of the testimony of the experts, and after a hearing.

Unless otherwise authorized by the court, no party shall call a witness to give expert testimony unless that party, in advance of the trial, has given to the court and the other parties to the suit reasonable notice of the names and addresses of the experts to be called and the nature of the testimony he proposes to obtain from them.

4. Expert witnesses appointed by the court shall, at the request of any party or of the court, make such examination and study of the subject matter of the case within their respective fields of special knowledge as they deem necessary for the full understanding thereof and such further reasonable pertinent examination as either party shall request. Reasonable notice shall be given each party of the proposed physical examination of persons, things, and places, and each party may be represented at such examination.

Experts called by the court or by the parties in the case shall be permitted free access to the persons, things, or places under investigation for the purposes of examination.

If the mental condition of the defendant at the time of the alleged commission of the offense charged is an issue in the cause, or if his physical condition is the subject of the inquiry, and the defendant is at large on bail, the court, in its discretion, may commit him to custody, to be held for a reasonable period of time pending examination by such experts.

5. The court may require each expert it has appointed to prepare a written report under oath upon the subject matter such expert has examined, describing in detail the final results, the procedure, methods, tests, the determinations of the examination and his conclusions. Such report shall be placed on file with the clerk of the court and be open to inspection by either side. Under the direction of the court, or on the request of either party, it shall be read by the witness at the trial.
6. At the trial of the case, any party or the court may call the expert witnesses appointed by the court. The fact that they have been appointed by the court shall be made known to the jury and they shall be subject to cross-examination by the parties on their qualifications and the subject of their testimony. Except as provided in Sec. 2, both parties may summon also other expert witnesses to testify at the trial, but the court may impose reasonable limitations upon the number of witnesses who may give expert evidence on the same subject.

7. The court may require a conference before the trial between the expert witnesses appointed by the court, and all expert witnesses summoned by the parties, and such experts may prepare a joint report to be introduced at the trial.

8. Whenever a person is indicted for a capital offense or an offense punishable by life imprisonment, or whenever a person who is known to have been indicted for any offense more than once or to have been convicted of a felony is indicted or bound over for trial, the clerk of the court or the trial judge shall give notice to the department of mental diseases, and the department shall cause such person to be examined (if no department of mental diseases or its equivalent exists, the court shall appoint one or more experts, not exceeding three, to examine the accused) with a view to determine his mental condition in relation to his criminal responsibility. The department (or experts appointed by the court) shall file a report of its investigation and conclusions with the clerk of the court in which the trial is to be held, and the report shall be accessible to the court, the prosecuting attorney and the attorney for the accused. The court shall not dispose of the case until such report shall be obtained, or release the accused on bail until a reasonable time for his examination by the experts shall have elapsed. The experts who examined the accused shall be called by the court to testify at the trial if any question is raised as to the mental condition of the accused.

9. If before or during the trial in a criminal case, the court has reasonable ground to believe that the defendant is insane, or mentally defective, to the extent that he cannot understand the proceedings against him or assist in his defense, the court shall immediately fix a time for a hearing to determine the defendant's mental condition. The court may, upon notice to both parties, appoint one or more experts, not exceeding three, to examine the defendant with regard to his present mental condition and to testify at the hearing. Other evidence regarding the defendant's mental condition may be introduced at the hearing by either party.

If the court, after the hearing, decides that the defendant can understand the proceedings and assist in his defense, it shall proceed with the trial. If, however, it decides that the defendant through insanity or mental deficiency cannot understand the proceedings or assist in his defense, it shall take the proper steps to have the defendant committed to the proper institution. If thereafter the proper officer of such institution believes that the defendant can understand the proceedings and assist in his defense, he shall report this fact to the court which conducted the hearing. If the officer so reports, the court shall fix a time for a hearing to determine
whether the defendant can understand the proceedings and assist in his defense. This hearing shall be conducted in all respects like the original hearing to determine defendant's mental condition. If after the hearing the court decides that the defendant can understand the proceedings against him and assist in his defense, it shall proceed with the trial. If, however, it decides that the defendant still cannot understand the proceedings against him or assist in his defense it shall recommit him to the proper institution.

10. (1) When an expert witness has not personally observed the matters of fact in the case in hand pertinent to his testimony, but has listened to or read any or all of the testimony or depositions concerning such matters of fact, he may be requested by the party calling him to state his conclusion, with or without specifying in the request the data forming the basis of the conclusion, unless the trial court directs the inclusion of such data.

(2) When an expert witness has considered data obtained by him otherwise than through the testimony or deposition of a witness or of witnesses in the case, he shall not be asked by hypothetical questions or otherwise to state his conclusion thereon except so far as he is qualified by personal observation or by general reading in the specialized field within which such data lie, and in that case the question need not be in hypothetical form, and except also that the trial court may permit or direct otherwise.

(3) In either of the classes of cases named in sub-paragraphs (1) and (2) of this section, the opposite party on cross-examination may require the witness to specify the data on which his conclusion is based.

11. The compensation of expert witnesses appointed by the court shall be fixed by the court at a reasonable amount. In criminal cases it shall be paid by the county under the order of the court, as a part of the costs of the action. In civil cases it shall be assessed as costs of the suit. The fee of an expert witness summoned by either party shall be paid by the party by which he was summoned. All fees of expert witnesses shall be subject to approval by the court. The receipt by any witness of any compensation other than that fixed by the court, or the offer or promise by any person to pay such other compensation shall be unlawful and punishable as contempt of court.

Conclusions and Recommendations.

The Committee reaffirms the position it took in its previous reports in advocating the establishment of medico-legal institutes in this country. It believes there is need for such agencies as aids to bringing about the effective administration of the criminal law. In its recommendations to the American Bar Association two years ago, this Section called these agencies to the attention of the Association. The Committee recommends that this Section again recommend to the American Bar Association that the Association take steps in disseminating information concerning the nature and usefulness of such institutes.

The Committee is of the opinion that the methods employed in bringing scientific and special knowledge to bear on litigation are defective. In this report the Committee has set out the principles of a model statute regulating the admission of such evidence and providing for the
appointment of experts by the court. The Committee recommends that these principles be approved by this Section and that they be called to the attention of the American Bar Association with the recommendation that the Association take steps to disseminate information concerning them.

Finally, the Committee recommends that it be continued for another year.

Albert J. Harno, Chairman,
Newman F. Baker,
Herbert G. Cochran,
R. Allan Stephens,
William C. Woodward.

Psychiatric Jurisprudence — The Committee on Psychiatric Jurisprudence hereby submits its eighth annual report.

On April 27, 1935, in the Stevens Hotel, Chicago, Illinois, your committee met in joint session with committees representing the American Medical Association and the American Neurological Association. Members of the committee of the American Psychiatric Association were unable to attend because of conflicting engagements. At this joint session consideration was given first to the possibility of emphasizing positions previously taken, and second to the topic to be considered at the joint session next year.

A by-law of the Section provides that no vote upon any matter which calls for the submission of a resolution to the Association can be taken by the Section unless the proposal has first been submitted to the Council for its approval. Because of this rule and the fact that the Council did not meet last summer until after the final adjournment of the Section, it was not possible to send to the Association a resolution which had been prepared by this committee for that purpose. The Section approved the substance of the resolution, and after the adjournment of the Section, the Council approved the resolution and authorized the Section to vote upon the submission thereof to the Association. At the same time the Council requested this committee to prepare an explanatory preamble to accompany the resolution. This resolution, slightly redrafted, together with the preamble prepared as requested by the Council is incorporated in the following resolution:

Resolved, that the chairman of the Section be requested to move that the following resolution be adopted by the Association:

WHEREAS, Scientific knowledge of disorders of the mind and of the part such disorders play in tending to cause anti-social conduct represents a vast and intricate field which is constantly growing;

AND WHEREAS, Insanity as a defense in the field of the criminal law has been abused, resulting in a miscarriage of justice by the complete and unconditional release of defendants who were either completely or partially responsible and who should have been kept either in prison or in an institution where they could be given proper care;

AND WHEREAS, It is obvious that a lay jury is incompetent to deal with the highly technical and scientific subject of insanity except perhaps in its most extreme form;

AND WHEREAS, There seems to be much confusion of thought upon this subject as represented by a criticism of the courts for not taking sufficient notice of disorders of the mind of a less obvious nature in the trial of a criminal case, coupled with a criti-
cism of the law for leaving this difficult problem to be solved by twelve persons who have no training or experience in this field;

AND WHEREAS, It is impossible to remove entirely the insanity defense from the lay jury by reason of constitutional limitations, and yet it is advisable to limit insanity as a defense to the most extreme forms and to leave any less obvious forms of disorder of the mind to be considered after conviction by the court and other authorities as a circumstance indicating necessity for special and appropriate care and treatment of the offender;

AND WHEREAS, The law and the administration of justice should take advantage of the important contributions of science in the field of disorders of the mind in analyzing and counteracting tendencies toward anti-social conduct,

Now, THEREFORE, BE IT RESOLVED, by the American Bar Association that it is desirable to keep within rather narrow limits the kind and degree of disorders of the mind which will entitle the defendant in a criminal case to an acquittal, and to readjust the machinery after the point of conviction to the end that disorders of the mind which are not sufficient for an acquittal may result in treatment other than that provided for persons who are not mentally disordered.

The following resolution is proposed for adoption by the Section:

WHEREAS, it is necessary to emphasize the vital importance of adequate treatment for convicted felons looking toward reform and also toward recognition and treatment of disorders of the mind with a return of these individuals to society no longer constituting repeaters and social menaces;

AND WHEREAS, in many penitentiaries inadequate treatment of the convicted by way of discipline and punishment instead of correction and reform results in their return to society as hardened criminals, embittered, revengeful, and likely to continue to engage in criminal activities,

BE IT RESOLVED, that the Section of Criminal Law direct the consideration of the people of the United States to the Resolutions passed by the American Bar Association in 1929 and also passed by the American Medical Association and the American Psychiatric Association, and we reaffirm the principles there stated as follows:

"That no criminal be sentenced for any felony in any case in which the Judge has any discretion as to sentence until there be filed as part of the record a psychiatric report.

That there be a psychiatric service available to every penal and correctional institution.

That there be a psychiatric report of every prisoner convicted of a felony before he is released.

That there be established in each State a complete system of administrative transfer and parole and that there be no decision for or against any parole or transfer from one institution to another without a psychiatric report."

It was agreed at the joint session that:

"The central topic of the 1936 meeting of the cooperating committees will be the problem of the municipal, police, or similar court which deals with petty offenses (as distinguished from felonies) and petty offenses (as distinguished from those ac-
cused of felonies). The exact scope of the topic can hardly be defined at the present stage of our knowledge of the facts; but in general the problem we have in mind is the improvement of the methods of said courts in dealing with the petty offender including the possibilities by way of the use of psychiatric, social case work, and similar techniques, for bringing about a more intelligent treatment of the petty offender than is now customary, and for discovering and treating the potential major offender, by methods which might lessen the development of progressively criminal careers."

It is recommended that the committee be continued and that it be instructed to give its first consideration to the topic suggested in the preceding paragraph, with the understanding that the members appointed to this committee for 1935-36, by individual research and by correspondence, acquaint themselves with the available information pertinent to this problem prior to the joint meeting next year.

Respectfully submitted,
Alfred Bettman,
Louis S. Cohane,
Rollin M. Perkins, Chairman.

Improvement of Personnel in Criminal Law Enforcement—[The length of this committee. Report makes omissions necessary though difficult. Only two topics are reprinted here but they are thought to be the ones of greatest interest.]

The Police—Capable and efficient police are essential to effective law enforcement. Granting that much of the failure in administration of justice occurs after arrest, it is obvious nevertheless that courts cannot function either well or badly until alleged offenders have been arrested. Your committee has no data by which to judge the actual efficiency of the police today. It feels fully justified, however, in assuming that far greater efficiency is possible. The problem then is how best to attain it.

Two distinct causes of ineffectiveness are apparent. One is a defect in police organization; the other a deficiency in the character and training of individual policemen.

Unity of organization and singleness of command are basic principles of success in the strategy of warfare. The police are, in a sense, fighting in a war against crime; yet the police forces of the United States are divided into ten thousand separate units under absolutely independent and uncoordinated commands. City forces are divided from those of the surrounding county. County forces are unrelated to each other and individually free from any central state control. State forces, if there be any, are free to cooperate or to refuse cooperation with those of other states as they severally see fit. Actual hostility between the police heads of a county and of the city within the county, or between the forces of adjoining municipalities, is not infrequent. What one police command strives to accomplish, some other may actively obstruct. The disunion is but emphasized when state lines divide municipal areas.

Increased efficiency would result from greater unification of these independent organizations and through fuller cooperation among them all.

Your committee is aware that various proposals for accomplishing this unification and cooperation have
been made. The establishment of police areas covering several cities policed by a single force is being considered in some localities. Another recommendation is the unification of all rural police under a single state-wide command. It may be that some one scheme of unification can be devised which would be of nation-wide utility and general acceptability. On the other hand, it is quite possible that a manner and degree of unification which would be wise in one locality might be unsuited to the conditions of another.

Your committee lacks sufficient knowledge of the difficulties or dangers involved to feel justified in recommending any specific plan. It does believe, however, that unification as a general proposition is essential to real police efficacy and that the problem of ways and means is one worthy of careful study.

Your committee recommends, therefore, that this Association call public attention to the vital necessity for increased unification of police control and direction and urge local action toward that end.

The other obvious method of increasing police efficiency is by improvement in the character and training of individual policemen. We assume as a premise that the time has passed, if it ever existed, when brawn and alertness were the sole qualifications of a satisfactory policeman. Crime itself, with its automobiles, smoke screens, tear gas, and machine guns, its face lifttings, nose reshapings, and finger changes, its organization, legal advisers, political protectors, and all its other old and new facilities, has developed a technique against which mere brawn is helpless and with which only real intelligence, experience and scientific training can successfully cope. The problem is how to equip police forces with these necessary qualities.

Clearly three conditions are imperative to that end. In the first place, the individuals enlisted in police work must be endowed with intelligence. Moreover, the native intelligence must have been cultivated by education. Your committee believes that men fitted for efficient police work under modern conditions must have had at least a high school education. This means that the pay for police work must be reasonably attractive to capable men; the conditions of work must be as satisfactory as those of competing employments; police work must have the esteem of the public; and continuance of employment must be reasonably assured.

The second essential to efficiency of police personnel is experience, and the third is training. Neither of these is possible without real continuity of all employees in the length of their service. It is evident that the shorter the term of employment, the more rapid the labor turn-over, the less the public will be benefited by experience and knowledge in its police.

Any sort of effective training for the police is impossible where the term of employment is short or uncertain. Even if men stay in the work long enough to be given training, the instruction will profit society nothing if its recipients do not continue in the service long enough thereafter to put that training to use. Continuity in employment is therefore as indispensable a condition of thorough-going and useful training as it is to the acquisition of ability through experience.

In other words, protection from
crime requires an efficient police. Police efficiency necessitates men of intelligence and education, highly trained and experienced in police work. Such training, and the attraction of capable men to the work, are possible only when continuity of employment exists and is assured.

Efficient police protection, therefore, rests fundamentally upon continuity in service of the persons engaged. This proposition applies with equal force to the heads of departments, i.e., to Commissioners, Superintendents and Chiefs, as well as to the lower officers and men.

Efficient protection is not possible, conversely, when the personnel of a police force, or even its leadership, is subject to change with every shift in political administration. In rural districts, for example, where policing is left to deputy sheriffs, subject to dismissal at every change in the incumbent of the sheriff's office, it is not likely that competent men will be attracted to the work, and the period of employment is usually too short to permit of either sound training or experience.

Speaking from its collective observation and from such reports as that of the Wickersham Commission and the various crime surveys, your committee feels justified in the assertion that as a general rule the training of police in this country is lamentably insufficient.

For these foregoing reasons, your committee recommends that this Association advise the public that in its opinion continuity of police service and a high degree of schooling in police work are essential to effective police activity, and that the Association urge state and local governments to organize their police forces on a basis of permanency of employment during good behavior and competency and provide all their police with the highest feasible degree of training.

Court Unification—Your committee believes that the character of enforcement personnel could be improved by certain changes in court organization whereby the so-called "inferior" and independent courts would be merged with the trial courts into a single court responsible for the whole procedure of examination and trial. The very use of the term "inferior courts" to describe certain parts of the judicial group is derogatory of the type of personnel employed therein. Certainly the judges and other officers engaged in the preliminary stages of prosecution ought not to be inferior in any sense to those by whom the later stages are carried out. The character of every judge who participates in a criminal prosecution is equally important to the public. All should be of the highest.

But it will not materially affect the existing inequality in position and honor merely to change the names of courts and cease to call any of them inferior. In your committee's opinion all the judicial functions of trial procedure from the institution of the prosecution to final judgment should be carried out by a single court, divided, if necessary, into branches or departments, but under single court responsibility. This is but a repetition of the recommendation approved by this Association in 1909, namely, "The whole judicial power of each state, at least for civil causes, should be vested in one great court, of which all tribunals should be branches, departments or divisions. The business as well as the judicial administration of this court should be
thoroughly organized so as to pre-
vent not merely waste of judicial
power, but all needless clerical work,
duplication of papers and records,
and the like, thus obviating expense
to litigants and cost to the public.”

Such unification would also make
for increased efficiency. Under ex-
sting conditions, when an accusa-
tion of felony is made, preliminary
matters, such as the magistrate’s
hearing, are the function of a group
of so-called minor judges, while the
actual trial on the charge is the
function of an entirely different
judge or group of judges. What-
ever is done or is not done at the
preliminary hearing is outside the
control and is not the responsibility
of the judges whose duty it is to
handle the subsequent proceedings.
Conversely, when the preliminary
hearing has been held and an order
made, the eventualities are beyond
the power and hence outside the
responsibility of the magistrate who
conducted the hearing.

Every investigation into the mat-
ter has demonstrated that under such
conditions there is a definite loss of
momentum — if nothing worse —
caused by this division of function
and responsibility. As a matter of
fact, in many instances accusations
which have gone safely past the
work of the preliminary magistrate
have failed ever to reach the opera-
tions of the trial court. Speaking
broadly, though not technically,
this particular form of inefficiency
occurs because the one magistrate
is through with the matter and the
other judge has not yet acquired re-
ponsibility. Even when cases are
not dropped out altogether through
this gap in effective responsibility,
there is a great tendency toward de-
lay. The division of authority and
responsibility tends to create slug-
gishness of movement.

Court unification, placing the
whole trial procedure under one
responsibility, is not an unheard of
thing. It has been thoroughly tested
and its practicability and success
have been demonstrated. In the
city of Detroit, for example, a single
court, the Recorder’s Court, has
city-wide jurisdiction over criminal
matters with sole power in the
judges of that court to conduct pre-
liminary hearings as well as to carry
the case through trial to judgment.
It may be that one judge will sit as
a committing magistrate, functioning
only to the extent of preliminary ex-
aminations, while another judge will
confine his activities to trial of the
cases. But while the actual pro-
cedure may be thus divided amongst
the various members of the court,
nevertheless the entire process is a
function of that one court and a
responsibility of that one court.

In the Federal system, for an-
other example, the preliminary pro-
ceedings are carried out by commis-
sioners appointed for that purpose,
while the trial is conducted by the
judge. Here, too, the different parts
of the proceedings are carried on
by different individuals, but here
again the authority and the responsi-
bility are centered in the one court.
Virginia and Ontario follow some-
what similar plans.

Other methods of centralization
of responsibility, though the work
be divided, are possible. The com-
mittee does not specifically advocate
one method or another. It does,
however, believe that the indepen-
dent responsibility and inferior posi-
tion of magistrates who carry on
the preliminary judicial stages of
prosecution must be eliminated if
the whole personnel is to be of the
highest character and the prosecution is to be effective.

Your committee believes further that the efficiency of the judicial personnel would be improved, were its activities correlated throughout the entire state. There would be some centralized judicial authority controlled by the judges themselves, which should have the power to assign judges to the particular work where they are most needed, and otherwise to direct the conduct of the whole judicial procedure. In other words, every county or municipal court should, in the words of the Bar Association’s recommendation of 1909, be a part of “the whole judicial power of each state vested in one great court, of which all tribunals should be branches, departments or divisions.”

Specifically, therefore, your committee recommends to the Association that it approve and advocate the following proposals:

1. The inclusion of all the judicial functions of law enforcement, including the issuance of warrants, preliminary hearing, trial and sentence as functions of a single court whose members are not “inferior” to or independent of each other, but are cooperating agencies under a single authority.

2. The centering of authority for the conduct of these functions in local jurisdictions, such, for example, as the district, county or the municipality, under the responsibility of a single executive head of such local court.

3. The organization of all such courts of local jurisdiction as parts of a unified state organization.

4. The centering of responsibility for the functioning of the various local parts of this state court in some central executive authority.

Respectfully submitted,

John Barker Waite, Chairman,
Samuel Seabury,
Charles P. Taft, II,
Harry Eugene Kelly,
Harry B. Keidan,
Joseph B. Keenan.

Census Study—The Bureau of the Census, U. S. Department of Commerce, recently issued a statistical study “County and City Jails” which presented a vast amount of factual matter concerning the prisoners in jails and other penal institutions under county or municipal jurisdiction in 1933. This work, containing 94 tables and text, was prepared under the general supervision of Dr. Leon E. Truesdell, chief statistician for population, assisted by Dr. Alba M. Edwards and Mary W. Dillenback. In all 2,416 county and penal institutions sent reports concerning prisoners and, though 1,000 institutions failed to report, most of them had few prisoners. The 1933 enumeration included approximately 90 per cent of all sentenced prisoners in local penal institutions on January 1 to June 1, 1933. On the question of the total prison population of the United States we quote the following:

“What was the total prison population of the United States on January 1, 1933, and how was this population distributed as between (1) State and Federal and (2) county and municipal penal institutions? Fortunately, it is possible to arrive at approximate answers to these two very interesting questions by combining the results of the 1933 decennial census of county and municipal penal institutions and the results of the 1933 annual census of State and Federal prisons. Such a combina-
tion shows a total of 184,289 sentenced prisoners reported as present in all civil penal institutions on January 1, 1933. Of this total number of prisoners, 46,292, or 25.1 per cent, were in county and municipal prisons, and 137,997, or 74.9 per cent, were in State and Federal prisons. As previously stated, a rough estimate indicates that the 1933 returns from county and city jails were only about 90 per cent complete. As to the 1933 census of prisoners in State and Federal prisons, a fairly reliable estimate is that the four States from which no reports were received actually had approximately 8 per cent of the total prisoners in State and Federal prisons, and, hence, that this census was only about 92 per cent complete. Assuming that the 1933 census of county and city jails was 90 per cent complete and that the 1933 census of State and Federal prisons was 92 per cent complete, then the grand total of sentenced prisoners in the civil penal institutions of the United States, on January 1, 1933, was 201,433, and of this number, 51,436, or 25.5 per cent, were in county and municipal prisons, and 149,997, or 74.5 per cent, were in State and Federal prisons.

If there were, in fact, 201,433 sentenced prisoners in the civil penal institutions of the United States in January 1, 1933, then there was 1 sentenced prisoner in these institutions to each 442.9 persons 15 years old and over in the general population, or 225.8 sentenced prisoners to each 100,000 persons 15 years old and over."

Pennsylvania Prison Notes—For the past eighteen months a staff, working under the general direction of Leon Stern, Secretary of the Pennsylvania Committee on Penal Affairs of the Public Charities Association, and supervised by Ada L. Barnhurst, of its staff, has been engaged in making an administrative study of offenders committed to the Eastern State Penitentiary and the Philadelphia County Prison for so-called "penitentiary offenses." The study is based on a ten year period and covers 13,899 commitments from 1924 to 1933, inclusive. The survey began under the auspices of the Department of Welfare and the Eastern Penitentiary with C. W. A. assistance supplied by the Federal Government. The continuation of the study, which includes an examination of recidivism, is being made under the auspices of the Committee on Welfare, Parole and Pardons of the Eastern State Penitentiary, headed by Dr. Louis N. Robinson.

The administrative aspect represents an analysis of all commitments in terms of age, sentence, crime, parole, etc. The study will separate first offenders, or those with only one conviction, from those with previous convictions and records of probation, etc. Individuals who have previously passed through the juvenile court, or have been in juvenile institutions after commitment by the juvenile court, are counted as first offenders, if they have only had one conviction as adults. An analysis is being made for both recidivists and first offenders, of those who have been in juvenile institutions after commitment by the juvenile court, are counted as first offenders, if they have only had one conviction as adults. An analysis is being made for both recidivists and first offenders, of those who have been in juvenile institutions, on probation, age at first conviction and place of first incarceration. For the recidivists it will also show the number of convictions. The legal aspects and legislative basis for probation, parole and the sentencing of offenders is included in the survey.
The Pennsylvania Committee on Penal Affairs of the Public Charities Association has completed a study of probation, parole and the prison system in Chester County. The Committee has also completed a study of the prison situation in Delaware County.

Classification and case work services in the State prisons and local institutions are being extensively developed in Pennsylvania. Dr. E. Preston Sharp, Director of Rehabilitation and Education at the Eastern Penitentiary, is in charge of the classification and case work services there; Dr. G. I. Giardini is developing a classification service at the Western Penitentiary; the reformatories, Pennsylvania Industrial School at Huntingdon and the State Industrial Home for Women at Muncy, are also developing such services. Mr. George C. Penny, Supervisor of Classification in the Bureau of Corrections of the State Department of Welfare, is attempting to co-ordinate the classification services for the institutions of the State.

At the Allegheny County Workhouse in Pittsburgh, Alfred L. Golden, is directing the work of the Department of Social Service. Its activities include preparation of inmates for parole from that institution; no paroles are now granted by the judges without a report from this Department.

Bibliographical Manual—Professor Thorsten Sellin and J. P. Shalloo of the University of Pennsylvania have rendered great service to students of criminology by publishing their recent booklet (41 pp.) entitled "A Bibliographical Manual for the Student of Criminology."

The purpose of the publication is well stated in the Preface which reads as follows:

“When we consider the vast energy which is today poured into the writing of books, reports, and periodical articles, it is easy to understand the feeling of helplessness on the part of the student who contemplates the difficulties in keeping pace with knowledge in his field. Thousands of criminological works of unequal value appear annually, organizations for criminological research or for the promotion of new methods of administration of criminological agencies appear and disappear, and investigations into this or that problem of crime and its treatment are constantly begun and less constantly, perhaps, concluded.

In many fields of science there exist tools designed to keep the research student informed about past and present studies or events of importance to him. Bibliographies, professional journals, abstract services, etc., furnish him with references and evaluations. In criminology, however, the most important of these tools are lacking. Students of that subject have been recruited from among anthropologists, medical scientists, psychologists, biologists, political scientists, sociologists, etc. The result has been a lack of cohesion which has prevented cooperative enterprises in the bibliographical field. In the United States for instance, there is no agency or journal which publishes references or abstracts to all, or even the most important, of current criminological literature, nor any catalogue or bibliography which gives a comprehensive list of the writings of the past. To locate the references to the literature on any
given topic of special concern to the investigator requires, therefore, a considerable amount of labor of a time-consuming and unproductive nature. It is the purpose of the authors of this little pamphlet to save the investigator some of that time by calling to his attention the most important published sources to which he may turn to find:

a. References to titles or analyses of contents of periodical articles, books, pamphlets, reports, public documents, etc., published currently or of historical value;
b. Topical bibliographies;
c. Information about criminological research in progress;
d. The organization now interested in (1) the promotion of criminological research; (2) the active conduct of such research; (3) the application of criminological knowledge; or (4) the promotion of the professional interests of criminologists;
e. The titles and character of important serial publications entirely or in part devoted to the publication of criminological data;
f. Information about training centers in criminological research.

The authors make no claim of having exhausted their sources. It is not improbable that some information of importance may have been omitted, although an attempt has been made to include everything of any value. Finally, it should be borne in mind that this manual is planned for those only who are interested in American problems and material."

In examining this Manual the Editor of this Section found it to be all that was intended by the authors and it should become an indispensable tool for scholars in the field. Copies are available at 3457 Walnut Street, Philadelphia, Pennsylvania, at the price of 50 cents.

Survey of County Jails — At the annual meeting of the Osborne Association, which combines the work of the National Society of Penal Information and the Welfare League Association, the Executive Secretary, Mr. William B. Cox, reviewed the work of the Association's staff during the past year. In his report he mentioned the survey of all the juvenile institutions of the country to be undertaken as soon as necessary funds are provided and continued:

"Another important task should be a survey of county jails. Here again will be found cesspools of crime. In the control and administration of jails we are still in the ox-cart era. Nowhere in our correctional institutions will the effect of corrupt politics be more apparent. It is inconceivable that we should in this day and generation continue a jail system that is worse than pernicious in its influence on the offender against the laws of society. Not even in our more progressive states will we find jails, except in a very few isolated instances, where a program has been developed that can be construed as constructive in the slightest degree. Even New Jersey and New York where so much has been done to develop a broad rehabilitative program for the inmates of reformatories and prisons, the jails are still a disgrace to the state. Inadequate medical care, poor supervision, filth, lax discipline and low morale, graft, political in-
terference, kangaroo courts, are the rule rather than the exception in most of the jails of the country. Too often children held for various reasons are thrown in with hardened criminals. Women often are kept in the same jails with men under the custody of male guards. Liquor and dope and debasing and immoral practices are indulged and all this in the institutions where the law violator learns his first lesson about imprisonment. The jail should be the institution where everything done should contribute toward and open the way for rightful thinking. It is, therefore, fundamental that proper standards of discipline be developed along with proper standards of feeding, housing, and medical care.

I doubt, however, if this can ever be accomplished until the states take over the complete management and control of these institutions. A thorough and unbiased survey of the jails of some of our states should be made in order that actual conditions could be definitely known. Certainly if crime is to be eradicated and criminals reclaimed to society, the jail must be included in our considerations.”

This work if it can be accomplished would be of greatest service. At the Washington Conference of the Attorney General last December Circuit Judge Joseph E. Hutcheson eloquently presented the problems of the local jails and their inadequate facilities and administration have been studied by Fishman and others. But a comprehensive survey of the Osborne Association or other organization is needed before this problem can be met. It is to be hoped that Mr. Cox will be able to carry out his program.

Freedman Study—Dr. Harry L. Freedman of Dannemora, N. Y., recently reported to the American Psychiatric Association on “Psychiatric Aspects of Drug Addiction in Prisoners.” Fifty-eight drug addicts were studied and then compared with 64 alcoholics and with 126 men who were neither drug addicts nor alcoholics. Thirteen of the 58 had been arrested a total of 26 times for juvenile delinquency. Forty-five of the 58 had been arrested a total of 144 times for misdemeanors. Every one had been arrested for felonies, a total of 169 arrests. Forty-six of these 58 had been arrested a total of 131 times on a narcotic charge. These 58 men had 390 known arrests. The ages between 17 and 21 inclusive saw half of these cases begin the use of drugs, the others scattering from 14 to 40, but few began after 26 years old.

He finds that there is a variable and uncertain relationship between drug addiction and crime, and from many penitentiary prisoners committed to prison by the Courts for conviction or of confession to felonies there may be elicited a history of former drug addiction.

Physicians have several theories on drug addiction, especially as to morphine’s effect and aggravation of symptoms. These theories are not complete explanations; they agree only that the nervous system and the personality are particularly involved, and that there probably is a personality weakness preceding drug addiction.

Among the prisoners studied, addiction was impossible, but the craving persisted as a rule. Study of them showed that:

1. Drug addicts as a group are frequently found among the so-called Normal group (i. e., non-al-
Three and one-half times as many Addicts were sent to prison for "attempted felonies" as were Alcoholics, and four and one-half times as many Addicts were imprisoned for "attempted felonies" as were Normals. Addicts were not found to be more dangerous than other types of prisoners, and daring and bravado were usually traced to defective judgment or an "invitation to arrest" psychological attitude.

2. In every case arrests or the commitment of punishable but undetected crimes occurred before drug addiction was started.

3. The addict fears the law especially because it may deprive him of his drug. The crimes committed were to obtain pleasure (including drugs) and basically were due to the personality of the criminal.

4. A drug addict may take to an unaccustomed drug and act dissimilarly to his usual pattern of actions.

5. Prolonged or enforced abstinence alone will not effect a cure. In one to five years as a minimum with education or re-education some cases are known not to relapse.

Fifteen of the fifty-eight addicts here studied had relapsed after serving time before this imprisonment. Others had not resumed drugs, but had resorted to alcohol to overcome personality defects. In all, 98% who had previously had opportunities for cure had relapsed or had turned to alcohol.

6. In prison these cases were mentally unusual but they rarely became disciplinary problems.

Prison life should include education and training to make better choices upon release.


Licensed Gambling?—A report submitted to Governor Horner of Illinois on June 25, 1935, declared that "legalized handbooks is only a partial solution toward success in the war on crime. All forms of gambling should be licensed." The report was sent to Governor Horner as the bill recently passed by the Illinois legislature legalizing handbooks lay before him awaiting his approval or veto.

The report was submitted by Prof. Ernest W. Burgess of the sociology department of the University of Chicago, who is president of the American Sociological Society. In it he states that he is supported in all his declarations by a half-dozen officers of the Chicago Crime Commission and others, including Frank J. Loesch, president; Col. Henry B. Chamberlin, operating director; Gerhardt B. Meyne, vice-president; Charles W. Bergquist, vice-president; Nathaniel Leverone, secretary; Newman F. Baker, assistant secretary and member of the Northwestern University Law School faculty; and William Bartholomay, Jr., assistant treasurer.

Professor Burgess declares that "there should be submitted for approval or rejection by the vote of the people an amendment to the constitution of the State of Illinois permitting the state legislature to grant to cities of 200,000 population and over permission to legalize all forms of gambling."

In leading up to his conclusion Prof. Burgess replies to the attitude of "reformers." "People are never made good by legislation," he states, "even by con-
stitutional amendment, as the American people found out to their chagrin and sorrow in the case of national prohibition.

"They are made good by the right kind of family rearing, by religion, by education and by a personal philosophy of life.

"Gambling is seldom immoral or a vicious behavior; it is, rather, non-moral, non-rational behavior.

"Many ministers, reformers and other pillars of society will feel sincerely and deeply the stigma which they believe the city government's licensing of gambling will place upon the city of Chicago," the report states, adding that it will be exceedingly difficult for these persons to understand the conclusions with which the report finishes.

"This incapacity of the reformer, and the good man generally, to understand the human nature of persons other than themselves, lies at the bottom of many of the problems which countries with a Puritan tradition, like Great Britain and the United States, needlessly create."

The report sets forth a number of results to be expected from legalized gambling:

1. "The invisible government of organized crime will receive its most crushing blow since repeal of national prohibition.

2. "The demoralizing effect of the small sum, only $500,000 annually, paid in graft to the police, will be removed. Honest policemen will no longer fear transfers to the sticks on orders from the handbook syndicate.

3. "The liaison between illegal handbooks and the selling of stolen bonds will be dissolved.

4. "The present owners of many of the handbook establishments in Chicago, who have been under pressure to conform to the code of the underworld, will be glad to return to the world of respectability.

5. "The police force, free from its pressure of involuntary servitude to the handbook syndicate, will have more energy to devote to its legitimate function of protecting the person and property of the citizens of Chicago.

6. "The funds diverted from the support of the invisible government of organized crime will be available for the increased usefulness of two of Chicago's most needed services, the public schools and police protection.

7. "It must be remembered (in case only handbooks are legalized) that policy, slot machines and other forms of gambling will remain illegal and will continue to furnish the financial sinews of war to the invisible government of organized crime.

8. "Organized crime, pushed out of one field, tends to intensify its activities in other fields. Organized crime has not been dislodged from control of certain labor unions or of certain merchants' associations.

9. "The graft accruing to certain politicians from handbooks will probably not be greatly affected by legalization (of handbooks alone), but the returns will probably take more legitimate forms, as, for example, in complete or part ownership of an establishment. The income of criminal lawyers will, of course, be greatly reduced."

The Glueck Study—From time to time in this Journal we have presented items concerning the controversy created by the publication of "One Thousand Juvenile Delinquents" by Sheldon and Eleanor T.
Glueck. A fitting close to the debate over the Gluecks' findings appeared in Mental Hygiene, April 1935, entitled "The Close of Another Chapter in Criminology" by Drs. William Healy and Augusta Bronner, Directors of the Judge Baker Guidance Center, and Dr. Myra E. Shimberg of the Center's research department. This article pointed out that two supplemental studies were made after the Gluecks' study which demonstrated the validity of their conclusions. The authors state: [p. 10, reprint]

"Careful and valid statistics show that the court studied has not achieved the end desired and that clinical diagnostic service is not of itself therapeutic. We see no occasion to battle over the figures. A flaw might possibly be found here or there, but undoubtedly the general thesis propounded is entirely correct. Boldly stated, it is as follows: Few cases known jointly by clinic and court or by the court alone cease their delinquent careers within five years of the court filing of the case. Even the 'minor' offenders have careers of law breaking according to the standards laid down by the community. . . . Little treatment that can be called scientific has as yet been undertaken. . . . From the point of view of diagnosis, we have progressed a long way in this quarter of a century, but we have made hardly a step forward in the matter of experimentation in therapy. We should now be concerned with the direction in which further endeavor is best justified. Much more research is necessary to ascertain where our efforts should be concentrated. There are still many lacunae in our knowledge of the effective treatment of the delinquent."

On to Atlanta—The American Prison Association expects a large attendance at its next meeting to be held at Atlanta, Georgia, from October 27 to 31, 1938. The Program Committee has held two meetings, and the development of the program is progressing. As a part of the general program, special assignments will be made to treat such subjects as bad prison conditions, increasing idleness in prisons, and parole. "Too frequently general and confusing statements have been made on these subjects, and it is expected that those who have been assigned to treat them will make a frank and courageous statement of facts, and at the same time point definite ways toward improvement."

In addition, emphasis will be directed toward subjects such as classification of prisons and prisoners, educational programs in prisons, case work and treatment, the reflection of the economic depression on the prison system, and conditions in county and municipal jails.

Among the speakers will be Mrs. Roosevelt, Wardens Lawes and Ashe, William B. Cox, Austin H. MacCormick, U. S. Attorney General Homer S. Cummings and others of equal reputation.

At this time advanced methods of dealing with prisoners, prison labor, probation and parole, and other "prison" topics are under fire. The poor economic situation in many states, political interference, and unreasonable public criticism have reduced many prison administrators to a despondent attitude. Attendance at the Atlanta meeting is bound to create new courage at a time when most needed; practical but successful prison men will present solutions for pressing problems; and the general accomplishments of the
CURRENT NOTES

group will serve as an answer to popular outcry against prison reform.

Delegates to International Congress—President Roosevelt has approved the names of the following delegates to serve as representatives of the United States to the Eleventh International Penal and Penitentiary Congress to be held in Berlin, Germany, August 18th to 24th, 1935. The certificates of appointment have been sent out by the Department of State.

Mr. Sanford Bates, Chairman, Commissioner on the part of the United States, International Penal and Penitentiary Commission, Washington, D. C.; Mr. Stanley P. Ashe, Warden, Western State Penitentiary, Pittsburgh, Pennsylvania; Mr. James V. Bennett, Assistant Director, Bureau of Prisons, Washington, D. C.; Mr. Edward R. Cass, General Secretary of the American Prison Association, 135 East 15th Street, New York, New York; Dr. Frank L. Christian, Superintendent, Elmira Reformatory, Elmira, New York; Mr. Charles L. Chute, Executive Director, National Probation Association, 50 West 50th Street, New York, New York; Miss Ruth E. Collins, Superintendent, House of Correction for Women, New York, New York; Mr. William J. Ellis, Commissioner, Department of Institutions and Agencies, Trenton, New Jersey; Mr. George C. Erskine, Superintendent, Connecticut State Reformatory, Cheshire, Connecticut; Dr. Mary B. Harris, Superintendent, Federal Industrial Institution for Women, Alderson, West Virginia; Mr. Alfred Hopkins, 415 Lexington Avenue, New York, New York; Dr. R. F. C. Kieb, Superintendent, Matteawan State Hospital, Beacon, New York; Mrs. J. E. King, 413 McCullough Street, San Antonio, Texas; Mrs. Blanche L. LaDu, Chairman, State Board of Control, St. Paul, Minnesota; Mr. Lewis E. Lawes, Warden, Sing Sing Prison, Ossining, New York; Mrs. Fannie Saxe Long, 33 South Washington Street, Wilkes-Barre, Pennsylvania; Major Agnes McKernan, Women's Prison Secretary, The Salvation Army, New York, New York; Miss Elizabeth Munger, Superintendent, Connecticut State Prison for Women, Niantic, Connecticut; Mr. William Frank Penn, Superintendent, Pennsylvania Training School, Morgantown, Pennsylvania; Dr. Louis N. Robinson, Cedar Lane and College Avenue, Swarthmore, Pennsylvania; Dr. Walter N. Thayer, Jr., Commissioner of Correction, Albany, New York; and Dr. E. Stagg Whitin, Chairman, Executive Council, National Committee on Prisons and Prison Labor, 250 West 57th Street, New York, New York.

Interstate Parole Conference—The Second Central States Parole Conference was held in Louisville, Kentucky, May 6th to 9th, 1935. The first Conference ever held under this caption was inaugurated and organized in Chicago last year under the leadership of Mr. Geo. T. Scully, Supervising Director of Paroles in Illinois. He presided at the Louisville Meeting, and was re-elected President for the ensuing year.

This Conference has proven to be really more than its name implies, inasmuch as some 294 delegates from 28 States attended. Furthermore, several special speak-
ers were present from Washington, D. C., New York, and other distant points.

Fortunately the organization of this Conference was concurrent with new provisions of the Federal law by which reciprocity or interstate compacts may be possible and binding.

Instead of each State acting independently, and often antagonistically, toward its neighbors, in matters of parole, this Conference has given decided impetus to the spirit of cooperation in the parole field. To be sure, it is realized that parole systems in the various States must have the support of public opinion to be effective, but enlightened public sentiment is the most effective instrument for the successful administration of laws. However, it should be understood that the paroling of prisoners is neither a sentimental nor merely a technical matter, but a social case-work problem. This was indicated by Prof. R. Clyde White, of Indiana University, who said: "It is the common experience of social case workers to find that each case often involves problems of health, poverty, personality, occupational difficulties," as well as behavior and law observance. "Job placement is a vital factor in rehabilitation," declared Henry Barrett Chamberlin, President of the American Institute of Criminal Law and Criminology. He pointed out the obvious fact that: "A man released from prison without employment or friends to take an interest in him is more likely to violate his parole than one occupied and contented in home environment. Persons released from prison must have more of the necessities of life than a prison suit and a $5 bill and they must either earn money honestly or temptation to revert to a life of crime again confronts them. Methods of obtaining jobs for released prisoners in most States was branded as "farcical." Few States, he pointed out, make the proper investigation and officials accept statements of individuals without verification." Blaming overcrowded prisons and inadequate facilities on political turnover and lack of proper co-ordination of departments, Mr. Chamberlin said that these conditions were nullifying the effort of wardens to segregate classes of prisoners. He advocated experienced administrators, with long tenure, divorced from politics and having complete charge of penal institutions, supervision and after-care, with all employees working under practical civil service regulations.

F. Emory Lyon, Supt. of the Central Howard Association, spoke on "Personal Service vs. Punishment in Rehabilitation of Prisoners." "Institutions have been engaged too largely in removal of liberties, rather than training men in the right use of liberty, and punishment has been ineffective as a deterrent because those who commit offenses are notoriously short-sighted and character-building processes have not prevailed in most prisons," he pointed out. "It is gradually dawning upon this generation," Dr. Lyon said, "that character-building is not primarily an institutional problem. It is an individual process to be carried on under personal service guidance." "In dealing with social disease or crime," he declared, "we cannot assume that merely by sending men to the penitentiary they will be penitent. Neither can we take it for granted that a reformatory will reform. While we may punish men en masse, we cannot reform them
in that way. There should be laboratories where the bodies, minds and souls of men can be studied, understood and treated for their betterment.” “Efficient parole depends upon the educational and vocational training in institutions to fit men for parole,” Frederick A. Moran, executive director of the New York Division of Parole, told the Conference. “With public support and the employment of trained parole and social workers, the problem of parole can be solved,” the speaker declared in outlining the operation of the New York system, regarded as a model by criminologists. Parole, Mr. Moran declared, was in a chaotic condition in most States.

Discussing the new Illinois criminal code and explaining the parole sections of the act now before the Legislature of that State, Circuit Judge Harry M. Fisher of Chicago, said: “The case of parole so far as the public mind is concerned needs defense.”

The necessity of a conception of crime as a disease and treatment for it as such was urged by Justin Miller, chairman of the United States Attorney General’s Committee on Crime. Declaring that confusion and lack of co-ordination in the prosecuting branches was the chief obstacle to law enforcement. Mr. Miller said that the need for better trained policemen, prosecuting attorneys and judges was obvious. Ninety percent of crimes committed are State offenses, he said, and Federal power cannot be substituted for State or local police agencies.

Gordon Dean, Washington, Assistant Attorney General, outlined a plan for co-operation between States in supervising paroled prisoners through compacts by which released convicts would be permitted to return to their home State.

Classifying kidnapers and gangsters as “freaks of the criminal world,” Mrs. Maude Ballington Booth, founder of the Prison League, declared that many convicted men are not criminals at heart, in an address Monday afternoon. The question involved in parole, she said, was whether to permit the prisoner to go out under supervision or to do as he pleased following his release.

“The men in our prisons were never safeguarded by the church, the schools or society,” Mrs. Booth said. “It is up to the prison through parole to give them their last chance.” Of the many paroled prisoners cared for at Hope Hall in Chicago, 75 percent have made good, the Prison League head said.

Lack of funds was blamed by Joseph C. Armstrong, Michigan Commissioner of pardons and paroles, for the failure of effective co-operation between States in supervision of paroled prisoners. Absolute reciprocity between various States would be provided for under an ideal system, Mr. Armstrong said.

“The day of miracles has not yet arrived in parole work,” he declared. “You cannot buy mechanical men at a pittance to perform the necessary tasks surrounding every phase of an expanding parole programme.”

“Realization that different criminal types required different treatment in order to make re-adjustments when released led Illinois to reorganize her entire prison system,” Joseph E. Ragen, Supt. of Illinois Prisons, told the Conference. “All commitments are made to the State Penitentiary with the
responsibility for placing the prisoner in the proper environment transferred from the sentencing judge to the Department of Welfare."

"Probation and parole are indispensable links in the chain of enforcement and crime prevention," Charles L. Chute, New York, Executive Director of National Probation, declared. Urging the adoption of State wide standards for probation and parole systems instead of county organizations as it now exists in most States, Mr. Chute said that present laws were not sufficient in providing for a trained, uniform force of parole officers.

"Personnel in this work is almost everything," the speaker asserted. "Probation officers should be appointed after passing an examination and should be eligible for appointment as parole officers." Inefficiency and corruption exist in the parole divisions of many States, he declared, and until the States improve their systems the value of parole is sure to be discounted.

The regular sessions of the Conference were fruitfully interspersed by discussion breakfasts and luncheons, chief of which were those held under the Chairmanship of Hon. Arthur H. Wood and led by Ray L. Huff of the Parole and Probation divisions of the Federal Bureau of Prisons.

Attorney General Lutz, of Indiana was active in the Conference as Chairman of the Committee on Interstate Cooperation, and Hon. John Landesco, of the Illinois Parole Board, headed the important committee on Parole Supervision and after-care. Speakers at the closing dinner session were Governor LaFoon of Kentucky and Governor Paul V. McNutt of Indiana, who gave their hearty support to the Conference. The next annual session of this important gathering will be held in Indianapolis.

F. E. L.

Miscellaneous—"The Deterrent Effect of Capital Punishment" is the title of a 20-page booklet published in the Friends' Social Service series. The author is Assistant Professor Robert H. Dann of Oregon State College, Corvallis, Oregon. The study is a product of Professor Thorsten Sellin's Seminar in Criminology conducted at the University of Pennsylvania.

A study tour to survey "crime and punishment in the Soviet Union" was organized by Joseph F. Fishman, author of "Crucibles of Crime" and "Sex in Prison," the party sailing for Russia July 10, 1935.

The Proceedings of the Tenth Annual Conference of the New York State Association of Judges of Children's Courts held some time ago were recently printed by the Class in Printing, House of Refuge, Randall's Island, New York City, and distributed by the New York State Department of Correction, Division of Probation.

The American Law Institute at its Annual Meeting in May approved plans for a thorough study of the substantive criminal law, following the report of a committee of lawyers, economists, sociologists, psychiatrists, and other experts appointed to consider the advisability
of preparing a Code of Criminal Law. In a letter to the Institute President Roosevelt said: "I am deeply interested to learn that you have received from this committee a report which has been approved by your council and which recommends that you prepare and from time to time publish parts of a proposed code of criminal law, using that expression in its widest sense.

"I expressed in my letter of last year my conviction that the adaptation of our criminal law and its administration to meet the needs of a modern, complex civilization is one of our major problems.

"I feel that the type of work proposed by your committee will, if executed with scientific care, be a valuable contribution to our progress towards the solution of the crime problem, and I accordingly hope you will be able to see your way clear to carry through such an important public service."

The special committee on the Revision of the Code of Criminal Procedure has reported to the New York State Commission on the Administration of Justice, John L. Buckley, Chairman, upon the subject of "Arrest." This has been printed as Legislative Document (1935) No. 70. The draft of a chapter on preliminary examination will appear soon to be followed within a year by other chapters dealing with criminal procedure.

In the last issue of this section we referred to articles on the Hauptmann trial (XXVI J. Crim. L., p. 150). It is interesting to note the comment of Albert H. Robbins, Barrister of the Middle Temple, London, appearing in the American Bar Association Journal for May, 1935 (XXI: 301) in which he compares American and English Court procedure and reiterates that the unrestrained newspaper comment during the course of the trial would have been contempt in England.