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Editorial

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EDITORIALS.

THE BILL TO MAKE COMPENSATION TO PERSONS ERRONEOUSLY CONVICTED OF CRIME.

The state is apt to be indifferent and heartless when its own wrongdoings and blunders are to be redressed. The reason lies partly in the difficulties of providing proper machinery, and partly in the principle that individual sacrifices must often be borne for the public good. Nevertheless, one glaring instance of such heartlessness, not excusable on any grounds, is the state's failure to make compensation to those who have been erroneously condemned for crime.

There is plenty of analogy for such a measure. The Federal Court of Claims is a standing example of the general maxim that the state should fulfil its obligations and redress its wrongs by judicial inquiry and award. And a particular analogy here is found in the constitutional principle that compensation should be made for property taken for public purposes. To deprive a man of liberty, put him to heavy expense in defending himself and to cut off his power to earn a living; perhaps also to exact a money fine,—these are sacrifices which the state imposes on him for the public purpose of punishing crime. And when it is found that he incurred these sacrifices through no demerit of his own, that he was innocent, then should not the state at least compensate him, so far as money can do so?

Why has the principle never been here applied? Because we have persisted in the self-deceiving assumption that only guilty persons are convicted. We have been ashamed to put into our code of justice any law which *per se* admits that our justice may err. But let us be realists. Let us confess that of course it may and does err occasionally. And when the occasion is plainly seen, let us complete our justice by awarding compensation. This measure must appeal to all our instincts of manhood as the only honorable course, the least that we can do. To ignore such a claim is to make shameful an error which before was pardonable.

To disentangle the subject from prejudice, let us distinguish three different kinds of cases: (1) cases where an officer of justice is legally liable; (2) cases where the innocent man's sacrifice extends only up to his acquittal; (3) cases where it extends to and beyond his conviction.

(1). *Wrongs by officers* are now taken care of by the law. If the officer is insolvent, there is practically no redress, and the state might

COMPENSATION TO PERSONS ERRONEOUSLY CONVICTED

therefore be asked to compensate. We leave aside this question; it is for the far future.

(2). *Wrongs done by the state preceding an acquittal* include the loss of personal liberty, the loss of income, the loss of reputation and the expense, incurred by one who is later acquitted. Now it is clear that the state must arrest and try *all* duly accused persons, though it is certain that a large proportion will be found innocent. The innocent man has here made a sacrifice for the public good. There is no redress against the officers; they have faithfully kept to their duty under the law. The public good has gained quite as much as it would have done when commerce was served by a railroad placed on land taken by force from that same man. Why should not the sacrifice be compensated? In a civil case, at least costs are given against the unsuccessful litigant. Why should not the state allow costs against itself? Perhaps the amount of the expense bill would look too great. This may be a practical deterrent. But let us at least admit the principle and go on to the third class of cases.

(3). *Wrongs done by the state through erroneous conviction* are so much rarer than the preceding class that the expense of doing justice need here not be deterrent. And this wrong, when it does happen, is so much more grievous that it stands by itself in its appeal to our sense of injustice. Moreover, the moral effect of such an unredressed wrong is so bad that we can afford to make special effort to prevent it. A few cases of this kind stand in our annals as perpetual blood marks and do more to weaken the cause of law and order than a thousand unjust acquittals. The case of Lesurques, in France, just before the Revolution—a victim of mistaken identity—is chronicled in every book on circumstantial evidence. The case of Adolph Beck, in England only a few years ago, has done much to undermine the profound faith of the English people in their courts and their police. How much better if the law provided frankly beforehand for redress in such contingencies. Would not this at least restore our faith that justice would ultimately be done? In both those notable cases the government made a donation by way of expiation—in Beck's case, the sum of £5,000. But to leave such expiation to the whims or the sympathy of a busy political officer, and to the chances of persistent intrigues by the friends of the victim, is unworthy of an enlightened community. And in our own country it was left to the beneficence of a private citizen (Andrew Carnegie) to do something for Toth, the latest victim of justice's errors, who lay for twenty years in a Pennsylvania prison, convicted of a crime which he never committed.

TREATMENT OF THE DEGENERATE CRIMINAL

Why should we not provide for such grievous errors of justice? Almost every continental nation has done something substantial during the last hundred years to correct this defect in the law. Shall we lag behind any longer?

It is nobody's interest, apparently, to move for such a law. You and I have never suffered in that way; no large business interest is threatened; no class of persons directly feel a loss in their pockets; and so nobody exerts himself. Only the casual victims feel the wrong, and to expect them to unite in a demand for legislation is absurd.

Mr. Borchard's article in this number of the JOURNAL ought to appeal to every citizen of the land and particularly to every legislator. He sets forth what has been done on the continent and points out the entire feasibility of the measure. We ask for its earnest consideration.

Mr. Borchard has drafted a bill, which is printed in this issue at page 792 ff. It has already been introduced into Congress. By this bill the court of claims is given jurisdiction of such cases arising under Federal jurisdiction. The bill can be easily adopted for the same purpose in state courts for state cases. We trust that the movement for this amendment of our law will spread and that it will be taken up by the Institute of Criminal Law and Criminology.

J. H. WIGMORE.

THE TREATMENT OF THE DEGENERATE CRIMINAL.

A most important forward movement in Criminology waits upon a serious, concerted effort at the permanent segregation of dangerous degenerates.

In number 6, Volume II of this JOURNAL, at page 819, under the title "The Degenerate at Large," the writer called attention to a distressing murder that had been committed by an ex-convict who had previously served a number of terms in the penitentiary but without effect as far as checking a criminal career was concerned. He was apparently a hopeless degenerate. The point was urged in that place, as others have done time and again elsewhere, that every such character, regardless of his offense, should be permanently separated from normal society.

To this, no doubt, every man of sound common sense will give his assent. If Schrank, the would-be assassin of Mr. Roosevelt, is, as the experts declare, a chronic paranoiac, his being brought so expeditiously under a plan for permanently shutting him off from normal association with other men is a perfect illustration of the practical operation of one

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twentieth century ideal in criminology. It would be a crime ever again to allow him the freedom of the state, and thus to expose the innocent to his violence and even to the possibility of murderous assault.

It is a great service to the state to segregate the degenerate who has already proven himself a menace. It is a greater benefaction, however, to bestow upon society a method, or methods by which the various types of degenerates may be distinguished before they have practically demonstrated their character by encroaching upon the liberties of others.

The making of these distinctions must be the burden of men of science who are trained in methods of research. Such men must be provided with the means for rendering their peculiar service. We are indebted to Mr. Arthur MacDonald of Washington for agitating throughout many years the establishment of criminological laboratories by municipal, state, and national governments. It is understood that his bill providing for the establishment of a national laboratory is now pending before the judiciary committee in each house of Congress. Two years ago Mr. MacDonald presented his plans to European governments. The director of the Belgian laboratory at Forest acknowledges indebtedness to him and more recently even Russia has created an institution for research on the general lines suggested by Mr. MacDonald.

Happily the movement is more widely spread. In many institutions in our own country it is under way. The latest development is the department of biochemical research at Vineland, New Jersey, in connection with the Training School for the Feeble-minded. It is not, therefore, the enterprise of criminologists primarily, but, no doubt, it lends itself readily to their needs. It opens up a wide field of inquiry into the chemical nature of metabolism in those abnormal individuals in whom no organic lesions are discoverable. This, Dr. Southard suggested at the meeting of the American Psychological Association in Washington in December, 1911, is a quarry that is full of promise to science.

In an age when so much is said of efficiency and when men of affairs in public and in private life are zealous to spend freely in order that they may develop and disseminate scientific knowledge concerning production of plants and animals for commercial reasons, it is anomalous that at the same time we are niggardly in the matter of spending for the development of scientific elimination of social, which is at the same time economic, waste. It narrows down to the question—what are we willing to spend in the form of effort and money to increase and disseminate knowledge concerning crime and to stop its drafts upon the

public purse and peace? There are the epileptic criminals and their terrific cost to society in both blood and treasure so admirably set forth by Dr. Healy in his recent report from the Psychopathic Institute in Chicago. What is being done to develop reliable information concerning them and to let the public, even the thinking public, know how large a percentage of repeated offenders are epileptics and consequently incurable and always, therefore, unsafe when at large in the community? To this class belong no less than $7\frac{1}{2}$ per cent of 1000 repeated juvenile offenders who have been studied by Dr. Healy and his associates in Chicago.

It is because of a lack of an awakened public sentiment and consequently for want of public support that information, such as it is, upon these points reaches the public only through the daily press. The rare investigator in criminology understands how meager and spectacular, rather than complete and reliable, this general information concerning criminals continues to be. Meantime, owing to public ignorance and to its corollary, the paucity of means at the disposal of our institutions for discriminating and segregating the epileptic and other degenerates from the normal criminal and normal life, we go merrily on our way apprehending and, in due course, releasing degenerates at the peril of our lives and social stability. Or if we do not thus release them we do what may be even worse: we confine them where they contaminate others, and thus indirectly continue to be a burden upon society. Again, in silly though less tragic fashion, we plunge headlong through tedious expensive processes of law in prosecution and defense of an accused, perhaps even after the question of the moral responsibility of the defendant has been raised. Would it not be far saner, universally, in such cases, to submit the problem to experts, outside the pale of the court, who are competent to pass upon a question, lying definitely, as this does, within the science of psycho- or neuro-pathology? Such a course would seem to be in the interest of expeditious, economical, and otherwise fair dealing with one who proves to be an irresponsible degenerate.

Our national and state governments should not be behind other nations in increasing and disseminating knowledge concerning crime, including criminal statistics, and in providing our institutions with ample means for distinguishing degenerates and properly segregating them. Professor Garner's editorial on "Homicides in American Cities" and Mr. Goebel's article on the "Prevalence of Crime in the United States," both in this issue, should be ample encouragement to take up the burden.

ROBERT H. GAULT.

POLICE REORGANIZATION IN CHICAGO.

There is pending in the City Council of Chicago a bill* presented by a sub-committee of the Council Committee on Schools, Fire, Police and Civil Service. The bill is based upon the report of the investigation of police by the Civil Service Commission and an independent investigation of the sub-committee and may be found in full in the JOURNAL of the Proceedings of the City Council of the City of Chicago, November 25, 1912, pp. 2415-2433. The most noteworthy features of the proposed act are the following sections:

Section 6 (first two paragraphs). "There are hereby created the offices of Superintendent of Police, First Deputy Superintendent of Police, Department Inspector, Director of Instruction, Inspector of Moral Conditions and such number of captains, lieutenants, sergeants and patrolmen as may, from time to time, be provided for in the annual appropriation ordinance. The following members of the department, to-wit: the First Deputy Superintendent of Police and all captains, lieutenants, sergeants and patrolmen, shall be known and are hereby designated as 'policemen,' and shall constitute the police force of the City of Chicago.

"In addition the department shall include such other employes as may, from time to time, be provided for in the annual appropriation ordinance."

Section 9. "The Second Deputy Superintendent of Police shall not be a member of the police force, and under the direction of the Superintendent of Police shall be charged with:

1. The care and custody of city property and the distribution of the same.
2. The supervision of departmental records.
3. The inspection of the personnel of the department and of stations, equipment and departmental property.
4. The instructions of officers and men.
5. The ascertaining and recording of departmental efficiency, individual and grouped.
6. The receipt and investigation of all complaints of citizens regarding members of the police force.
7. The supervision of all matters affecting public morals, such as prostitution, the sale of cocaine, opium and other habit-forming drugs; the supervision of saloons, cafes, restaurants, hotels, public dance halls, summer parks and excursion boats.
8. The censoring of moving pictures and performances of all kinds. To him will report:
 - (a) The Secretary of the Department.
 - (b) The Manager of Properties.
 - (c) The Department Inspector.

Section 12. All precinct commanders shall keep in their respective stations a card index system furnished by the Second Deputy Superintendent of Police, which will show, at all times, up to date, the name, description, character, habits, associates and relatives of every known person of bad character residing in or frequenting such precinct, including pickpockets, hold-up men, safeblowers, confidence men, vagrants, pimps, prostitutes, and people who are operating or have operated gambling houses.

Section 19. No member of the police force shall be assigned to any duty other than that strictly in line of police work, and it is hereby made the duty of

*This bill, with few substantial amendments, was passed by the Chicago City Council since the JOURNAL went to press and will probably be signed by the Mayor. At the behest of the United Societies all parts of the act tending to enforce the state law closing saloons on Sunday were eliminated and the inspection provided for in Section 26 was made the duty of the Inspector of Moral Conditions.

POLICE REORGANIZATION IN CHICAGO

the Superintendent of Police to return to uniformed service as promptly as possible, and within six months after the passage of this ordinance, all members of the police force not hereinabove designated for duty in citizen's dress.

Section 23. The Department Inspector shall have charge of the Inspection Division, and, under the direction of the Second Deputy Superintendent of Police shall be charged with the instruction of the officers and members of the department, and to that end shall establish such courses of instruction at station schools as may be approved by the Second Deputy Superintendent of Police.

Section 24. It shall be the duty of the Department Inspector under the direction of the Second Deputy Superintendent of Police to establish and maintain a school of instruction for recruits to the position of patrolman, at such place as the Superintendent of Police may designate. All such recruits shall upon their appointment be ordered to the school of instruction in numbers convenient for their practical instruction, and shall there be instructed in elementary criminal law, city ordinances, pertaining to the Police Department, the rules and regulations of the department, sanitation, first aid to the injured, military drill, revolver practice, court procedure and such other matters as the Second Deputy Superintendent of Police may direct. Such course of instruction shall be not less than thirty days' duration, except in cases of emergency, and in such case the full period of instruction shall be completed after the emergency has ceased. No probationary patrolman shall be appointed a regular unless he shall have passed a satisfactory test at the school of instruction for recruits.

Section 26. It shall be the duty of the Department Inspector to make periodical inspection and investigation of all saloons, cafes, restaurants, public dance halls, summer parks, excursion boats, and hotels within the City of Chicago, and report thereon to the Second Deputy Superintendent of Police any violations therein of the laws of the State of Illinois, ordinances of the City of Chicago, and the rules and regulations of the Department of Police, and it shall be the duty of the Second Deputy Superintendent of Police to forward such reports, with his recommendations thereon, to the Superintendent of Police.

Section 30. It shall be the duty of the Second Deputy Superintendent of Police to install and at all times maintain a system for the ascertaining and recording of individual efficiency of each member of the police force under the rank of Deputy Superintendent of Police. Such system shall be as nearly automatic as possible and its application shall be uniform throughout the department."

Section I provides for the appointment of a Superintendent of Police by the Mayor, with the advice and consent of the City Council.

As long as the head of the police system is appointed by the Mayor there can be no satisfactory police administration. No matter how efficient the Superintendent may be if he is appointed by the Mayor he is subject to political influences that if he would hold his position he cannot evade and the usual result is that after a period of time, public clamor forces his retirement and the power that appointed him permits him, broken and disgraced, to be retired. In other words the head of the police department when appointed by the chief executive of any city is usually the scape goat of the administration. No officer who cares for his reputation or who desires to remain permanently in police service can afford to accept the position of Superintendent under such conditions, and it may well be doubted that, even if the Mayor should desire to appoint the most efficient member of the force to the position of superintendent he could induce him to accept.

It is to be regretted that the bill does not provide for some method

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for the selection of superintendent that would allow that officer a free hand, that would make him rightly responsible for the enforcement of all laws and ordinances and insure his continuance in office so long as he properly performed his duties. It is an absurd law that requires a superintendent to enforce "*all* state laws, city ordinances, etc.," and at the same time under the terms of his appointment practically forces him to consult the mayor or the mayor's advisers as to *which* laws shall be enforced.

Section V, providing that the superintendent "shall enforce all state laws, city ordinances and the orders of the City Council and the Mayor of Chicago" caused the bill to be referred back to the committee at one stage of its passage because of an objection by a representative of the United Societies that this section contained a "joker" that was intended to force the closing of the saloons in Chicago on Sunday, there being a state law requiring saloons to be closed on that day. Perhaps this incident discloses better than anything else the influences surrounding the police organization in Chicago today and the lethargic condition of the citizens of that city. It seems hardly credible that any sober person would have the effrontery to oppose publicly a city ordinance on the ground that it might operate to enforce the state laws, provided that city should sometime commit the error of electing an executive who should not deem himself wiser than his fellows and greater than their law, and should, therefore, endeavor to fulfill his oath of office and therefore endeavor to enforce all the laws. It is more incredible that such an argument should be effective as it was in this case. Still, we sometimes wonder why in municipalities like Chicago so many of its citizens have no respect for its laws.

The notable features of section 6 are the creation of the offices of Second Deputy Superintendent, Director of Instruction, and Inspector of Moral Conditions. (This is the only section of the act mentioning the last two officers.)

The office and duties of the Second Deputy Superintendent of Police are described in section 9.

It will be noted that this officer shall not be a member of the police force and that among other duties he shall have charge of the instruction of officers and men; the ascertaining and recording of departmental efficiency upon which promotion shall be based and the supervision of departmental records. This section seems admirable and if the choice of a second deputy could be based upon qualifications for the peculiar duties of the position instead of political expediency the officer in charge of the department could be of much real service in improving the work of the entire force. The fact that he must be taken from out-

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side the force is particularly commendable, if for no other reasons than that given by the committee that "it is too much to expect a man whose lifelong training has been in active police work to be qualified to handle the business affairs of a department" and because it would be well to have an officer in the organization who has not been reared in the subtle and indescribable atmosphere surrounding the patrolman from the instant he becomes a member of the force—an atmosphere that tends to create even in every honest member of the force a feeling of uncertainty as to his tenure because of unseen and unknown powers, powers that issue no orders but that provide certain punishment for any act or word contrary to its interests, whether the member commits the act in enforcing the law or in violation of it.

It was this section of the act, however, that is reported to have called forth the special opposition of the present chief and the following comment: "It is a big joke—that ordinance. Why, what does the smartest lawyer or judge or business man know about police work? Think of putting a civilian in to run coppers. That is just what you could expect from a lot of wise guys." Perhaps if the classes alluded to did know a little more about "police work" the community would profit and there would be many and rapid changes in the personnel of the police force in many municipalities. At any rate Chicago's chief should be more generous and instead of desiring to prohibit forever the rise of some ambitious citizen unto the eminence and knowledge of a police official he should further such conditions and offer to instruct the novice in the intricacies of "police work."

Section 12 is designed to supplement the card index vagrancy records, and if the system provided for in this section should be carefully and thoroughly followed it would be of considerable benefit in all attempts to locate vicious characters suspected of some criminal act.

Section 19 is intended to provide that a larger proportion of the police force shall be devoted to actual police duty, and that more men shall serve as patrols on the theory that the prevention of crime is more important than the detection of the criminal. The committee found that in 1912 there was appropriated for salaries of sergeants and patrolmen \$5,683,500, providing for 389 sergeants and 4000 patrolmen; that of this number 600 were assigned to the detective bureau of men traveling in citizens' dress out of precinct stations, 1200 on different sorts of special duty, 300 on crossing duty, 350 on wagons and ambulances and *about* 1800 traveling beat in uniform. To the laymen it would seem that this section is needed in the operation of the Chicago force this winter.

Sections 23 and 24 provide for schools of instruction for officers,

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members and recruits by the department-inspector under the direction of the second deputy superintendent. These are two commendable sections and if they become law should tend greatly to increase the efficiency of the force.

All larger European cities require attendance at schools of instruction for longer periods than are provided in this section and in some instances high standing in a school of instruction constitutes credit toward promotion. The tendency has been in this country to train police along physical lines and while this is necessary it should not be to the exclusion of mental training. German police commissioners are required to have completed a gymnasium course (equivalent to about two years in college in this country); three years in the study of law; two to have been two years at work under some higher court; and to have exercised during two years some administrative authority. The patrolmen are usually recruited from the ranks of privates in the army, and the officers of the grade of sergeant have generally been non-commissioned army officers with twelve years' experience. Under our system of government this may not be necessary or desirable, but it is high time we had some other qualification than waist dimension or strength of arm.

Section 26 provides compulsory inspection of saloons, cafes, public dance halls and excursion boats, all of which, judging from reports of private organizations, are sadly in need of police inspection. Whether such inspection would lead to proper regulation or not it would place conditions before the public in the form of the reports of the department inspector. To this section, however, should be added "hotels and rooming houses" as places subject to inspection and then the section assigned to the newly created inspector of moral conditions for enforcement.

Section 30 provides for recording individual efficiency and if used as a basis of promotion is good. It does not, however, enter sufficiently into detail and might operate harmfully under an inefficient second deputy.

The bill on the whole is a step forward in the improvement of the police organization of a large city. The chief opposition to its enactment lies in the active opposition of the United Police, an organization of ill repute, and the United Societies, a body alleged to be composed of foreign-born citizens organized to promote the enactment of "liberal" laws and the non-enforcement of those deemed not "liberal," but apparently organized primarily to prevent the enforcement of state laws regulating the sale of intoxicating liquors, and to secure political preferment for the more clever of its officers. Possibly the character of the opposition is sufficient to warrant the passage of the act.

FREDERIC B. CROSSLEY.

HOMICIDE IN AMERICAN CITIES

THE PARDON OF ALBERT T. PATRICK.

Albert T. Patrick some twelve years ago was brought to trial in New York for the premeditated murder of an old man, William Marsh Rice, his benefactor. The evidence tended to show that the purpose of the murder was to enrich the murderer by obtaining possession of the estate of his victim by means of a forged will. Patrick, himself a shrewd lawyer, had the benefit of unlimited financial resources at his trial through the assistance of relatives of means. The jury trying the case was one of exceptional intelligence and after a protracted trial found Patrick guilty. He was sentenced to be electrocuted. Then began the enactment of the usual series of appeals in such cases that tend to bring the whole system of administration of criminal law into general disrepute. The motion for a new trial was submitted in a brief of several hundred pages and embraced all the points which human ingenuity could invent, yet after long argument and deliberation the motion was denied and on appeal to the highest tribunal in the state the conviction was affirmed.

The sentence of death was later commuted to one of life imprisonment and later two governors refused further clemency.

In the face of these facts Governor Dix, after a secret hearing at which there were present pleaders whose identity the Governor declines to disclose, issued a full pardon to Patrick and in his announcement of the pardon states that *after his release* he hopes Patrick will demonstrate *his innocence*.

This act of Governor Dix, while one of the most striking abuses of executive clemency in recent times and an example to the entire country of the failure of the law to work justice, will have served a good purpose if it causes legislation doing away with the power of any executive, after a secret hearing, to set aside the decision of an established court of law, and removing wholly from pardoning power any criminal sentenced to life imprisonment, requiring that such cases must be brought before a pardoning board at an open hearing on newly discovered evidence and limiting the power of such board to an order for a new trial.

FREDERIC B. CROSSLEY.

HOMICIDE IN AMERICAN CITIES.

Mr. F. L. Hoffman, statistician for the Prudential Insurance Company, in a recent number of the *Spectator*, a New York insurance journal, analyzed the homicide record of thirty American cities and compared the results with the record of England and Wales.

HOMICIDE IN AMERICAN CITIES

"According to the published mortality statistics of the Bureau of the Census for 1910," says Mr. Hoffman, "the number of deaths from homicide in the registration area, as finally reported for that year, was 3,190, equivalent to a death rate of 5.9 per 100,000 of population. The average rate for the ten-year period ending with 1909 was 4.3, and for more recent years in detail the rates were 5.0 for 1906, 6.3 for 1907, 6.4 for 1908, and 5.6 for 1909. Only two specific methods are returned, it being stated that out of the 3190 deaths from homicide in the registration area 1852, or 3.4 per 100,000 of population, were caused by firearms; 452, or 0.8, by cutting or piercing instruments and 886, or 1.6 per 100,000 of population, by other means."

He presents a table showing that the rate of homicide increased from an average of 5 per 100,000 of the population during the ten years ending with 1891 to 7.2 during the ten years ending with 1911, the maximum occurring in 1907, when it attained to 8.8 per 100,000 of the population. Making all due allowance for errors the census returns unquestionably establish the fact that not only is the homicide rate in the United States exceedingly high, but that the rate has materially increased during recent years. During the decade ending with 1910 the highest homicide rate was in Memphis, where it attained 47.1 per 100,000 of the population; in 1911 it rose to 63.4; in Charleston it was 27.7; in Savannah, 25.6; in New Orleans, 22.2; in St. Louis, 12.6; and in San Francisco, 11.2. Our criminal record for 1911 is even more unenviable especially in the large cities. Chicago led off with 203 homicides (according to a recent report of the Coroner the number for the past year was 221); New York, not including Brooklyn, followed with 197; St. Louis had 108, and Memphis, 85; the aggregate for the thirty cities being 1,300. Comparing this record with that of England and Wales Mr. Hoffman finds the advantage very much on the side of the English. Thus in all England and Wales in 1909, with a population of nearly 36,000,000 inhabitants, there were only 287 homicides, hardly more than were reported in the two American cities of Chicago and Memphis. On this point Mr. Hoffman says:

"This comparison emphasizes the extremely high homicide rate prevailing in the United States at the present time. For males and females the average rate for England and Wales was 0.9 per 100,000 of population, against 4.3 for the registration area of the United States. In other words, there was an excess of 378% in the homicide mortality of the United States over the corresponding homicide record of England and Wales. Comparing males only, the rate for England and Wales was 0.9 per 100,000 of population, against 6.5 for the registration area of the United States. The American rate, therefore, was 622% in excess of the English rate. For females the English rate was exactly the same

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as for males, or 0.9 per 100,000 of population, whereas for the registration area of the United States the female rate was 2.0 per 100,000 of female population."

Mr. Hoffman observes what is obvious to every well-informed person, that such a record brings out in startling contrast the already large and increasing disregard of human life in the United States. The figures which he presents go far toward disproving the truth of the assertion which we sometimes hear that the American people are the most law-abiding in the world, and they seem to confirm the truth of the statement made some years ago by Mr. Andrew D. White, that the United States now leads the world in the amount of crime committed within its borders, unless we except Southern Italy and Sicily. Such a showing is discreditable to us as a people and the problem of how to check this increasing criminality is certainly one of the greatest that confronts our civilization.

JAMES W. GARNER.

POLITICS AND PENITENTIARIES.

Press Dispatch. "Chicago, December 14, 1912.—Governor-elect Dunne is semi-officially announced to have selected, as chairman of the State Board of Administration of Charities (vice L. Y. Sherman), John Doe, an active member of the Democratic State Central Committee; and, as warden of the State Penitentiary at Joliet (vice E. F. Murphy), Richard Roe, chairman of the Democratic Campaign Committee."

The above is the kind of announcement nowadays to be seen in the newspapers of Illinois, and of other States in which the recently successful party is a different one from the victor at the election of four years ago.

And this is our boasted American civilization! How civilized is this practice of ours! How reasonable! How highly moral! How humane! How practical!

Ten thousand or so people—dependent, defective, delinquent—are under the care of the State of Illinois; a heavy responsibility, needing wisdom, experience, high character, and tried ability for its management. Modern science and philanthropy are doing their best to establish sound principles and to develop efficient methods. The community is struggling to cope with the urgent problems which disease, misfortune and crime force upon it through these inmates of its institutions. The world is growing wiser every day with new and better methods for avoiding the crude blunders of earlier days. A good hope is visible for achieving something which shall justify this generation's boast that it is progressive and civilized. And now——

The chairman of the great state board and warden of the great

POLICE, GAMBLER, AND JUDGE IN NEW YORK

state penitentiary are to be chosen for their skill and success as *managers of the party's campaign*. The two officers whose power for good is greatest and whose need of professional experience is most urgent are to be selected as a reward for their services in partisan management!

Have they any experience in penitentiaries or in public charities? Have they ever devoted any part of their career to that work? Do they know what has been done, what ought not to be done, and what needs to be done? Have they given any test of their ability for such work, or even of their interest in it? These men named in the various dispatches *may* be qualified, for aught we know. But the announcement is that they are to be appointed, *not* because they are or are not qualified, but because they are successful campaign managers, as a reward for party services.

We appoint a bank teller or a factory foreman because he has proved his ability in that career. But we appoint the masters of destiny over our criminals and defectives because of skill in mustering votes.

Faugh! What a sham it is to prate of civilization, where such a practice prevails!

In October, 1910, there was an International Prison Congress in Washington—the first time in America. After their visit the foreign delegates made remarks. They were kindly and generous, but sometimes frank. The one thing they had all noticed was the subservience of penitentiary management in this country to the spoils system of partisan politics.

For our crude senselessness in this matter, we are a laughing-stock to the world.

So be it. We deserve it. The newspaper items of this month prove it anew.

J. H. WIGMORE.

THE POLICE, THE GAMBLER, AND THE JUDGE IN NEW YORK CITY.

On the sixteenth of July last, a man was shot in front of a New York City hotel, at two o'clock in the morning in the glare of the burning high white light of Broadway. That man was a gambler—the owner of a gambling-house, better called a den, though in outward aspect a palace in its furnishings and trappings. The gambler had been paying for protection, which, for the uninitiated into the immoral, unclean, unhealthy and unholy ways of city life, I may say, means that he had been bribing the police to blink his unlawful business. Beg pardon of business.

Indeed, the police, it is very well known, do not wait to be passively bribed, do not wait to be corrupted, but almost always take the energetic initiative, and seek the bribe, accompanying the demand with threats of arrest and dire punishment if the intended victim does not succumb. Truth to say, the situation is so well known now that neither demands nor threats are needed. A gambler sets up his establishment knowing full well the condition he is to meet. He considers the police protection item an important and an absolutely indispensable one in his expenses. He is safe to ply his black trade to the ruin of innumerable families, to the wrecking of a thousand souls, to the destruction of a thousand otherwise useful spirits, to the driving of his victims into suicide, crime, pauperism, and insanity, and to the infinite benefit of himself.

If there were no gamblers like the man who was murdered, there would be no police situation in New York City today. The police are subdued to what they work in. The police had been receiving money from the murdered gambler—for whom some maudlin, imbecilic sympathy has been aroused, perhaps on account of reaction against the fierce violence, itself grossly imbecilic, of the attack upon the lieutenant caught in the mess. In return the police had been guarding the den. It was not disturbed. This was at first. But then came a change over the spirit of the gambler's dream. He would not pay the exorbitant price which was now asked for the protection of his business. A change you see had come over the spirit of the policeman's dream also; he had found out the gambler could well afford to pay more. They—the fleeced one and the fleecer—dickered and bargained and haggled—and quarreled. The place was raided. The gambler resented the raid. He was not being treated "square": other places were let alone. He determined to "squeal"—and he did. He went to the district attorney of New York County and laid the matter before him. On the sixteenth of July he was to appear before the grand jury. That must not be. Some official's head would be cut off. And who was the official? A lieutenant of police. This lieutenant was the head of the "vice squad"—a department of the police in charge of disorderly places—a very fruitful job, a very luscious plum. Whether the commissioner of police knew anything has not been shown. Investigation so far has not brought to light any facts which demonstrate, or point to the conclusion that he did. A superior must to a large extent depend upon his subordinates. A certain supervision, or guidance there must be; a certain knowledge of what is going on. But the most omnipresent, and omniscient human being would find it beyond him to get into the boots of all his subordi-

nates. So this lieutenant ran his department. He had his collectors who went around at stated intervals to gather the "dough," the "protection money." The collectors were policemen and civilians. Poor policemen! They never got anything for assembling the cash that was enriching their superior. Their duty was to take and to give over, and seemingly they did. No policeman has as yet squealed on the lieutenant. The dignity of the department and of the whole force has been kept. No direct knowledge from these collectors have we. But no one doubts the fact. And a jury of twelve men of New York County has given its verdict of guilty. Think of it; proved even in a court of justice, and convicted by men of family, whose lives everyone thought would not have been worth a pin had they brought in a verdict of conviction. To continue—the gambler was to give evidence against the lieutenant. The latter called to him other gamblers. These tried to dissuade the irate one. They could not do it. The lieutenant was getting anxious. The time was going fast; the fatal moment was approaching. The gambler must not appear before the grand jury. "Hire some one to kill him. If you don't do it, I'll frame up a case on you, or I'll kill the skunk myself." And so the assassins were hired—four young gangsters—revolver wielders, gamblers, sports, men about town, gentlemen of leisure and of pleasure, ready for any light work which much fruit produceth. The assassins did the job. They escaped. The lieutenant had promised there would be no policeman around when the trick was done, and as you see, he had kept his word. But the public was stirred, and the force from top to bottom was not rotten. No more unjust accusations could be brought against the whole police force than were hurled at it in those evil days. No matter how much public indignation, no matter how much newspaper word-slinging—we have seen lately on several occasions how really feeble the Fourth Estate sometimes is—if the putrefaction had permeated the police, if the cancerous material had spread its venomous arms through every branch and twig and root of the tree, no public clamour, no efforts of the district attorney, no efforts even of the best private detectives could have done the remarkably good work performed by the detective bureau in running down the murderers and in hunting up the witnesses. That work, to my mind, would be, though no other evidence were available, conclusive of the core-soundness of the force. Every help of benefit to the district attorney was given by an efficient deputy commissioner. The assistant district attorney who tried the cases springing out of the murder complained sorely that the police had not appeared to testify, "that the state had to do without them." Great odds! Yes, true. But when you have said that the "vice squad" kept

tight and one lone policeman who was kept away from post did not squeal, you have said nearly all. The rest is not discreditable to the police. They could not have done more. The witnesses against the lieutenant on trial for murder must come from the civilians he had hired, and perhaps from the subordinates he had corrupted and used. The latter did not budge. They were true men—to *their* principles. But before a whole organization is bespattered with mud, before it is covered with infamy and breach of public faith, let us gather more evidence which shall be spread over greater space. There is a time for screeching and screaming. The smug, comfortable citizen who wakes up one morning with a start, caused by the revolver shots of four assassins, and yells out his lungs crying "murder, murder, police, police"—and finds that the police will not answer his shout, has no reason in his shout. Nor have the eagle-eyed newspapers themselves any great cause for vengeance red in tooth and claw. A great deal must be forgiven the Fourth Estate, by those who know the how and the why of newspapers. To these men the boiling-cauldron editorials, and the eye-smashing head-lines are empty of reason, of sincerity, and of truth, and hence, of force to move.

The lieutenant's case is over. He is now in the death-house in Sing-Sing. The case of the four "gunmen" is over. They are now resting by the side of the lieutenant in the same house in Sing-Sing. But before their cases began the aldermen of our city roused by the newspaper clatter, entered upon an investigation. There have been many sessions of the committee of investigation. What has been proved?

1—That among the members of the force are perjurers, ex-convicts, men who were habitually disorderly when they were civilians, gang-leaders, burglars, wife-beaters and wife-deserters, men guilty of felonious assault, and one man who had cut the throat of a fifteen-year-old boy.

2—That men of bad character, who were dismissed from the force because of misconduct, were re-instated and promoted.

3—That on the other hand men were dismissed for trivial faults.

4—That police associations have tremendous power within the department of police. That the officers of these associations have easy berths in the force.

5—That four officers of these police associations together with one deputy commissioner compose the pension board.

6—That the police instigate crime.

7—That "frame ups" happen, that is, innocent people are accused of crime, and evidence against them manufactured. That very often the frame up is performed on a person known to be a criminal, either to satisfy private grudge, or to obtain the merit of capture.

JUDGE CARTER'S RESIGNATION

8—That the police get possession of stolen articles, and then retain them, and give them back to the owner only for a consideration.

(It is due to say that so far as the public goes only one case indicating 6, 7 and 8 has been published. Counsel for the aldermanic committee seems to hint in a recent newspaper interview, that there are more like cases).

9—That men under charges are allowed to resign. This procedure leaves the resigning officer an open way by which to come back.

Counsel for the investigating committee says that these branches of the force will be investigated: Chief inspector's office, bureau of complaints, bureau of records and filing, detective bureau, pensions bureau, bureau of repairs and supplies, the surgical bureau, the school of recruits, the police associations, trials of delinquent policemen, and the distribution of the force.

There is one matter connected with the trials for murder of the lieutenant and the four gangsters, which readers of this Journal should be told of. In these times of tumult and shouting against the slowness of motion of courts, and the lack of backbone in judges who preside over them it is refreshing and invigorating to witness the performance of the judge who presided over the two murder trials here. The rapidity with which the wheels of justice moved, the enlightened, learned, almost unerring certainty with which the law was laid down; the brushing aside of all excrescences and rank weeds; the dignified and firm keeping of counsel to the issues; the rehabilitation, for such it really is, in New York County—of the respect for the judicial ermine, and for the judicial mind in the souls of both counsel and public, the recovery of the common law power of the judge—at least in part—to direct the trial and to comment upon the evidence in charging the jury—were all elements in this situation which to a lawyer anxious for the future of law, and of his profession, and to a layman desirous of seeing swift, yet enlightened verdicts within the essential forms of law, could not but be highly pleasing and encouraging. What the appellate courts will say as to these points, it is premature to guess. But if they are keeping their eyes to the east and their ears to the ground, they hear the rumblings of the time, its strident needs, its imperative demands, and see the bright rosy light of a better age when law will come nearer to being justice than it has been for long.

ROBERT FERRARI.

JUDGE CARTER'S RESIGNATION.

At the first annual meeting of the Illinois Branch of the Institute which was held in Chicago in May, 1912, Judge Orrin N. Carter of the

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Supreme Court of Illinois was elected president of the state organization. Later, in August, at the meeting of the American Institute at Milwaukee, Judge Carter was prevailed upon to accept the presidency of the national organization. Thereupon he presented to the executive board of the state society his resignation of the presidency of that body and urged that it be accepted. After mature consideration, his wishes were acceded to and Judge William N. Gemmill, who has recently been re-elected to one of the judgeships in the municipal court of Chicago, was chosen to fill the vacancy.

The State organization may congratulate itself upon two scores: First, that it was able at its first annual meeting to secure the co-operation and leadership of such a master of his profession as Judge Carter, and one who at the same time finds many demands upon his time and energy. It is fitting in this connection that we should express our appreciation of his services.

Secondly, the society congratulates itself upon securing the election of Judge Gemmill, who is favorably known throughout the national organization and even much more widely. His selection to fill this important office augurs well for the future of the society.

ROBERT H. GAULT.

ANNOUNCEMENT—Attention is drawn to *Notes*, p. 795 ff, "The Illinois Prison Commission," supplied by James A. Patten, and an address by the President of Northwestern University, p. 804 ff.—[Eds.]