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Effects of News of Crime and Scandal upon Public Opinion, The

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THE EFFECTS OF NEWS OF CRIME AND SCANDAL UPON PUBLIC OPINION¹

ROBERT D. HIGHFILL

TABLE OF CONTENTS

- PART I. The Problem Stated. Its Difficulties. Method of This Discussion.
- PART II. Findings of Criminologists. Lombroso. Ferri. Aschaffenburg. DeQuiros. Havelock Ellis. Bonger. Garofalo. Gross. Tarde. Parmelee. Healy. Summary of Findings.
- PART III. The Fenton Thesis. Criticism of Fenton.
- PART IV. Objectionable Elements Classified as to Form and Substance.
- I. Form. A—The Vicious Streamer and Head. B—The One-Sided Lead.
 - II. Substance. A—The One-Sided Story. B—The Suicide Story. C—Executions. D—The Criminal's Handbook. E—Hero Worship of the Criminal. F—Flippant Reporting of Court Activities. G—The Empty Exposé. H—The Breakdown of Institutions. I—Pornographic Details.
- PART V. Results of Publication of Anti-Social News.
- I. Social Results. A—The Political Offender. B—Personal Immorality. C—Righting Wrong.
 - II. Anti-Social Results. A—Provided Against by Constitutional, Legislative, and Judicial Acts. B—Breakdown of Criminal Justice. C—Defeat of Rehabilitation Measures. D—Delay of Justice. Summary.
- PART VI. Conclusions. A—Needed Changes in Text Books. B—Codes of Ethics. C—The Editor a Criminologist. D—Special Handling of Court News.
- Social Sanitation.
- Bibliography.

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PART I

The Problem Stated. Its Difficulties. Method of This Discussion

I propose to discuss in this paper the effects of news of crime and scandal upon public opinion as they culminate in social or group action. In approaching this problem, it will be necessary to determine what certain groups of scientists have had to say in regard to the causation of crime by news of crime, to find out what interested groups have to say, to examine a mass of social facts which have appeared in the newspapers, and then to draw from those facts certain conclusions which shall accord with the scientific development that we are endeavoring to foster.

Specifically, I shall, after a brief statement of the problem and its difficulties, discuss the findings of criminologists such as Lombroso, Ferri, Parmelee, and others. I shall then analyze the Fenton thesis for its bearings on the problem of causation. Then I shall give an analysis of certain types of crime and scandal news. I shall base my conclusions on the findings of this mass of material.

The difficulties of the problem concern themselves principally with the inability of the student to particularize his facts and relate them in a progressive, logical scheme. This difficulty does not arise because of the scarcity of facts, but because of the numerous elements bearing upon each given fact, that must, of necessity, be brought into the discussion. Let me illustrate. It is popularly supposed that the publication of stories of crime increases crime and criminals. Given a particular crime, the problem always is to find the motive. Now, as we shall see presently, that motive may lie in any one of a series of social facts, which, of itself, would have been sufficient to cause the crime.² The popular mind readily relates the crime to a preceding crime that received the attention of the yellow press, and illogically supposes that the second crime was caused by the first. It is with difficulty, therefore, that the student is able to segregate the facts of a given crime and relate them in an orderly sequence leading back to a definite causation. Broadness of terms employed, also adds a further difficulty to the problem. What is crime? What is scandal? What is public opinion? Now crime and scandal have been defined time and again; a definition at this point is unnecessary, although I shall be concerned with crime throughout this paper as a social, rather than a juridical fact. But what is public opinion? Is it the opinion of the mass of unthinking individuals who make up the public, or is it the opinion of the lead-

²Cf. p. 44 *Infra* Ferri's catalogue of causes of crime.

ers of this mass, who, in turn, affect that of their followers? Does the opinion of the public coincide always with the opinion of their leaders? Obviously, we could not solve the problem without referring the matter to a plebiscite of the entire people—a proceeding which would be out of the question in an investigation of this sort. We shall, therefore, consider public opinion to be the opinion of the masses as expressed by their leaders in thought, by certain intangible feelings which seem to pervade the masses, and by certain expressions which they have themselves unmistakably made. In the last analysis, we are not concerned with public opinion except as it expresses itself in positive action of a social or anti-social nature.

PART II

Findings of Criminologists

No problem relating to crime can be adequately handled without due attention to the findings and consequent theories of criminologists. Their ranks are filled with criminal lawyers, psychiatrists, sociologists, and philosophers who have felt the challenge of increasing crime to be a problem worthy of their deepest study, and who have consequently spent their best efforts in determining the etiology of crime and in devising systems of penology calculated to reduce crime to a minimum. They are no mere theorists. For the most part, those here studied gathered their observations from close contact with criminals in courts of law, in prisons, in asylums, in their own laboratories, and wherever the criminal was presented to their observation. Some give very definite findings on the problem in hand; others express opinions. But it must be remembered that these opinions come from scientists, not from laymen, and they are entitled to the weight which is ever accorded the honest opinion of scientists in other fields. Let them speak for themselves.

LOMBROSO

Lombroso³ unqualifiedly accuses the press as an instigator of crime. A few excerpts will suffice to show his attitude.

"Civilization, by favoring the circulation and dissemination of newspapers, which are always a chronicle of vices and crimes, and often are nothing else, has furnished a new cause of crime by inciting criminals to emulation and imitation."⁴

³*Crime, Its Causes and Remedies*. Cesare Lombroso, 1911 (Tr.) 1906 written.

⁴P. 55.

Following that, he cites the fact that a crime committed by one Troppman raised the circulation of the *Petit Journal* to 500,000, and that of the *Figaro* to 210,000. "It was doubtless for this reason," he adds, "that this crime was imitated almost immediately in Belgium and in Italy." Further cases quoted by him are of (a) a thief who forced the strong box of his establishment and took money, and confessed that he had committed the crime "only in order to try a trick that he had read the day before in a newspaper." (b) One Grimal in Paris, in 1873, decided to commit a crime "in order to get himself talked of like certain great criminals of whose exploits he read in the papers." He committed arson, but his story was not believed. He maltreated his wife so that her death resulted, but he was found not guilty. He then read of a widow who had murdered her victim by throwing acid. Grimal murdered a friend by throwing nitric acid on him, told everyone of his crime, hastened to read the account in the *Petit Journal*, and then gave himself up.

But Lombroso is even more explicit. He says:

"All criminals learn by reading the accounts of trials, of which they are very fond, to put into practice the arts of their predecessors. Thus among 150 vagrants, Mayhew found fifty who had read 'Jack Sheppard' and other stories of criminals, and who declared that this reading had inspired their first steps in a life of crime."⁵

He thinks that the newspapers spread the virus of crime by inducing imitation.

"In 1863 and in 1872, hardly had the newspapers begun to speak of the abandonment of children than this crime was repeated in Marseilles eight times in a single day (Despine)."⁶

In common with Bonger, he sees—

"Associated crime extends its power to the press, to the election of legislators, and, in America, to the election of judges, thus gaining a double advantage—immediate gain, and future immunity."⁷

It is small wonder, then, that he offers this indictment:

"Decisions in criminal cases are nothing more than a game of chance where nothing is certain but the publicity which leads to new crimes."⁸

The criticism of Lombroso's attitude toward the press is that, although he confirms his argument by proof that the newspaper is a

⁵P. 115.

⁶P. 210-11.

⁷P. 220.

⁸P. 353.

cause of crime, he does not return to the subject in his symbiosis, except to state that those guilty of swindling should be absorbed into journalism or the police department, as being the professions best suited to their atavistic tendencies!⁹

Here and there one gathers fleeting glimpses as to what he would do with the press. He thinks that the press must be kept free,¹⁰ but how free he does not say; also "that it must be given the largest liberty"—apparently for the purpose of unmasking hypocrites. He commends *The Summary*,¹¹ a sort of house organ printed in the Elmira Reformatory. This sheet contains political news clipped from the best newspapers of the United States, besides special news relating to the demotion, promotion, and release of prisoners. Elsewhere, Lombroso tells how the newspaper is of use in aiding police officers in the capture and identification of criminals by printing their pictures and descriptions.

We may conclude our study of Lombroso by saying that, if this distinguished criminologist can say that the newspaper is one among the forty or fifty causes of crime which he lists in his monumental work, he ought certainly to have given a constructive suggestion in his chapter on the prophylaxis of crime. This he did not do.

FERRI

Ferri¹² presents the following classifications of criminals, which, though challenged by other criminologists, will be of interest to this work: (1) insane criminals; (2) born criminals; (3) habitual criminals, or criminals from acquired habit in a strict sense; (4) criminals by passion; (5) occasional criminals, who commit isolated criminal acts because they are led astray by the conditions of their environment.¹³ It is of interest to compare this classification of criminals set forth in his *Criminal Sociology* with the list of causes of crime which he sets forth in his *Studies of Criminality in France in 1876-1878*. They are three: (1) anthropological, under which are listed sex, age, race, organic and psychic constitution, especially individual, whether physical, mental, acquired, or hereditary; (2) physical or telluric—these include climate, temperature, fertility of the soil, meteoric conditions, etc; (3) social—these include economic and civil status, pro-

⁹P. 447.

¹⁰P. 263.

¹¹P. 395.

¹²*Criminal Sociology*, Enrico Ferri, Boston, 1917 (Tr. from French edition of 1905).

¹³P. 139.

fession, social rank, density of population, emigration, public opinion, customs and religion, industrial conditions, government, education, etc. It will be noted that these causes are similar to those set forth by Lombroso, whose pupil Ferri was. This is given by way of introduction to show the possible influence of news of crime in such a scheme of criminal etiology.

At the outset, we may as well give the explicit statement of Ferri on the relations between crime and publicity. He says:

"There is exaggeration (and this is the case with d'Aubry) of the determining and contagious efficacy of newspapers and books, since their influence is exercised only on individuals predisposed to it, and who, for this reason, would have been impelled to crime by any other stimulant. In substance, the influence of publicity seems to be exercised rather on the manner of committing crime and by way of imitation, than on the decision to commit it, since to be a criminal, it is not sufficient to desire it."¹⁴

Before passing from this phase of the subject, it may be well to repeat the distinction that Ferri draws with his master, Lombroso, namely, that the newspaper story of crime exercises its influence on those who are already criminally disposed. Hence, newspaper publications of criminal stories would tend to increase crimes, but not criminals.

Ferri, far from desiring to suppress newspaper reports of crime, insists on "the dogmatic necessity of complete publicity."¹⁵ His wholesome respect for the press is also shown in various statements throughout his work. For example, he says,

"In the case of normal men, the greatest repellant efficacy, after physical and moral repugnance to crime, which is the strongest, is not so much in the legal sanction as in the sanctions of secret conscience and of public opinion."¹⁶

Again,

"Elective judges must be subject to an efficacious control not only by public opinion (exercisable by a vote of public censure) but through some disciplinary power to a certain extent foreign to the judiciary, in order that a new form of irresponsible tyranny will be avoided and the people protected from the abuse of judicial power, and the latter from the abusive pressure of public opinion."¹⁷

In this case he admits the two-edged nature of public opinion.

¹⁴P. 277.

¹⁵P. 471.

¹⁶P. 232.

¹⁷Pp. 475-6.

On the other hand, Ferri has thrown his argument open for criticism by assertions equally strong,

"It may be asserted that when it is notorious that a grave crime has been committed, and that its author is unknown, this has infinitely a greater influence in tempting and provoking persons already predisposed to crime, than the knowledge of daily convictions has to deter them."¹⁸

Now when one considers that Ferri had already made the statement that, "Of every hundred criminals, thirty remain unknown and thirty others unpunished,"¹⁹ one wonders whether or not the newspapers will be careful to write up only those crimes whose authors are known. Again,²⁰ he criticizes Tarde as follows:

"Tarde concluded that 'impunity because of irresponsibility would have no consequences harmful to society.' The acquittal of an insane person will encourage nobody to imitate him, because no insane man or epileptic has the power of will. This is all very well, but we must add that there is no criminal with power of will."

May I remark, in turn, that the susceptible individual would hardly be sufficiently discriminating to note that the irresponsible person was relieved because of irresponsibility? If the fact were published it would simply result in further pleas of irresponsibility, of being a "criminal with no power of will."

This introduces us to Ferri's acceptance of the negation of free will in criminality, on which he based his plea for the complete revolution of the administration of criminal justice. It is understood, of course, that Ferri entertained an approving attitude towards "complete and dogmatic publicity." Nevertheless, he insists on the abolition of the jury system, quoting approvingly from the letters of Carrara, who said of juries, "They base their decision on sentiment." If this is true, why would not excessive publication influence the audience, which would, in turn, according to Parmelee,²¹ influence the jury? Also, by previous publications, would not the jury already have been influenced? Even in his argument against elective judges, he speaks of the abusive pressure of public opinion. Moreover, he says, "Crime and insanity are both misfortunes; they both should be treated without resentment";²² and, "Penal justice as an establishment of violent repression, and class domination is destined to disappear and to exist

¹⁸P. 221.

¹⁹P. 15.

²⁰P. 401.

²¹Cf. *Infra* p. 55.

²²P. 524.

only as a clinical function."²³ If crime is to be considered merely as a disease, why should there be that "complete and dogmatic publicity" on which Ferri insists? There is no publicity concerning the patient stricken with a disease in a hospital, nor, unless an insane person of note runs amuck, is there any publicity concerning him beyond a short note in the court proceedings which may or may not be published as the exigencies of space require.

Although Ferri maintains that he has a wholesome respect for the press, he gives voice to certain ideas which indicate that he distrusts public opinion, which is certainly a main product of the press. For example:

"It is needless to demonstrate at length that the 'popular conception of responsibility' cannot be the base of a scientific theory, because there would never be any scientific progress if the existing state of public opinion or traditional prejudice should offer a barrier to theoretical innovations brought about by the study of facts."²⁴

Again,

"How can a social function be efficacious when guided not by scientific truths based on the natural origin, and hence on the efficacious remedies for crime, but rather by empirical prejudice?"²⁵

In discussing the lack of efficacy of capital punishment, he says:

"These few and tardy executions embody all the disadvantages of the death penalty and none of its advantages, by awakening, on the one hand, a compassion on the part of the good citizen, and a certain antipathy for the law, and, on the other hand, the ferocious instincts of the masses."²⁶

It may be remarked that the masses would know little of legal executions were they not so meticulously reported in the sensational press.

It is difficult, therefore, to reconcile Ferri's statements concerning the presentation of crime news and his statements concerning the public opinion thus created, which is a product of the press. Indeed, one instinctively feels that the whole spirit of the American press would be opposed to the revolution in the administration of criminal justice which Ferri proposes. One has only to recall the inimical attitude of the press toward the alienists in the Loeb-Leopold trial to verify this instinctive feeling. It will not be difficult for any reader to recall that there was an undercurrent of demand for vengeance in the case of

²³P. 568.

²⁴P. 372.

²⁵P. 373.

²⁶P. 531.

these two confessed murderers. Ferri, citing Tarde,²⁷ who believes that hatred for the evil doer has much value as a repellent and preventive moral force, stated his own belief that such a passion has a certain value in the present phase of transitory morals, but that it is only one of the numberless psychological factors interwoven in the origin of crime, and that Tarde, therefore, exaggerates its efficacy. He believes further, that hatred for the evil doer will grow less until it disappears, as in the case of hatred for the insane.

We may, therefore, briefly summarize Ferri's position by saying that, although he minimizes the effect of the press on crime, he does not wholly disclaim it. Moreover, his whole position, involving as it does the negation of free will and a demand for the complete revolution of criminal justice, argues rather strongly for the fact that the presentation of news of crime actually tends to increase crime and would operate to retard reforms in the administration of criminal justice. His position is doubtless clarified by the further criticism of Ellwood in his introduction to Ferri's work. Ellwood believes that Ferri over-emphasizes anthropological and geographical elements. Moreover, Ellwood is of the opinion that Ferri fails, in his discussion of the social factors in crime, to bring out the enormous importance of the influence of the "subjective environment": that is, the environment of ideas, ideals, and values which surround the individual from childhood up in every social group.

ASCHAFFENBURG

Gustav Aschaffenburg,²⁸ professor of psychiatry in the Academy of Practical Medicine at Cologne and editor of the *Monthly Journal of Criminal Psychology and Criminal Law Reform*, gathered some very notable statistics with reference to crime as he observed it in Germany. One table²⁹ relating to seasonal distribution of offenses showed that the distribution of offenses called "obscene acts," and distribution of obscene literature showed the major number for June, with decreasing numbers for the remaining months until December, when the rise again started toward June. Now the major distribution for rape falls in July; for insult, for simple and aggravated assault and battery, the major number comes in August. The relation here may be purely imaginary, involved, as it is, with seasonal fluctuations, but, inasmuch as the act lags behind the stimulus, the fact may be worthy of note as

²⁷P. 320.

²⁸*Crime and Its Repression*, Boston, 1913 (First edition, 1903).

²⁹P. 17.

indicating a connection between pornographic suggestion and sex immorality.

Aschaffenburg thinks that the press is harmful in two directions: (1) the published accounts of trials give the names of individuals concerned and spread the name of the convicted person abroad, in this way making it difficult for him to regain his place and also injuring the reputation of his relatives; (2) he finds that unusual deeds of horror follow one another at short intervals in different places. He thinks that this may be traced to the influence, admittedly unintentional, of newspaper reports. He further finds that these overdrawn newspaper reports may be responsible for the acts of epileptics, who commit the most infamous crimes in abnormal states and under the influence of an idea or notion hanging over from the normal state. Aschaffenburg specifically mentions newspaper descriptions of dismembered corpses, ripped open bodies, arson, and murder as being capable of turning the confused, destructive fury of the epileptic into dangerous channels. He further believes that weak-minded persons, especially juveniles, are attracted by the possibility of gaining notoriety by having their heroic deeds described in the papers and possibly by getting their picture printed in the police journals. He concludes by saying that,

"It is clear that the press can do a great deal of harm in this way; also the knowledge that stabbing, swindling, and sexual crimes take place daily, gradually makes the people apathetic, so that a crime must be particularly sensational to arouse their imagination."

He is even more emphatic in his estimate of the effect of sensational news of a certain type.

"It can positively be maintained," he writes, "that the peculiar role played by a person condemned to death, the attention that his deeds, his life, his behavior at the time of the execution arouse, thanks to the public love of sensation to which the press caters, are an actual attraction to a number of psycho-pathological individuals. The fear of life-long imprisonment would probably have a more wholesome effect on the peculiar individualities of assassins and their ilk than does the martyr's halo of glory, the imagined fame of a sensational execution."³⁰

DEQUIROS

DeQuiros³¹ finds Lacassagne, Aubry, Dubuisson, Morel and Moreau supporting the anthro-po-sociologic theories of the causation of

³⁰P. 267.

³¹*Modern Theories of Criminality*, C. Bernaldo DeQuiros, Boston, 1911 (Tr.) Revised 1908.

crime. The germ of this theory is contained in Lacassagne's simile from micro-biology:

"Social environment is the heat in which criminality breeds; the criminal is the microbe, an element of no importance until it meets the liquid that makes it ferment."

Wherefore, "Communities possess the criminals whom they deserve." Studies like Aubry's "*La contagion du meurtre*," Paris, 1895; Morel's "*De la contagion morale*," Marseilles, 1870; and Moreau's "*De la contagion du suicide*," Paris, 1875, exploit this idea.

Of Aubry's work as typical of the group, DeQuiros gives the following interesting summary:

"Paul Aubry finds that contagion is the product of morbid psychology whose main elements are *suggestion* and *imitation*.³² With numerous examples taken from contemporary criminal history, the author describes epidemics like that of *vitriol throwing*, of *criminal mutilation* (upon which we possess treatises by Lacassagne, Ravoux, Nina Rodriguez), of *incineration*, etc. In his opinion, the agencies that prepare the ground are: (a) direct heredity; (b) unbalanced nervous system; (c) certain anatomical deformities or conformations still badly defined. The agencies that transmit the contagion, either singly or combined with one another are: (a) home education (guilty family); (b) prison; (c) reading of novels and periodicals containing accounts of crime; (d) the spectacle of capital executions."³³

It will be observed that DeQuiros, according to the plan of his study, merely gives this analysis without comment. He holds primarily to economic influences as being the chief causes of crime, although, in common with other men of his school, he would not deny the truth of much that Aubry has to say.

ELLIS

Havelock Ellis³⁴ believes that,

"There is ample and unquestionable evidence to show that a low-class literature in which the criminal is glorified, as well as the minute knowledge of criminal acts disseminated by newspapers, have a very distinct influence on the production of young criminals. . . . After every celebrated or startling crime some weak-minded and impressionable persons go and commit the like, or give themselves up to the police under the impression that they have been guilty of the crime. It is youths and children who are especially prone to the imitation of criminal events from books or from real life. After the murders associated with the name of Jack the Ripper, several murders by young children took place throughout the country."

³²Italics are the author's.

³³Pp. 60-1.

³⁴*The Criminal*, Havelock Ellis, London, 1892.

BONGER

In his study of criminality as induced by economic conditions,³⁵ it was not expected that Bonger would materially stress the sources of crime seemingly unrelated to his subject, but we find him stressing the features of imitation nevertheless. His discussion of press influence on crime will be of interest at this point:

"In general, this characteristic of capitalism has no importance for the morality of the consumer, who is merely duped, but it is far otherwise with the press, which is almost entirely in the power of the capitalists. The press, which ought to be a guide for the masses, and is so in some few cases, in the main is in the hands of capitalists who use it only as a means of making money. In place of being edited by men who, by their ability and firmness, are capable of enlightening the public, newspapers are carried on by persons who see in their calling only a livelihood and consider only the proprietor of the sheet. In great part the press is the opposite of what it ought to be; it represents the interests of those who pay for advertisements or for articles; it increases the ignorance and the prejudices of the crowd; in a word, *it poisons public opinion*.³⁶

"Besides this general influence upon the public the press has further a special place in the etiology of crime, from the fact that most newspapers, in order to satisfy the morbid curiosity of the public, relate all great crimes *in extenso*, give portraits of the victims, etc., and are often one of the causes of new crimes, by arousing the imitative instinct to be found in man."³⁷

GAROFALO

Similarly, Garofalo³⁸ thinks, "Imitation plays a considerable part in a multitude of crimes against life and liberty."³⁹ The specific crimes he denominates as endemic, and although he does not directly charge the newspaper with being the source of imitation, he does think that it is the duty of the government to prohibit obscene publications and immoral plays.⁴⁰ Moreover, he believes with Ferri that young persons should be excluded from notorious criminal trials. Ferri goes further than this, and would prohibit publication of notorious trials. One naturally wonders just where the trial becomes notorious unless in the columns of the sensational newspaper. In general, Garofalo strikes a note of dissent from most of the writers of the Italian school on some fundamental phases of penal administration, but the citations given

³⁵*Criminality and Economic Conditions*, William Adrian Bonger, Boston, 1916 (Tr.), Written 1905.

³⁶The italics are mine.

³⁷Pp. 403-4.

³⁸*Criminology*, Baron Rafael Garofalo, Boston, 1914 (Tr.), published 1905.

³⁹P. 114.

⁴⁰P. 190.

are sufficient to show that he is at one with the positivist school in its attitude towards the press representation of crime news.

GROSS

Hans Gross is similarly impressed with the functions of imitation and suggestion in the causation of crime. In his *Criminal Psychology*,⁴¹ he speaks approvingly of the theory of moral contagion and of the fact that, "It has long been known that suicide is contagious." He adds:

"There is a remarkable fact that suicides often hang themselves on trees which have already been used for that purpose. And in jails it is frequently observed that after a long interval a series of suicides suddenly appear. . . . The repetition of crime once one has been committed in a particular way, is also frequent. Among them is the crime of child murder. If a girl has stifled her child, ten others do so; if a girl has sat down upon it or has choked it by pressing it against her breast, etc., there are others to do likewise. . . . It is still unknown where imitation and the principles of statistics come into contact, and it is with regard to this contact we find our greatest difficulties. When several persons commit murder in the same way we call it imitation, but when definite forms of disease or wounds have for years not been noticed in hospitals, then suddenly appear in numbers, we call it duplication. . . . Now how can imitation and duplication be distinguished in individual cases? Where are their limits? Where do they touch? Where cover each other? Where do the groups form?

"There is as yet no solution for the crimino-political interpretation of the problems of imitation and for its power to excuse conduct as being conducts's major basis, but the problems have considerable symptomatic and diagnostic value. At the very least, we shall be able to find the sole possibility of the explanation of the nature or manner of a crime in the region of the stimulus to some particular imitation. Among youthful persons, women especially, there will be some anticipatory image which serves as a plan, and this will explain at least the otherwise inexplicable and superfluous concomitants like unnecessary cruelty and destruction. The knowledge of this anticipatory image may give even a clue to the criminal, for it may indicate the nature of the person who could act it out and realize it. Also, in our field there exists 'duplication of cases.'"⁴²

Of suggestion he has this to say:

"Suggestion is 'as widespread as language.' We receive suggestions through the stories of friends, through the examples of strangers, through our physical condition, through our food, through our small and large experiences. Our simplest actions may be due to suggestion, and the whole world may appear subject to the suggestion of a single individual."⁴³

He would not, however, assign all acts to suggestion, for he says:

⁴¹*Criminal Psychology*, Boston, 1911 (Tr. from the second edition of 1905).

⁴²P. 415.

⁴³P. 491.

"In spite of the great literature, we still have too little material, too few observations, and no scientifically certain inferences. Tempting as it is to study the influence of suggestion upon our criminalistic work, it is best to wait and give our attention mainly to observation, study, and the collection of material."⁴⁴

I quote thus at length from Gross because his application of the principle of suggestion is made in a specific manner, without the psychologist's technical language. It is almost superfluous to add that newspapers with their reports of crimes are about the cheapest and most fruitful sources of suggestion that our civilization affords.

In his *Criminal Investigation*,⁴⁵ Gross is still more specific. Here he is concerned with the problem of apprehending the criminal, and he insists upon complete and accurate information being given to the press by reason of the fact that reports of crime are given the "place of honor" by journalists. He insists that the reports as given to the reporters shall be true, for the reason that

"newspaper reports induce the public to form a definite opinion upon the case itself and upon the culpability of the author of the crime, so that the verdict is often pronounced by the public long before the competent authorities have delivered their judgment."⁴⁶

He then points out the evil of the discrepancy between the official verdict and the verdict of public opinion, which was based on the newspaper reports. He thinks that the investigating officer, therefore, should himself report news of crime to the newspaper, keeping silent on such details as are necessary to be retained for the public good.

TARDE

Tarde,⁴⁷ the most forceful exponent of the doctrine of imitation, has this to say:

"The criminal always imitates somebody even when he originates: that is to say, when he uses in combination imitations obtained from various sources. He always needs to be encouraged by the example and approval of a group of men, whether it be a group of ancestors or a group of comrades, whence arises the duality of the crime because of custom and the crime because of fashion."⁴⁸

"It would be more correct to liken the intermittent epidemics of madness to the criminal contagions which are spread at certain dates as a fashion of the day. The latter which consists of imitations often take

⁴⁴P. 492.

⁴⁵*Criminal Investigation*, adapted from the *System der Kriminalistik* of Hans Gross by J. Collyer Adam, Barrister-at-Law, London, 1924.

⁴⁶P. 199.

⁴⁷*Penal Philosophy*, Gabriel Tarde, Boston, 1912 (Tr.) 1890 Pub.

⁴⁸P. 278.

place among individuals at great distances from one another; the term *contagion*, which brings to mind *contact*, is not, metaphorically speaking, applicable."⁴⁹

Thus Tarde thinks of crime as if induced by a preponderance of social causes, chief among which is that of imitation, which he ascribes to the power of close contact, to the example of the superior person over the inferior, and, in fact, to propagation from every sort of fact from the higher to the lower.⁵⁰ In applying these laws of imitation to crime he shows that vices and crime were formerly propagated from the nobles to the people and that at the present time they are propagated from the cities to the country. He then demonstrates that each variety of murder or theft invented by criminals originates in the metropolis before becoming widespread through France.⁵¹ He cites as specific examples the mutilation of corpses, the throwing of vitriol, the use of the revolver as an instrument of feminine hatred, the murder of children by nurses. In each of these types he cites specific examples of crimes which in turn were followed by others of a like nature. For example:

"In 1881 a young actress, Clotilde J. . . . , threw vitriol over her lover at Nice. 'When she was asked at what time she first thought of avenging herself,' 'Since the day,' she replied, 'when I read in a Paris newspaper an article dealing with the revenge of women.'"

This particular example, it should be noted, is quoted by the author from Paul Aubry. Tarde then quotes from Corre ("Crime et suicide") further examples of imitation undoubtedly induced by newspaper reports:

"But what more striking example of suggesto-imitative assault could there be than the series of mutilations of women begun in the month of September, 1888, in London in the Whitechapel district? Never perhaps has the pernicious influence of general news been more apparent."

This series of mutilations referred to the exploits of Jack the Ripper, who committed a type of crime which was repeated eight times in less than a year in London. From there it spread to Southampton, to Bradford, to Hamburg, to Birmingham in the United States, where four negroes were disembowled, and to Honduras. In all of these cases disembowling of the victim was the main feature of the crime. The quotation from Corre closes thus:

⁴⁹P. 279.

⁵⁰Chap. 6, par. 63-78.

⁵¹P. 339.

"Infectious epidemics spread with the air or the wind; epidemics of crime follow the line of the telegraph."⁵²

Tarde takes a very decided stand as to the effect of vicious literature on the criminal. He thinks that such literature may satisfy criminal instincts vicariously and thus actually lessen crime, but he immediately annuls this thought by adding that, beyond a doubt, such literature stimulates vice which "often causes a predisposition to crime."⁵³

It is worthy of note that he excepts from the type of literature thus described "that which consists in reports of the proceedings in criminal courts."⁵⁴ He returns to this subject in answering Holtzendorff's arguments against the death penalty. Briefly, these arguments were that essential results of the death penalty are "to call attention to the special crime which it punishes, to dramatize carrying out of the criminal procedure by advertising the execution in the press—a process which stimulates the spirit of imitation among candidates in the field of crime." Tarde admits some real value to this argument but states that the remedy is to prohibit the publication in the periodical press of the proceedings of criminal courts.⁵⁵

PARMELEE

Parmelee's position⁵⁶ is best stated in his own words:

"But they (newspapers) may, at the same time, stimulate a certain amount of crime by the descriptions which they furnish of criminal acts. This is especially true of the sensational press or so-called yellow journals, which give lurid accounts of crimes, suicides, etc. These accounts doubtless have a suggestive influence, and have led at least a few suggestible individuals to imitate these acts.

"Some writers believe that the suggestive influence of the sensational press is very great and has caused many crimes. It is obviously impossible to measure this influence. Occasionally a criminal act is committed in which this influence comes to light, either through the testimony of the perpetrator of the act or in some other way. Furthermore, the science of psychology has furnished ample evidence that human beings are more or less suggestible, which justifies us in assuming that sensational accounts of criminal acts will lead to a small amount of crime. But there are two reasons for believing that the above mentioned writers⁵⁷ have exaggerated

⁵²Pp. 340-1.

⁵³P. 379.

⁵⁴P. 380.

⁵⁵P. 541.

⁵⁶*Criminology*, Maurice Parmelee, Macmillan, 1924.

⁵⁷Frances Fenton, *The Influence of Newspaper Presentations upon the Growth of Crime, and other Antisocial Activities*, Chicago, 1911. E. B. Phelps, *Neurotic Books and Newspapers as Factors in the Mortality of Suicide and Crime*. Bulletin of American Academy of Medicine, Vol. XII, No. 5, October, 1911.

this influence. In the first place, this influence is likely to be sufficiently strong only over very weak, suggestible individuals to lead to criminal acts. In the second place, these weak individuals are very likely to commit these acts anyway, even if they do not fall under the suggestive influence of the sensational press, for there are other suggestive influences at work which are almost certain to affect them."⁵⁸

He then concludes that, while the press should be subject to laws against libel, fraudulent statements, and the incitement to crime, yet "the only sort of regulation of the press, as of art, which can be tolerated, is regulation by public opinion."

It is seen, therefore, that Parmelee believes that the influence of newspapers upon crime has been exaggerated. His reasons are that their influence affects a few suggestible individuals who would doubtless have responded to any other suggestive influence quite as readily as to that of the newspaper. He had previously said:⁵⁹

"The newspaper accounts of crime aid greatly by furnishing suggestions to impressionable minds."

In continuing our study of Parmelee, we must, therefore, find what percentage of weak, suggestible, impressionable minds there is among prisoners and among the whole population. Parmelee furnishes some figures in a series of surveys, from which he concludes that the number of feeble-minded among delinquents may range somewhere between five and ten per cent.⁶⁰ In his *Poverty and Social Progress*, he estimates that .4% of the total population of the country are mentally defective. Undoubtedly these cases fall within the group which he would call suggestible or weak-minded. When we add to

⁵⁸P. 120.

⁵⁹P. 57.

⁶⁰The reader is referred to *Crime and Heredity*, president's address delivered by Harry Olson, Chief Justice of the Municipal Court of Chicago, at the 11th annual meeting of the Eugenics Research Association, on June 16, 1922. In this address, Judge Olson brought out the following facts with reference to certain courts in Chicago: in the Boys' Court, out of 779 cases, 654, or about 84%, suffered from dementia praecox; 109, or about 13%, were diagnosed as having psychopathic constitution; 10, or less than 2%, epilepsy. In the Morals Court, of 464 females 260, or 36%, were dementia praecox; 92, or 19%, psychopathic constitution; 4, or less than 1%, epileptics. Of 359 males in the same court, 107 were dementia praecox; 110, psychopathic constitution, and 4 epileptics. In the Court of Domestic Relations, of 657 males, 236 were dementia praecox; 295 were psychopathic constitution, and 3 epileptics. An admirable reprint of these statistics is given by Bruce in his book, *The American Judge*. Summarizing a recent article from the *Daily Science News Bulletin* published by "Science Service," the *Literary Digest* (March 28, 1925, p. 24) says that more than half of 10,000 criminal delinquents examined by the National Committee for Mental Hygiene have been found to be mentally diseased, feeble-minded, or otherwise mentally abnormal. Of course, it is not known just how these groups were selected, but Judge Olson's figures and those of Science Service indicate that Parmelee's estimate is far too low.

this the total number of children in our population with "impressionable" minds, we conclude that Parmelee underrates the possibilities of anti-social newspaper suggestions, at least from the standpoint of sheer numbers.

While minimizing the influence of crime stories as a source of causation, Parmelee suggests indirectly some of the effects of such publicity on public opinion. He thinks that, "The jury will be abolished eventually in most criminal cases,"⁶¹ and, "The press and the public sentiment of the moment have much influence over the jury."⁶²

In company with other criminologists, he is interested in the emotional reaction against the criminal offender. He says:

"It is probably inevitable that feelings of resentment, if not of hatred, are manifested towards the person guilty of conduct which is regarded as harmful. As a consequence of these feelings, there is sure to be an element of vengeance in punishment."⁶³

He combats the theory that the spirit of vengeance has utility. He says:

"There is doubtless a measure of truth in this theory, but it is highly probable that the spirit of vengeance will always be strong enough to perform this useful function without artificial encouragement. Indeed, the usual, if not the constant, danger is that this spirit will be too strong, and will not subject itself sufficiently to the guidance of intellect."⁶⁴

Certainly, newspaper articles, by their lurid details, arouse the spirit of vengeance. They sweep the masses into mobs; and thus make impossible fair trials and the proper individualization of punishment.

On this subject of individualization, Parmelee says:

"To many persons, it appears as if individualization causes great injustice, because it results in an inequality of punishment for equal crimes. Consequently, there is danger that criminal justice will be discredited in the eyes of the public, and measures should be taken to avert this danger."⁶⁵

Would complete publicity be among these measures? Hardly, for, "It is doubtful if the public can ever be induced to accept thoroughgoing individualization."⁶⁶

From a study of Parmelee's arguments, therefore, we may conclude that, although he minimizes the effects of crime news, he recognizes that the publication of such news would be an obstacle in the way

⁶¹P. 327.

⁶²P. 320.

⁶³P. 384.

⁶⁴P. 386.

⁶⁵P. 395.

⁶⁶P. 396.

of reform of the administration of criminal justice. Possibly for the very reason that he did not consider crime news a serious cause of crime, he makes no suggestion for a remedy.

HEALY

Healy⁶⁷ confessed that he was surprised at the small influence which newspapers have in the causation of crime. He approached the consideration of the problem with the belief that the great amount of anti-social material published by the newspapers is very definitely harmful to readers. He says that:

"In no one single case can we in the least show that the reading of newspapers was a strong cause of criminality. We have inquired about mental influences in many hundreds of cases, and, while other factors stand out clearly as affecting mental processes, this one does not. Nor do our results contradict anything that other authors have actually been able to show."⁶⁸

Professedly theorizing as to why the results were negative, he argues that "Most criminal careers are begun before there is extensive reading of the newspapers"; that young offenders are attracted chiefly by the comic portions; that only rarely does the story of a criminal as given in a newspaper develop hero worship, for the reason that the criminal is ordinarily portrayed as a sufferer with haggard face and other features unbecoming a hero. He thinks, too, that good counsel crowded into the same sheet, as well as other stories which distract the reader's attention from a too lengthy consideration of a particular story, are beneficial as inhibitory factors.

He grants the "general lowering of good taste and, perhaps, of moral tone" as the effects of such reading, as well as the educative effects in methods on those with criminal predilections. But he thinks that the unbalanced, such as the abnormal man who accuses himself of a notorious crime, the person on the verge of suicide, or the weak-minded person prone to suggestion, are the types who respond to newspaper stories of crime. The desire for publicity he has met, but this, he maintains, was always manifested after the crime had been committed. He thinks that this may be a principal motive in "black hand" schemes, which, he admits, offer the clearest manifestation of newspaper suggestion.

Although he minimizes newspaper suggestion, Healy is quite positive as to the deleterious effects of the "pernicious printed story," par-

⁶⁷*The Individual Delinquent*, William Healy, Boston, 1915.

⁶⁸P. 302.

ticularly as it contributes to the "moral breakdown of young men and women in sex affairs." He is equally positive as to the criminally causative effects of "cheap novels which deal with bandit and detective life," and of pictures,⁶⁹ especially moving pictures. Absolute fairness requires that I quote Healy's most damaging statement:

"One source of suggestion inevitably must be the newspaper, but we are thoroughly convinced by our own inquiry on this point, as well as by the failure of others to definitely prove it, that, as compared with other possible sources of pernicious influence, the newspaper plays a comparatively small part. If it were otherwise, the enormous amount of reading of newspapers that goes on would result in an obvious connection with the production of delinquency."⁷⁰

Frankly, this is the most damaging testimony against the theory of criminal causation by newspapers that has come to my attention. It is all the more disconcerting on account of Healy's eminence in case work as compared with his predecessors. However, it may not be amiss to call attention to certain tacit admissions and frank statements that are damaging to his point of view. His cases⁷¹—1,000 in number—were mostly adolescents averaging fifteen and sixteen years of age, with occasionally a child or an adult. Nor were all of his subjects criminals, for his own definition of terms—"Crime" and 'delinquency' are used in this work as overlapping and practically synonymous terms"⁷²—admits into his category of delinquents the young offender and the older criminal. Manifestly, from his own admission, many of these children of seven and eight years of age were not readers of newspapers, but may have been—some of them certainly were—influenced by the pernicious comic supplement.

Again, Healy does not dispose of the lists of cases prepared by Lombroso, MacDonald, Fenton and other writers, in which the causative criminal influence of the newspaper was proved as fact; he merely doubts the sufficiency of proof. Nor does he explain away the power of unconscious suggestion,⁷³ which may build up in the mental experience of the individual a series of images resulting in criminal tendencies but becoming totally submerged in his own recollection as a

⁶⁹Case 58, p. 345-6: "The funny part of the newspaper was about robbers' . . . This boy then told a long rigmarole of the details in a series of pictures seen in the newspaper."

⁷⁰P. 303.

⁷¹P. 14.

⁷²P. 3.

⁷³See on this point the quotations from psychologists in Fenton, Chapter III.

causative factor: he looks for an "obvious connection"⁷⁴ between the two.

Moreover, while granting the pernicious influence of sex literature and detective stories, he fails to discriminate between their presentation in newspapers and books. The Thaw, Stillman, Hight-Sweetin, Munding, and Stokes trials presented many of the pornographic details of the worst sex stories. The Loeb-Leopold case and the Shepherd trial exhibit the usual characteristics of the detective story.⁷⁵ All of these stories were serials with fresh chapters appearing daily. Nor were the characters, in the later cases, at least, photographed as haggard, hunted, worried individuals, but as sleek, well-fed, and well-clothed.⁷⁶ The convicted criminal in prison garb is rarely shown.

Finally, his admission of the influence of criminal news on abnormal and weak-minded individuals must stand out as strong evidence of criminal causation, when we consider Healy's very careful approach by the case method. His admissions in this respect coincide with those of the other criminologists whose views have been set forth in this discussion.

SUMMARY OF FINDINGS

Briefly summarized, the findings of these criminologists are as follows:

1. That the presentation of news of crime induces crime. The opinions with reference to this point range from the downright, all-inclusive statements of Lombroso and Aschaffenburg, to the guarded admissions of Ferri and Healy.

2. That the process goes on by means of suggestion and imitation.

3. That the weak, suggestible individual is the most receptive to these influences.

4. That they mainly affect those with criminal predilections.

These, with the exceptions noted, are points of substantial agreement.

On these points, each criminologist brings to bear his individual theory, or departs from his theory to discuss them by the way. Lombroso, holding to the theory of atavistic tendency, emphasizes the importance of crime news in the etiology of crime: Ferri, holding to the

⁷⁴P. 304.

⁷⁵See *Journal of the American Institute of Criminal Law and Criminology*, Vol. IX, No. 2, August, 1918, Address of William G. Hale, retiring president.

⁷⁶For confirmation of this fact, the picture page of any Chicago newspaper during the trials mentioned may be consulted.

theory of the born criminal and to the negation of the will in criminality, accepts it with reservations; Bonger, thinking of the criminal as a product of economic stresses, proclaims it; Tarde, philosophizing on the criminal as the product of social causes, teaches it; Gross, working from a background of psychological causation, accepts it tentatively, asking for further proof; Healy, abandoning theories, and willing to stand or fall by observation of individual cases, accepts it as applied to certain types of delinquents; the eclectics, choosing whatever theories seem most tenable, give it a place in their catalogues of criminal causation.

PART III

The Fenton Thesis

In her thesis, submitted in 1911 to the Department of Sociology of the University of Chicago, Frances Fenton⁷⁷ answered the questions, "How and to what extent do newspaper presentations of crime and other anti-social activities influence the growth of crime and other types of anti-social activity? That is, do people get the idea of, or the impulse to, committing criminal and other anti-social acts from the reading of such acts or similar acts in the newspaper?"⁷⁸ Limiting her work to the "main news section," she set out to study the influences of the newspaper on anti-social activity as those influences applied to (a) cases of pure suggestion, in which the person affected was unaware, or only partly aware of such influence, (b) cases in which the person modeled his activity on that suggested by a news article, and (c) cases in which newspaper accounts of crime built up a background of "standards, ideals and images" relating to anti-social activity. She based her definitions of such activity on a social rather than a juridical conception: that is, on the "objective results of news rather than upon intent."⁷⁹

So extended and so thorough was Dr. Fenton's work that a close analysis of it is deemed necessary. It has already been seen that criminologists agree that news reports of crime do increase crime, their opinions ranging from outright to qualified acceptance of the fact. The cases which they had observed were gathered from a wide range of reported or observed data. Their opinions were based on these observations. Parmelee and Healy excepted, they had seen no statis-

⁷⁷*The Influence of Newspaper Presentations upon the Growth of Crime and Other Anti-Social Activity.*

⁷⁸P. 1.

⁷⁹P. 7.

tical study of the problem. Although Parmelee⁸⁰ and Healy do not accept Fenton's conclusions in full, they are in agreement with them to the extent that they acknowledge the influence of crime news on individuals of the "suggestible" type. An analysis of the more important chapters of Fenton's thesis follows.

Chapter II. Criticism of two types of previous studies are made in this chapter: (1) treatments dealing with the problem of suggestion; (2) treatments in which an analytical study of papers has been made. The first group is soon dismissed as supporting in a general way the belief that news of crime increases crime—a belief which Fenton thinks is based, in part, on the observation of actual cases.

The second group is handled at greater length. Two significant works of the half dozen in this group are: (1) *Do Newspapers Now Give the News?* J. G. Speed, *Forum* XV, 705; (2) *The American Newspaper*, Delos F. Wilcox, *Annals of the American Academy of Political and Social Science*, XVI, July, 1900, 56. Speed studied the Sunday issues of the *Tribune*, *World*, *Times*, and *Sun* for dates in 1881 and 1893, analyzing them for the various types of matter which they contained. During the twelve years the growth by columns of certain anti-social news was as follows:

	TRIBUNE cols.	WORLD cols.	TIMES cols.	SUN cols.
Gossip	1 to 23	1 to 63	.5 to 16.75	2 to 13
Scandals	0 to 1.5	0 to 1.5	1 to 2.5	0 to 2
Criminals and crimes.	0 to .5	0 to 6	0 to 1	0 to 0

As Fenton pointed out, these figures do not tell the whole story, inasmuch as editorial, sporting, fiction, pictures, etc., which are not analyzed by Speed, may have contained definitely anti-social suggestions.

Wilcox analyzed 240 newspapers for dates in June and September of 1890, making virtually the same groupings as those made by Rogers, except that he included advertisements. He estimated that news of crime and vice takes up on the average of 3.1 per cent of the whole space of the paper. Fenton directs a similar criticism at his work as toward Rogers', showing that he, in addition, neglected the relation between circulation and amount of news of crime, the latter being in direct ratio to the circulation of the paper—a fact which she proposes to prove.⁸¹

Fenton concludes her study of these previous studies with the general criticisms that some of them were not socially constructive, that

⁸⁰Cf. p. 55 *Supra*.

⁸¹P. 13.

they used juridical rather than social definitions, that they offered no direct evidence of the effect of newspapers, that we cannot hope for improvement of news in improved standards of taste, and that no definite space unit was selected by any of the previous students for their measurements.

Chapter III concerns itself with the principles of suggestion, with special reference to the newspaper. In gathering her material she consulted the texts of James, Angell, Judd, Tichener, Royce, Binet, Moll, Münsterburg, Sidis, Cooley, Woodworth, Baldwin, McDougall, and Scott.

She finds two types of suggestion: conscious, or that in which the individual is conscious of a definite stimulus and response; and unconscious, or that in which the individual has "no perception of the relation between stimulus and response." Of people affected by stimuli she finds no well-defined types.

Her conclusion was that—

"Every man is highly suggestible in the direction of his main interest or his habitual activity, while the weak and unstable are suggestible in practically any direction, owing to the lack of organization in their activity."⁸²

She observed that—

"Frequency, vividness, recency and co-existence are the objective conditions which have been found experimentally to be most conducive to suggestion."⁸³

She concluded that—

"The newspaper as a stimulus may be (1) either the source of initial images or ideas that have now come to constitute either part of the fringe of a present act or the focus of a present act, or (2) it may be a present stimulus calling up images and ideas already in the nervous system, as where a present newspaper account of a crime sets the person to committing that crime, or, when he is determined upon a crime, gives him his method."⁸⁴

Thus the author found a direct causal connection between news presentation of crime and crime itself.

Fenton then studied known cases of cause and effect relation between newspaper reports of crime and other anti-social activity, and, using the inch as a unit, made a quantitative analysis of the amount of space devoted to such activities in the newspapers. She gathered her

⁸²P. 30.

⁸³P. 28.

⁸⁴P. 27.

cases from all available sources, including the newspapers themselves and social and court workers.

She considered matter which dealt with crime from the juridical angle and matter which psychology and psychiatry would regard as sources of stimuli to criminal and immoral acts. In tabulating her studies from the newspapers themselves, of which she studied 103 for three separate dates, and used the more conservative papers, she made three categories: (1) "Obvious material for suggestion" such as "detailed accounts of murders, suicides, robberies," etc.; (2) matter which calls up vividly such items as those covered in 1; (3) "All other mentions of anti-social acts, which serve to recall former detailed accounts," etc.

The data gathered by her in Table VII⁸⁵ is interesting for purposes of comparison and as showing the amounts of anti-social matter published at that time. Following is her analysis of the general news section: column 1 shows the total space devoted to general news; column 2 contains "mentions" of anti-social matter, or the type studied in her third category; column 3 contains her second category, or those items which vividly recall previous cases which were sensationally reported; column 4 contains her first category, or items such as detailed accounts of crime. After each paper, the top series of figures represents inches, the bottom percentages.

NAME OF PAPER	GENERAL NEWS SECTION				
	Total Space	1 Total Inches Reg. News	2 All Other Mention	3 Mention, etc.	4 Obviously Suggestive
Chicago D	6,862.5	2,909	899	550	467
	100	42.39	13.10	8.01	6.81
Chicago E	8,282.5	5,176	1,197	443	395
	100	62.49	14.45	5.35	4.77
New York A.....	6,883	3,502	1,427	747	663
	100	49.66	20.87	10.79	9.29
New York C.....	7,953	5,598	1,827	545	450
	100	71.62	21.15	7.92	6.03
New York B.....	9,425	4,650	1,737	378	287
	100	50.67	18.58	4.44	3.15
Denver G	9,826	4,693.5	1,225	748.25	585
	100	47.77	15.52	7.61	5.95
Total inches	49,232	26,528.5	8,312	3,411.25	2,847
Percentage	100	53.88	16.88	6.93	5.78
Papers analyzed for three dates men- tioned above	154,841	82,481.5	10,009	5,868.75	4,791.75
	100	53.27	6.46	3.79	3.09
(There were 103 papers.)					

(There were 103 papers.)

These statistics show surprisingly large percentages of anti-social matter in the general news section, particularly when the percentages

⁸⁵P. 49.

of the three types are added. In a subsequent table⁸⁶ the author relates percentages to circulation, arriving at the conclusion that the paper printing the greatest percentage of anti-social matter is usually the paper with the greatest circulation.

After giving a quantitative analysis of crime, Fenton then proceeds to an analysis of several cases in which newspaper suggestion was known to be responsible for crime. These cases of known newspaper influence were supplemented by cases of supposed influence, cases wherein the crime committed corresponded closely in all details with those previously reported. Besides, Fenton incorporated letters from prison authorities who were unanimous in the belief that there is a causal connection between newspaper reports of anti-social activities and the activities themselves. Few of them, however, could cite specific instances of a direct connection between the two. At any rate, the evidence which she accumulated seemed to be sufficiently impressive to warrant her conclusion that such a causal relation exists. Her own words are:

"The evidence collected for Chapter VI unquestionably establishes the *existence* of suggestion to anti-social activity, and indirectly suggests its *extent*."⁸⁷

CRITICISM OF FENTON

In arriving at her conclusions, Fenton based her premises on the findings of psychologists interested in operations of the normal human mind rather than on the findings of criminologists interested in the vagaries of the criminal mind. True, her work shows evidence of study of the criminologists, for she quotes from Sighele, and from the older criminologists. However, this difference is scarcely worth stressing because both the psychologists and the criminologists reach virtually the same conclusions. Nor do the more recent researches of the psychologists in phases of the unconscious seem to alter the validity of the psychology on which she based her findings.⁸⁸

⁸⁶Table VIII.

⁸⁷P. 92.

⁸⁸On page 28, for example, Prince (*The Unconscious*—Morton Prince, Macmillan, New York, 1921) records virtually the same operations of the unconscious in the conservation of forgotten experiences as Fenton does on page 27 of her thesis in observing the force of forgotten stories of crime in setting the person to commit a crime. On page 63, he admits that the problem as "to what extent subconscious processes determine the processes of the conscious mind and bodily behavior in normal and abnormal conditions" is among those problems of the subconscious which have been only incompletely investigated. His statement is:

"The records of our lives are written in unconscious, dormant complexes and therein conserved so long as the residua retain their dynamic potentialities. It is the unconscious, rather than the conscious, which is the important factor

She failed to discriminate between types who are seriously affected by news of crime. One gathers from her thesis the general impression that all types of people are led into crime by the accounts given in newspapers. This thesis is upheld by the older criminologists but not by the criminologists of the positivist school, nor by the case criminologists. The former admit influence on the person with criminal predilections; the latter, on weak, suggestible individuals.

Moreover, her approach to the problem by the statistical method was of doubtful value except for historical purposes as showing the amount of attention given by the newspapers to crime. She showed, in her earlier chapters, that the publication of news of crime does produce crime through imitation and suggestion. Then, apparently reasoning that the ratio would always be direct between publication of news of crime and commission of crime, she figured the percentages of crime news in a group of papers, with the implication that we could expect that ratio in the results. Such a ratio could be established only with the greatest difficulty, if at all, and then only after due consideration had been given to all other social factors, as well as to the anthropological and the telluric. Obviously such a consideration by the statistical method would be out of the question. The factors are too numerous to admit the formulation of a quantitative law.

For similar reasons, her table VIII hardly proves the connection between circulation and amount of crime included. Circulation is a matter that depends on too many complex situations to be affected by the varying percentages of news types. The age, location, and standing of the paper; its racial or religious appeal; political affiliation; advertising; special writers; economic conditions—all affect the matter of circulation. Unless we knew more of these conditions than her graphs

in personality and intelligence. The unconscious furnishes the formative material out of which our judgments, our beliefs, our ideals, and our characters are shaped.

"In the second place, the unconscious, besides being a *static* storehouse, has *dynamic* functions. . . . Thus, functioning as dynamic processes, the stored residua of the past may provide the secrets of our moods, our impulses, our prejudices, our beliefs, and our judgments.

"It remains, however, for future investigation to determine the exact mechanism and the relative extent to which subconscious processes play their part. (P. 262.)

"Under ordinary conditions of every-day mental life, *social suggestion* acts like therapeutic suggestion. But the suggestions of every-day life are so subtle and insidious that they are scarcely recognized." (Pp. 289-90.)

Suggestion and imitation, conscious and unconscious, receive virtually the same treatment at the hands of Bogardus (*Essentials of Social Psychology*—Emory S. Bogardus, Fourth Edition, 1923, Chapters II and IV), Gault (*Social Psychology*—Robert H. Gault, Henry Holt, 1923, Chapter VI), and Allport (*Social Psychology*—Floyd H. Allport, Houghton, Mifflin, 1924), as that indicated in Fenton's authorities.

disclose, we should be unwilling to accept her deductions as to the ratio of crime to circulation.⁸⁹

It is in her qualitative analysis that Dr. Fenton did her best work. She there showed definite anti-social news culminating in definite anti-social facts. These conclusions cannot be brushed aside with the argument of too little proof without begging the question. Her quantitative findings are to be questioned, except as they reveal an alarming predilection among newspapers for anti-social news. Her qualitative findings are unanswerable.

PART IV

Objectionable Elements Classified as to Form and Substance

Dr. Fenton's work shows very clearly that the qualitative, rather than the quantitative, consideration of crime and scandal news points the proper way to the handling of such news. Thinking of the problem, however, as a sociologist, rather than as a journalist, she confined her analysis to certain news stories which she had found to be objectively anti-social. Demanding the lessening or exclusion of such stories, she attempted no classification of objectionable news into types of presentation which would have aided the newspaper man, in a practical way, to purge his columns of objectionable elements and to present anti-social news in a social form.

For that reason, I have endeavored to classify what seem to me the most objectionable elements into the form and the substance of presentation of anti-social news which seem to me most productive of anti-social results. The classifications are not mutually exclusive, but are made for convenience of study. In making them, I had no guides other than hints gathered here and there in the course of my reading, and my own positive reactions.

Let us note the results as they appear in the form of presentation.

I. FORM

A—The Vicious Streamer and Head

The streamer and head, being the most conspicuous elements on the newspaper page, their weight in forming opinion and in building up a general impression of guilt or innocence cannot be denied. The following heads and streamers require no comment.

⁸⁹It should be noted, with due deference to this portion of her work, that Lee, in his *History of American Journalism*, records the fact that those papers which attempted to omit crime reports, did so at the expense of circulation.

From the *Chicago Evening American*, for the dates indicated, these examples were chosen:

March 3, 1925—Streamer—"Tells Shepherd Germ Deal." Head—"Defendant's Face Falls as Faiman Outlines 'Plot.'" "

March 30, 1925—Streamer—"Dr. Olson and Mrs. McClintock Not Slain, Expert Declares." Head—"Shepherd's Doctor Reports Both Had Diseased Hearts."

March 17, 1925—Streamer—" 'Gave Germs to Kill McClintock'—Faiman." Head—" 'Plotted for a Year Before Billy Died,' Says Dr. Faiman."

March 3, 1925—Streamer—" 'Shepherd Guilty,' Says Olson."

March 7, 1925—Streamer—"Judge Gemmill Threatens to Free Stokes, Raps State Hard."

March 7, 1925—Front page streamer—"Court Hints State Loses Stokes Case."

March 7, 1925—Streamer—"Raps State in Stokes Trial."

March 10, 1925—Streamer—"Death Clothes Unnerve Munding."

April 8, 1925—Streamer—"Dying Girl's Mother Accuses Indiana Ku Klux Klan Leader." Head—"Story of Attack Told at Daughter's Side."

March 27, 1925—Head—"Pink Pajama Man Blamed in Suit."

April 9, 1925—Head—"Doctor's Claim Klan Attacked Girl Will Die."

Arkansas Gazette, March 8, 1925—Photo Head—"Chicagoan Charged with 'Million Dollar Germ Murder' Seems Worried as He Appears in Court."

B—The One-Sided Lead

The Chicago Tribune of March 13, 1925, leads on the Stokes story as follows:

"W. E. D. Stokes is just a 'damned old fool playing around with a lot of foolish affidavits' which he never would have made public.

"Helen Elwood Stokes, his wife, likes his millions but she was never in the Everleigh Club and she never had any connection 'with that mulatto baby.'

"The State's Attorney's office has gone back to the days of the Spanish Inquisition in unlawfully securing the indictment and now unlawfully urging the conviction of Mr. Stokes for conspiring with others to defame his wife."

That is the newspaper lead. Of course, the next paragraph says that the summation of the case was thus given by the defense attorney.

It is interesting to compare the lead of the defense story with

the lead of the prosecution story which appeared in the *Chicago Tribune* of March 12, 1925.

"Assistant State's Attorney, Hamilton A. Smith, in his closing argument of the prosecution yesterday of W. E. D. Stokes, took the old man's millions, and he took his Yale university education; he took his patrician Mayflower antecedents, and he took his mighty power. Then the prosecutor stirred this up in the mud and slime of 'the most illiterate, disreputable characters of the Chicago underworld,' and he held up to the jury the finished portrait: a powerful octopus with the dollar sign written all over him, stretching out huge talons into all parts of the country to get false evidence to dirty up his wife, Helen Elwood Stokes."

This lead makes it clear that some of the denunciation proceeds from the mouth of the prosecuting attorney's assistant, but do we get the intimation that the prosecuting attorney's assistant threw slime on the name of W. E. D. Stokes? Stokes was acquitted.

The *Baltimore Sun* of January 7, 1923, ran this head on the story of the Mer Rouge case:

"Bastrop, La., January 6. Evidence that Watt Daniels and Thomas F. Richards, believed to have been victims of the Morehouse Parish Ku Klux Klan, were slowly crushed to death in a specially designed engine of torture, was introduced here today in open hearing before Judge Frederick M. Odom."

"Believed to have been," etc., saddles the crime onto the Klan.

The *Chicago Evening American* of January 2, 1925, leads with a story on the Scott divorce case as follows:

"Mrs Edna James Scott, wife of Congressman Frank D. Scott, carried on an affair with the cashier of a fashionable Washington Apartment Hotel through a telephone code, it was testified today at the divorce hearing by Jane L. Kennedy, Secretary to the Congressman."

In the *Chicago Tribune* of February 26, 1925, under the head "Wooring Episode of Rev. Lyclle Told in Court," the story leads:

"Tales linking the Rev. Joseph Lyclle, Baptist clergyman and singer, with a romantic meeting with Mrs. Anna Lindstedt, were related yesterday before Judge Joseph Sabath."

The *Chicago Tribune* of February 26, 1925, under the head "Girl Killed Her Father When Asked for a Kiss," the story leads, "17 year old Rose DePetro's father, John, yesterday called to his daughter from his bed and asked her to kiss him."

In the *Chicago Evening American*, February 9, 1925, crime is excused in this streamer head, "Author Backs Girl Mercy Slayer." The lead, which is quoted without reference, is "Why should a woman

be compelled to murder her husband just to save science a little trouble?" The author, Cosmo Hamilton, in this instance, is then quoted: "The little French girl who kiled her husband to save him the slow agony from cancer behaved in a purely ethical manner, but it is a shame she was put to the trouble." This is virtually all that the author said about the mercy slayer (whose deed was shortly afterwards imitated in Colorado), but the editor thought it thrilling enough to throw into the lead under a streamer.

It will be noted that some of these leads are guarded by such phrases as "it is alleged" or "it is believed." Some of them contain simply the criminal's story without an attempt to place responsibility for the "belief" or "assertion." The peculiar construction of the news story requires that the most significant incident be placed in the lead. It is the lead that clings to the reader's mind and forms his opinion. It is doubtful that the ordinary reader has the ability to distinguish allegations of fact from the fact itself. To such, allegations become facts. Moreover, the busy man who has not time to read more than the heads and leads is thus furnished with ready made opinions on the important question of guilt or innocence.

II. SUBSTANCE

A—The One-Sided Story

Leaving the purely technical presentation of anti-social news, with regard to form, we next consider the substance in certain characteristic stories and their methods of presentation. Most powerful in affecting public opinion and in paving the way to conviction or acquittal is the one-sided story. On February 13, 1925, the *Chicago American* heads a story thus:

"Girl Beating Charge Against Teacher."

The story leads—

"Because her 12-year-old daughter, Grace, was low in her spelling average, she was beaten with a leather belt so severely that she required the services of a physician, Mrs. Mary Eden, 1634 Clybourne Avenue, declared today in swearing out a warrant before Judge John Bugee of the Sheffield Avenue Court against John Schmidt, teacher at the St. James Lutheran School, Garfield Avenue and Fremont Street."

After further detailing the brutal treatment accorded the girl, the news story closes without giving the teacher's side of the difficulty.

A similar example is given in a story in the *Chicago Evening American* of January 2, 1925. This story relates to a divorce bill filed by Mrs. Helen Mitchell Kamhout. The news head is: "Girl Who

Tried to Die Named by Wife." Several correspondents are named in the story, but no chance of admission or denial is given to the various correspondents or to the defendant.

It is the usual procedure to give one-sided reports of the divorce bill for the reason that the reporter, on account of hurry, takes the facts for his story from the bill without troubling himself to interview the parties. The newspaper might readily reply that such cases are not sufficiently important to require an interview and that the mere filing of the bill constitutes sufficient excuse for publishing the story; whereas, absolute justice would require the publication of both sides or the omission of the story.

In the *Chicago American* of February 9, 1925, a story headed "Chicagoan Tries to Choke, Shoot, and Knife Wife," details the fact that Joseph Sperry on his way to interview a roomer who had spanked their little son was restrained by his wife and that he stabbed her in the breast and left arm. The story does not tell where the choking and shooting came in but does devote one sentence to the husband, who alleged that the wounds were inflicted accidentally. Unfortunately, this sentence does not overbalance the damaging head which indicated the ferocious nature of the husband's attacks.

The one-sided story is particularly in evidence in reports of murders for conjugal infidelity. The usual routine that the murderer follows is to kill the offending person or persons, and then, upon being apprehended, to offer as excuse a long story of marital difficulties. Usually no one is left to give the other side, but most papers do not take the trouble to check up on the statements of the criminal before giving them in detail to the public. Such a case was reported by the *Chicago Evening American* on April 20, 1925. The head reads "Found Mate With Kin, He Asserts." The murderer gave as his excuse for the double slaying, narrated in the story, the fact that the other man admitted improper relations with his wife. Manifestly, not even character references can efface the stigma thus spread broadcast by the murderer who in the normal course of events will allege the unwritten law as his defense. For example, "Self-defense and the unwritten law will be Treger's defense" according to a news story in the *Chicago Evening American*, February 25, 1925. The story in this case is not particularly one-sided, but in some way sets up a justification of the murder on the ground that Treger found "King in his home at 423 Bowen Ave. with Mrs. Treger and another couple, Abraham Berger and Lillian Davidson," and that King was in a bathrobe.

In this connection, attention is called to the story of Rose DePetro,⁹⁰ *Chicago Tribune*, February 26, 1925, which should be compared with a subsequent story in the same paper for March 17, 1925, bearing the boxed head: "Grand Jury Frees Rose DePetro Who Shot Father to Death."

B—The Suicide Story

Although it is commonly agreed that the suicide story should not be given extensive publication, yet in the case of the suicide of Robert Preston, the *Chicago Tribune* of April 13, 1925, devoted 7½ columns to the suicide and a reprint of the diary found on his body. On April 14, 1925, it devoted 1½ columns to a special story drawing a moral in the case, and subsequently made the story the subject of an editorial. The other papers of Chicago devoted quite as much space to the suicide as did the *Tribune*. The publication of the diary must have been considered exceptionally meritorious as the majority of the space in the paper was devoted to it. The diary is principally filled with the philandering escapades of the suicide and the abnormalities of his disease, appetite, and so forth. The exact manner of the suicide is reconstructed; and the glare of publicity throws a strong light on every act of the disordered youth.

The *Tribune* throws this streamer on the front page: "Suicide Ends Student's Ills." The news head reads, "Fast Life Ends in N. U."⁹¹ Youth's Strange Death." The diary relates to many college larks. The result is that the public begins to look askance on college life and activities. But the chief result is the inevitable attraction that such a suicide has to the morbid mind. It serves to heighten the tendency of the would-be suicide to find in his own condition a condition similar to that of the suicide. The usual trail of suicides follows, as it did in this case.

C—Executions

A particularly dangerous phase of the hero worship angle is the sensational reporting of legal executions in which one or two Chicago papers still indulge. The *Chicago Evening American*, December 22, 1924, runs this streamer, "500 See Bride-Slayer Die on Icy Gallows." The lead is typical:

"With a white carnation in the lapel of his coat and a gray cap set

⁹⁰P. 69 Supra.

⁹¹Cf. p. 78 Infra, The Breakdown of Institutions.

at a jaunty angle, Lester Kahl, the farmer who murdered his bride, was hanged in the bull pen of the county jail at 8:15 a. m. today."

The criminal is usually represented as cool and possessed. In this case we are told that "he stared coolly at the hangman and the dangling noose." The facts that he spent the afternoon before the execution playing checkers with the jailer and that on the morning of the execution he ate a hearty breakfast of ham, eggs, potatoes, toast, and coffee, and smoked until the sheriff came to read the death warrant to him, are considered worthy of note.

The *Chicago American* of February 13, 1925, runs this head on the first page: "Kammerer, Slayer of 5, Goes to Death Like to a Ceremony." His coolness in the face of the approaching execution is also noted. His last words are quoted carefully. The sympathetic would note the religious calm with which the reporter invested the criminal. The entire history of the man's crime, taken from his written confession, was repeated; nor were there lacking gruesome descriptions of the waiting gallows, to appease the hunger of the morbid. The *Daily News* of February 13, 1925, under the news' head "Jokes Before Hanging," gives a different slant on the Kammerer execution. This comes in the bank: "Kammerer tells barber not to trim hair close; hasn't far to go." This paper mentions the fact that Kammerer kept his "nerve." It also repeats the story of the crime for which the man was executed.

The only variation from these carefully recorded details comes when the criminal has to be carried in a chair to the scene of his execution. In these cases the element of human pity is called into play.

D—The Criminal's Handbook

A particularly pernicious story is the one which relates the exact method used by criminals in their crimes. Here are two examples. The *Chicago American* of March 6, 1925, heads a story thus: "Two Jailed for Robbing the Dead C. O. D." The story leads, "Dear Reader: If you have criminal tendencies, please do not read this story. It is too good a scheme. You might be tempted." The story then details how two criminals "would scan the obituary columns each day and copy names and addresses of decedents to whom they would mail cheap fountain pens C. O. D." expecting pay by return mail. The *Chicago Evening American* of March 2, 1925, heads a story thus: "Bare Clever Ruse Used by Forger Pair Here." The story tells of the scheme in detail. The swindlers work in pairs. One man, representing himself to be from the National or the American Surety Company or

the Dun or Bradstreet Rating Agency, requests an official of some concern for information regarding his company. This information is to be filled out on a form and returned attached to a letterhead of the concern, on which is written the officer's signature. The swindler then forges the victim's signature to a check, types a letter over the signature on the firm's own letterhead, encloses check and letter in an envelope furnished by the firm, sends them by his partner to the bank, and awaits results. The clever scheme is thus always played up in the news story as being its central feature. A professional criminal in the course of a year could gather a very complete handbook of criminal methods from these innocent looking articles in the daily papers.

E—Hero Worship of the Criminal

The most outstanding example of hero worship of the criminal is shown by the enormous amount of publicity given to the slaying and burial of Dean O'Banion. In the first place, the majority of the papers used circumlocutions regarding O'Banion's profession, such as "gangster," "beer runner," "gunman." One paper, the *Chicago Daily News*, October 10, 1924, in a deck referred to him as a "polished criminal." Most of the papers of the city either led with the story or featured it in long, sensational articles by star reporters. The *Chicago Daily Journal* on November 14, 1924, presents a 1½ inch streamer: "Crush at O'Banion's Funeral." It records in a bank the fact that "15,000 Gathered at Chapel, Rush Police Lines; Many at Cemetery." The *Chicago Daily Tribune* of November 13, 1924, runs a signed feature story headed: "In \$10,000 Casket Dean Lies in State." The camaraderie in the use of the first name is in evidence here just as it was in the case of "Elsie" Sweetin, "Jazz Girl," "Dicky" and "Babe" of criminal history. The feature story leads:

"Last night Dean O'Banion lay in state. His couch was a casket priced with a touch of pride at \$10,000. There were candles at its head, candles at its feet; a rosary lay in the soft tapered hands that could finger an automatic so skillfully."

Another paper, the *Chicago Evening American*, for November 15, 1924, and following, presented a daily first page serial under the head:

"How O'Banion got in line for \$10,000 silver casket."

The story leads on November 17, 1924:

"Dean O'Banion honored in death by factions who would have battled with him in life, possibly, lies buried in his \$10,000 casket under a moun-

tainous pile of flowers, and Louis Alterie, loyal friend and fearless, too, will 'shoot it out' at any time and place with the assassins of the dapper flower merchant."

The picture page of the *Chicago Tribune* for November 15, 1924, devoted 148 square inches to four cuts of the gangster's funeral. The case has not disappeared from the public prints to this date, almost daily mention being made of the dead man or his wife or his comrades in crime.

It is hardly necessary to give further examples of hero worship, as it is apparent in the handling of every notorious crime by most of our papers. The outstanding features of this type of reporting are as follows:

1. Wealth, power or social position of the criminal are stressed.
2. Feature stories detailing extraordinary "human" qualities of the criminal are given.
3. Group loyalties are studied.
4. The criminal's quick wit in directing his defense is noted.
5. The "nerve" of the criminal is praised either directly by the reporter or else by quotations from bailiffs.
6. The open admiration shown by onlookers in the courtroom is not neglected.

In fact, the criminal is pictured in the most favorable light as being dapper, well dressed, quick-witted, good-looking, humane, lovable, in short, a public hero or heroine. He is rarely represented as the haggard, hunted individual from whom Healy would have us believe, the young, impressionable person would turn away.

F—Flippancy Reporting of Court Activities

The *Chicago Tribune* of March 26, 1925, leads and closes a court story thus:

"Judge George Kersten, unqualified by recent illness, his friends say, yesterday drove the clerk from his court room—profanity his weapon—after he had challenged the clerk to combat. . . .

"Judge Kersten had been ill for many months and recently had a bitter altercation with an attorney in his court."

A similar story appears in the *Tribune* of March 23, 1925, detailing, under the head "Haffa-Walker Battle at Law Growing Hotter," the court difficulties between these two individuals before another judge in Chicago, as if the whole proceeding were a riot in a bar-room rather than a judicial proceeding in a dignified court. Observe these sentences. "The original fight in which Judge Walker is charged

with having denounced Haffa in court as a professional bondsman and then ordered bailiffs, Henry Bornhuff and William Beatty, to eject Haffa, seem a lullaby compared to the noise and cries and turmoil in the Criminal Court Building yesterday." "Judge Walker for all the talking he is reputed to have done in his court, was exceedingly reticent yesterday." "Judge Lindsay retorted." The story closes with: "They will all be on deck today."

The *Chicago Tribune* of March 7, 1923, has an ingenious feature story under the headline, "Arsenic Cousins Go on Trial with Air of Peasants." Referring to the Klimek-Koulik murder trial, the story leads: "Two squat, middle-aged, rather wistful, Polish women with scrubbed faces and 'decent black' from the neighborhood store play hookey from their housekeeping duties and drop into the vaudeville show. They do not understand some of the acts, but they find a bewildered pleasure in staying until it's all over." The vaudeville show comparison is retained throughout the story. The selection of the jury is a *curtain raiser*, the *show* progresses as jurors are accepted. "The *acts* for the day are over." "The *curtain raiser* will continue until all the jurors are picked. By tomorrow morning it is expected that Mrs. Klimek and Mrs. Koulik will begin to see the *headliner* in which they are scheduled to take *prominent roles*."⁹²

Thus with our courts represented as virtual prize rings or vaudeville shows, it is small wonder that the public acquires a disrespectful feeling for the whole machinery of criminal justice.

The courts are further brought into disrepute by the unwise revelations of factional bickerings that go on among the different judges and the different court systems. In the *Chicago Daily News* of February 13, 1925, under the head "Gentzel Frees Two Crooks and Fines Police," the story leads:

"Two police sergeants were held in contempt of court and fined \$25.00 and costs each today by Judge William Gentzel, because each had arrested a man on suspicion and charged him with disorderly conduct while the police investigated his recent activities."

Although the bank says, "Then Judge, learning of long records, cancelled contempt and penalties," the news story proper does not stress that feature. The story quotes Chief Collins as saying, "This must be one of the mornings when Judge Gentzel's liver is out of kilter."

The *Chicago American*, on February 2, 1925, runs a 2 inch streamer, "Lyle Flays Judge Olson." The story then leads:

⁹²Italics are mine.

"Judge John H. Lyle of the Municipal Court, who was removed from the criminal branch by Chief Justice John A. Olson, today took the Chief Justice sharply to task in a ten-page letter."

The ten-page letter is then quoted in black letter and in italics in a column story. The difficulty between the two judges arose over "Judge Lyle's action in holding gunmen to the grand jury under \$100,000 bonds."

In the *Chicago Tribune*, on January 12, 1925, under the head: "Police Group Deny Crime Is Rampant in City," the story leads:

"Resolutions were adopted yesterday by the Policemen's Benevolent Association deploring the recent accusation that the 'morale of the police department is broken down' and pledging their best efforts to Chief Collins, Mayor Dever and the public."

The organization then

"took a slap at the Crime Commission of Chicago, the President of which said the police now lack morale. They took exception to newspaper statements that crime is rampant."

Of course, such news may eventually result in the demand for a change of administration of criminal justice, but in the meantime the criminals see the departments that are charged with the administration of criminal justice fighting among themselves. They, therefore, reasonably hope for some loophole of escape in such a condition.

G—*The Empty Exposé*

The *Chicago Tribune* of March 24, 1925, sets forth a rather startling situation prevailing in the police courts. "One of the troubles seems to be the fixer." "Interviews with police speed officers and court clerks and others on the inside of the judicial machinery lead to the conclusion that 75% of the fixing is done in and around the courts."

"It is even said on competent authority that a fairly regular schedule of prices is used in this work of winking, nodding and whispering fixers as follows: for an arrest at 35 miles an hour, case fixed for \$15; 32 miles, \$10; 28 miles, \$5."

The report intimates that much of this fixing is done behind the judge's back. The defendant is called. No answer is made. The court clerk calls "capias." The judge writes "capias" on the record. The complaint slip is shuffled for a new slip on which the word "discharged" is written. The prisoner is not called, having made an arrangement with someone in the court.

The fact is worthy of noting that although numerous names of speeders, who had their cases fixed, are given, not a single judge, court

attaché or policeman is mentioned in the article. The query naturally arises in our minds as to the good that such an exposé will do, attended by these roundabout methods of publicity. If official irregularities are to be exposed, they should be exposed directly without depending upon a grand jury to call the cases of the bribers at its session. This type of "scare" story appears quite frequently.

H—The Breakdown of Institutions

Social institutions, the church, and the university, are the targets of irresponsible news writers whenever it is possible in any way to connect a delinquent with them. The institution of marriage receives many uncomplimentary remarks in heads and news articles detailing marital troubles in divorce courts and breach of promise suits. A news head of the *Chicago American* on April 3, 1925, reads: "Three Weeks of Marriage Too Much." A streamer in the same paper for April 8, 1925, reads: "December Tells Why She Is Wedding June." The head adds, "'Young Mind in Old Body,' She Says." The bank continues, "So Mrs. Ida Campbell, 50, Lightly Trips Toward Altar With Youth 21." The *Chicago American* of March 18, 1925, heads a story thus: "'Go Get a Wife,' Church Tells Pastor." The story details how a young minister is newly chosen by a church board on condition that he find a wife by June. Details of the story follow: "With his arrival the hearts of unattached feminine residents of the town are set af flutter. . . . When he came here a few weeks ago, he found the house surrounded by unspoken-for women. They besieged him with proffered aid in the art of housekeeping the first few days."

The *Chicago Tribune* of March 23, 1925, heads a story thus: "Husband Who Won't Dance Shot By Wife." The lead is: "Two wives, hysterical from crime, sat yesterday in the West Chicago Avenue police station and blamed the tendency of matrimony to grow stale for all their woes." This double-headed story relates to the incident named in the head and to another incident of attempted suicide by a woman who had tried to kill herself and all her children because her husband drank and would not keep a job. Such stories set a trivial value on the social institutions of love and marriage.⁹³

It is observed also that wherever it is possible to do so, the name of an educational institution is in some way connected with the delinquent. The *Chicago American* of April 9, 1925, heads a news story thus: "Indict Penn. U. Graduate in Con Game." In the *Chicago*

⁹³Cf. *Commercialism and Journalism*—Hamilton Holt, Houghton, Mifflin & Co., 1909, pp. 88-89.

Evening American of March 27, 1925, under the news head, "Army Officer's Wife Hints of 'Exposé,'" the story of Lt. Frank Kennedy is aired. The story relates to the 'Annapolis Ring' which Lt. Kennedy alleges "railroaded" him "after he had remonstrated for attentions forced upon his wife." This tangle of rumors and allegations simply tends to throw the professional army and navy officer in a bad light.

Under the head "Scurrilous Attack on Louisiana U." the *Arkansas Gazette* for April 8, 1925, details the story of the Whangdoodle, a pink sheet put on sale in the streets of Baton Rouge. Although the paper was suppressed, the special article tells us that it "names a member of the faculty of the Louisiana State University as having been arrested in a raid in a house of ill-fame in a disreputable part of the city and accuses him of having led a double life, one in cultured circles and one in the underworld for many years." The article gives further salacious scandals alleged to have been contained in the same paper.

It will still be recalled by the reader that the press of Chicago printed some very damaging material with regard to the Leighton Mount slaying. President Scott was represented in more news heads than one as being thrown in an attitude of defense in his testimony before the jury that was investigating that mystery; and the country at large, if it followed the Chicago papers, was virtually led to believe that the slaying of Leighton Mount was a crime directly chargeable to Northwestern University.

I—Pornographic Details

The *Chicago Tribune*, March 27, 1925, gives the following salacious story:

"Maywood High School girls' and boys' petting parties and their more serious misbehaviors in the back rooms of stores and ice cream parlors in the school neighborhood were disclosed yesterday. . . .

"One 17-year-old girl told the court she was intimate with Gilgash and four high school boys on that same day. Another, 15 years old, gave particulars of petting parties in several places near the school."

The *Chicago Tribune*, March 20, 1925, heads a story thus:

"Ex-wife Calls Col. Dennistoun Sweet Washout."

The lead is:

"The Dowager Countess Carnarvon played the leading role in London's dirty linen court rooms today when she took the witness box in the Dennistoun case."

A further salacious detail comes in the sentence: "Col. Dennistoun admitted he had committed a misconduct with an American girl in Paris in 1923."

Under the head "Col. Dennistoun says ex-wife had affairs with seven," the *Chicago Tribune* of March 19, 1925, quotes the testimony of Col. Dennistoun verbatim: "She committed adultery with Gen. Cowans, but not for me. She did it because she enjoyed adultery." The same story details further salacious news in a similar manner.

In the *Chicago Tribune*, March 18, 1925, the lead of the Dennistoun story told how Mrs. Dennistoun "did a Walter Raleigh when she placed a frothy pink silk dressing gown on the waxed floor so the persons on the floor below would not hear or see Boulin's footsteps in her bedroom." "The butler said he frequently had seen them in bed together." "Just before the adjournment, Justice Sherman again urged a settlement outside of court, indicating that the future hearings of the case will reveal dirty linen so disgusting as to hurt the public morals. Today's cases occupied almost the entire front pages of all the papers, with the verbatim testimony taking up more than half the total news space."

In the stenographic reports of the Stokes trial in the *Chicago Tribune* of March 11, 1925, the following question is asked: "Now at any time when you returned home that night did you see Mrs. Stokes with a chemise and a corset on in just her stockings?" In the later report of the alleged incident on the Burlington pullman, we have further pornographic details of the same story.

The *Chicago Tribune*, March 5, 1925, runs this news head: "Stokes From Stand Tells Doubt of Wife; Boudoir Scene With Man at 2 A. M." This scene is described in detail by Mr. Stokes thus: "and she had nothing on but her corsets and her slippers and stockings. She was stooping down buttoning her garters to the tops of her stockings." This was in the presence of the other man, according to the allegation. Another scene—Stokes still speaking—"There is a big clothes closet adjoining the bath, and standing there on tip-toes was Hal Billig and Mrs. Stokes. She was in her corsets and stockings."

A particularly vicious use of pornographic details is found in the reports of "mutilations" which have appeared in our newspapers for the last four or five years, and which have been particularly noticeable since the pseudo-scientific idea of rejuvenation by means of transplantation of certain glands has been exploited by the sensational press. A news story in the *Chicago Daily Journal* under date of November 13, 1924, bears the head-line statement that "Charles Ream Charges

Mutilation in \$100,000 Action Filed at Joliet Against Convicts." In the Mer Rouge case in the *Baltimore Sun* of January 7, 1923, "it was testified also that before death gave him surcease, Daniels was mutilated 'with a penknife, a razor or some such instrument.'" Guarded or veiled as the expression may seem, there are probably few children beyond the age of puberty who do not know its significance.

SUMMARY

Thus the news story of crime and scandal, when carelessly presented or when presented in a deliberately sensational fashion, pollutes the whole stream of the news. We have examined elements that are calculated to form positive opinions as to guilt or innocence. We have seen stories that were nothing short of scandalizing to whole communities. We have seen presented verbal pictures that have nothing but vulgar sex appeal as an excuse for being. We have seen the criminal deliberately turned into a heroic figure worthy of being imitated by any imaginative boy. Nor are the categories exhaustive that I have given. I might have put in the tale of horror, though most newspapers now shun the slain-man-in-the-puddle-of-blood picture. More space might have been devoted to the story that arouses mawkish sympathy for the criminal.⁹⁴ Something might have been said, too, of the practice of photographing every person even remotely connected with crime or scandal, from the criminal or victim to the publicity seeker who has a special "theory" as to the cause of the crime. Enough has been given to show, inferentially, the possible anti-social results of the presentation of anti-social news in an unethical manner. In most cases, the proper method of presentation for social results is clearly manifested.

PART V

Results of Publication of Anti-Social News

Thus far I have shown the opinions and findings of criminologists relating to the place of anti-social news in the etiology of crime. This step was necessary because their work had been somewhat neglected by Fenton, who, working from a sociological and psychological background, had, nevertheless, arrived at a similar result: namely, that the publication of anti-social news causes crime. I believe that the exhibits of Part IV justify the inferential qualification of that result, thus: the

⁹⁴Cf. Parmelee, *Op. Cit.* p. 416.

unethical presentation of anti-social news causes crime and a general lowering of moral standards.

I use the term *unethical* advisedly, because, as I shall show, the publication of news of crime and scandal may have beneficial, as well as evil, results, the quality usually depending upon the ethical or the unethical nature of the presentation. Let us examine these results, which I have designated Social and Anti-Social.

I. SOCIAL RESULTS

A. *The Clean, Single-Minded Newspaper Can Be Depended Upon to Expose the Political Offender*

That the single-minded newspaper, filled with civic righteousness, exposes political criminals and gives the people a chance to recover the control of government, must be affirmed at the outset. The classical example is the exposure of the Tweed ring by *The New York Times* in 1871.⁹⁵ *The Citizens' Bulletin* drove Cox and his machine from Cincinnati.⁹⁶ The Bulletin of San Francisco drove the Ruef-Schmitz machine from power.

The Whiskey Ring in St. Louis was exposed by the relentless drives of *The St. Louis Democrat*.⁹⁷ The newspapers "put the crooks behind the bars at Terre Haute."⁹⁸ In these instances and in similar exposures on a smaller scale, the newspapers' presentations of stories of graft have served to unmask rascals as no other force could have done.

For it must be remembered—and in this fact lies the shame that taints the laurels of the press as a whole—that the Ring has its own representative in the councils of the press. According to Lee⁹⁹ "it is asserted that eighty-nine papers were on his (Tweed's) payroll" and that after his exposure twenty-seven of these had to suspend on account of the loss of their share of the plunder. In Cincinnati, the Cox ring operated unmolested for twenty-five years, the larger papers remaining docile until the disclosure of the *Citizens' Bulletin* (at first a handbill, and later a weekly) virtually forced them to make war on the ring.¹⁰⁰

⁹⁵*History of American Journalism*, James M. Lee, Houghton, Mifflin Company, Boston and New York, 1917; *The Boss and the Machine*—Samuel P. Orth, Yale University Press, 1921.

⁹⁶Orth, Op. Cit. pp. 103 ff.

⁹⁷Lee, Op. Cit. pp. 330 and 443.

⁹⁸Univ. of Mo. Bulletin, Vol. 16, No. 15, P. 26, May, 1915, speech of Chase S. Osborn.

⁹⁹Op. Cit. p. 330.

¹⁰⁰Orth, Op. Cit. pp. 103 ff.

A letter written by Edwin Emerson, March 13, 1908, says that he found he was expected to "write covert arguments in favor of Schmitz, Ruef, Glass, Harriman and the San Francisco boodlers," and that when he published an editorial deprecating the release of Schmitz and Ruef he "found it advisable" to give up his editorship of the Calkins Newspaper Syndicate's organ in Fresno.¹⁰¹ It is, therefore, only the newspaper that is fired with high purpose and moved by political iniquity about it, the newspaper drawing no proceeds from the ring, that can be depended upon to take the lead in unmasking the political offender.¹⁰²

B. *The Newspaper Punishes Personal Immorality and Crime*

E. W. Howe's epigram, "The wages of sin is publicity," is based on the idea that publicity is a deterrent to personal immorality and to crime. Here we tread upon ground where little proof is available, for the problem resolves itself into the old psychological argument as to whether even extreme physical punishment deters from either vice or crime. Criminologists in general—with one or two notable exceptions—think little of the deterrent effect of punishment.

Nevertheless, there is a type of proof relating to the suppression of news, that indicates the delinquent's dread of publicity. Lee¹⁰³ tells of a high-salaried, highly regarded minister who had been guilty of immoral practices. The newspaper in his city hired detectives to secure proof against him, called the minister in, confronted him with the proofs, required him to sign an agreement to resign, "quit the ministry and the city forever and never again write or speak a word in public." All this the minister did, and the story was not published.

Ross¹⁰⁴ gives a long series of suppressions purchased in one way or another to help miscreants escape the pillory of publicity. Some of these cases follow. A Philadelphia clothier, caught perverting boys in New York, committed suicide. His firm was a heavy advertiser, and not a single Philadelphia paper mentioned the tragedy. The United States District Attorney prosecuted firms in a certain great jobbing center for misbranding goods. The local papers did not mention the cases. During a strike of elevator operators, the business agent of their union was beaten to death by a thug hired for that purpose by one of the stores affected by the strike. The story, supported by affi-

¹⁰¹*The American Newspaper*, J. E. Rogers, Chicago, 1909.

¹⁰²In *Newspaper Morals*, H. L. Mencken, *Atlantic Monthly*, March, 1914, thinks that the baiting of the boss or the noted miscreant is a rather disheartening spectacle in which one set of rascals is replaced by another.

¹⁰³*Op. Cit.* p. 442.

¹⁰⁴*The Suppression of Important News*, Edward A. Ross, *Atlantic Monthly*, March, 1910.

davits, was given to three newspaper men by a responsible lawyer, but it was not printed. Thus, the list given by Ross goes on, showing the implied purchase of immunity from publicity which, in any one of the cases cited, would have been ruinous, either financially or morally, to the purchasers. Although these cases all show fear of publicity after the fact, rather than fear that would deter a delinquent from the fact, it is safe to assume that the average citizen has a wholesome dread of the publicity which can destroy his social, professional, or financial position at one blow. Whether or not, in the face of strong temptation, he will be restrained from a misstep by the dread is a matter that relates to individual differences.

C. *The Newspaper Will Right a Wrong*

In all the maze of denunciation for shortcomings, it is worthy of note that the newspaper in its presentation of news of crime and anti-social activities will champion the cause of the oppressed. For example, it is of record that in New York Charles F. Stielow was convicted of murder in the first degree. His conviction was secured by "manufactured testimony, detective testimony, expert testimony, legal technicalities and the powerful forces of prosecution." Through the efforts of a group of private individuals, and of certain newspapers, his sentence was finally commuted and he was released from custody by Governor Whitman.¹⁰⁵

Again, the press of the country labored with beneficent results in securing the release of "political" prisoners and certain military prisoners from Federal penitentiaries. It waged war on the whipping post in Delaware. As a result of the killing of Martin Tabert in a Florida convict gang, the *New York World* in a series of articles stirred the nation in demanding the abolition of the convict leasing system. These are legitimate fields of endeavor, in which the press is successful, so long as it does not enter controversial fields; and the campaigns mentioned are so recent and their results so patent as to require no citation to verify them.

II. ANTI-SOCIAL RESULTS

A. *That the Circulation of News of Crime and Scandal Is Regarded as Harmful Is Shown by the Specific Acts of Constitutional Conventions, Legislative Bodies, and Courts*

Following the guarantee of freedom of the press in our constitution virtually every state incorporated in its constitution a similar

¹⁰⁵*Journal of the American Institute of Criminal Law and Criminology*, Mayer C. Goldman, Vol. IX, No. 2, August, 1918, p. 289.

guarantee. Because the federal constitution contains no limitation of the abuse of freedom of speech and of the press, such abuses, which were bound to arise, were met by federal statutes among which is that prohibiting the mails to obscene and indecent literature. Many of the state constitutions incorporate the restraining phrase "being responsible for the abuse of that liberty" after the guarantee.¹⁰⁶ This can only mean that there is a very general acceptance of the idea that circulation of literature of the proscribed type would be attempted, and the restraining phrase is, of itself, sufficient evidence of the widespread feeling that such literature is harmful to morals and should therefore be checked.

It was to be expected that much litigation would arise under the statutes which were enacted as a result of this feeling. I pass by the cases of mere libel—the successful prosecution of many of which indicates the criminal proclivity on the part of many newspapers in that line—and come to a case in which the defendant was made party to a suit "for selling a newspaper principally made up of criminal news."¹⁰⁷ This was the case of *State v. McKee*, 73 Conn. 18 (28, 29) (1900), in which the plaintiff appealed from a conviction under the statute prohibiting such sale. The court sustained the appeal on technical grounds, but held the statute constitutional and approved. The court said in part:

"There is no constitutional right to publish every fact or statement that may be true. Even the right to publish accurate reports of judicial proceedings is limited. . . . Every citizen has an equal right to use his mental endowments, as well as his property, in any harmless occupation or manner; but he has no right to use them so as to injure his fellow-citizens or to endanger the vital interests of society. . . . The liberty protected is not the right to perpetrate acts of licentiousness. . . . The notion that the broad guaranty of the common right to free speech and free thought, contained in our constitution, is intended to erect a bulwark or supply a place of refuge in behalf of the violators of laws enacted for the protection of society from the contagion of moral diseases, belittles the conception of constitutional safeguards and implies ignorance of the essentials of civil liberty."

I have quoted thus at length for the reason that we have here the concrete case of a newspaper convicted for disseminating news of crime, even though the news was true. Similarly, there are numerous

¹⁰⁶In *Obscene Literature and Constitutional Law*, Theodore Schroeder, New York, 1911, there are excerpts from twenty-seven state constitutions containing this phrase.

¹⁰⁷*Obscene Literature and Constitutional Law*, Theodore Schroeder, New York, 1911, p. 171.

cases of indictments and convictions for circulating newspapers made up principally of news of scandal.¹⁰⁸ Cases of this sort indicate a very general and markedly specific reaction of constitutional conventions, legislative bodies, courts and juries toward the publication of news of crime and scandal, and confirm the widespread, inherent feeling that such news has a deleterious effect.

B. *Careless, Irresponsible, Sensational Reports of Crimes Often Lead to Race Prejudice and to Mob Violence Culminating in Lynchings*

It can be shown that the press by its presentation of news of crime is directly responsible for, or instrumental in, the utter breakdown of the administration of criminal justice. This is particularly shown in the following example of a lynching which was instigated by an inflammatory editorial in a newspaper. The instance is furnished by Director H. F. Harrington of the Medill School of Journalism, whose recital I quote:

"I am setting down the facts of the lynching story about which I spoke to you.

"This incident was told to me by George F. Burba, editorial writer of the Dayton, Ohio, *News*. He had always, he said, been a little hesitant about endorsing editorials not being sure of their effect upon the public mind, although for many years he had made it a habit to talk over editorials with his neighbors on the street cars as he went home. He did this to judge the effect in creating a particular point of view in the minds of readers. It was not until the incident occurred, which is related in the following paragraphs, that he felt certain that the editorials had a definite effect on the reader although it could not be estimated by the editor.

"A negro politician who controlled a great many colored votes and also had been arrested on various charges because of his influence in town had succeeded in eluding the law and while he had received some very brief sentences he had gone scot free for the most part. In fact, he made a boast around town that he had the courts "fixed."

"During an altercation, this colored politician, who had been charged with some misdemeanor, shot and killed a policeman. He later barricaded himself in his own home on the outskirts of town and declared he would kill the first man who tried to arrest him.

"That evening the editors of the *News* printed on the first page a leading editorial under the caption, "What Are You Going to Do About It?" It was addressed to the citizens of Dayton and this editorial recalled to them the history of the negro politician, how he had flouted the law for many years, how he controlled the colored vote with a brief summary of his latest escapade, and ended as the title indicated.

¹⁰⁸See the proceedings *Ex parte Shortridge*, 99 Cal. 526 (535), 1893; *In re Banks*, 56 Kan. 242 (243, 244), 1895; *State v. Van Wye*, 136 Mo. 277 (234, 235), 1896; *Ex parte Neill*, 32 Tex. Crim. 275 (276, 277), 1889.

"In the meantime, the negro was finally surrounded and put in jail. The paper had been out about thirty minutes when a tall man walked into Mr. Burba's office. He was plainly very much wrought up. Indeed, so angry he could hardly talk. He carried a copy of the *Dayton News*, and when Mr. Burba asked him what he could do for him the man said, 'Are you the author of the editorial "What Are You Going to Do About It?"' Mr. Burba acknowledge that he was. 'Well,' said the irate citizen, 'if you will come down to the Golden Harp saloon,' mentioning the street. 'at eight o'clock tonight I think you will get an answer to the question "What Are You Going to Do About It?"'

"Of course Mr. Burba was very much interested, so at the appointed hour he made his appearance at the saloon. He found that the entire room was jammed with excited men. His friend of the afternoon, evidently the chairman of the meeting, from the elevation of the saloon bar was reminding his audience of the history of the colored politician and of his latest murderous assault on the policeman. He said that the negro was now in the county jail. Then he spoke of the editorial asking what the citizens of Dayton were going to do about it.

"At the close of his remarks he asked for volunteers to take the law in their own hands. A dozen men came forward. They went into the alley where they laid hands upon a telegraph pole. Using this as a battering ram they were hurried along to the county jail followed by the excited crowd. The jailer refused to give up the keys, so he was brushed aside and the telephone pole huried upon the strong door of the jail. The door crashed in. The crowd speedily secured the negro politician, took him out, put a noose around his neck and strung him up to the beam of a telephone pole. The body was later riddled with bullets.

"Mr. Burba no longer doubted the power of the editorial."

Again,

"In the celebrated Frank case in Georgia, the newspapers outside of the state, and particularly New York City newspapers, carried on such a venomous fight in behalf of Frank and against the prosecuting authorities of Georgia, continuing even after his conviction had been sustained by the State Appellate Court and by the Supreme Court of the United States, that a Georgia mob was aroused to show resentment against the interference of the outside press by taking Frank from his place of confinement and putting him to a horrible death."¹⁰⁹

Of course, such an example of direct suggestion as that given by Mr. Harrington is rare,¹¹⁰ as is such an incident as the Frank case, but if one will take the trouble to examine newspaper excerpts relating to lynchings, he will find even in the news reports of these affairs the incendiary material for further lynchings. For these news reports ordinarily do nothing more than set forth the complete philosophy of

¹⁰⁹*Some Points on the Law of the Press*, Rome G. Brown, Univ. of Mo. Bulletin, Vol. 23, Number 15, May, 1922, pp. 20 and 21; 1 Va. Law Reg. n.s., 384.

¹¹⁰For similar incidents, see *The Press Abets the Mob*, H. J. Seligman, *The Nation*, Oct. 4, 1919.

the lynching mob. Reverting to history for a moment, I find¹¹¹ the following incident, which occurred in 1875: a mob had lynched a negro at Annapolis, Maryland. Before lynching him they drew up a set of resolutions which were printed in the *Baltimore American* of June 15, 1875. The resolutions set forth that the citizens honored the laws of the state and acknowledged trials by jury, but affirmed their belief in the "existence of a higher code than that which is dignified by the court seal of the commonwealth": namely, that of the preservation of the chastity of women. Their second point was that even though the criminal should be hanged, yet his execution would be just as illegal because the presumption would be that the verdict came from jurors without bias, a thing which would be impossible in that community, and, therefore, legal execution would be a mere sham. Their third point was that they were unwilling that the victim should be dragged into court to have her name entered upon the records and to stand in the glare of publicity.

That is the philosophy of the lynching mob. It might be repeated in excerpt after excerpt from similar stories, in which the following themes are "played up" by the reporter: identification of the victim by the injured person; description of the horrible pain suffered by the victim; the pleasure of the mob in effecting the lynching; quotation of dramatic speeches made by members of the mob, or by the mob as a whole.¹¹² Where the crime is something other than rape, usually the trifling nature of the incident which provoked the crime is stressed. Also, in one case, we find an announcement that ". . . will be lynched by Ellinsville mob at 5 o'clock this afternoon." The recital states that the governor admits his inability to prevent the lynching and that thousands are flocking into the town to attend the event.¹¹³

These are inflammable ideas, and when they are addressed in specific terms of burning flesh and insulting jeers, there can be no doubt of their effect as producers of future lynching mobs wherever they are read.¹¹⁴ There can also be no doubt of the fact that if the victim happens to be of one race as against another, the injured race will seek the earliest opportunity for revenge. By sensationalizing the news of the

¹¹¹*The Truth About Lynching and the Negro in the South*, Winfield H. Collins, New York, 1918.

¹¹²*Vicksburg Weekly Herald*, Friday, May 16, 1919.

¹¹³See *Jackson, Mississippi, Daily News*, June 26, 1919. These excerpts were not taken from the originals, but from a bulletin published by the National Association for the Advancement of Colored People.

¹¹⁴See *Lynch Law*, James E. Cutler, New York, 1905, and the *Lynching Problem in the United States*, Thomas E. Cochran, Univ. of Chicago thesis, 1915.

lynching, the press of the injured race spreads ill will to innocent communities and thus perpetuates the evil.¹¹⁵

C. *Ill-Considered, Hasty, and Erroneous News Reports of Crime Often Make Difficult or Impossible the Complete Functioning of Measures Designed to Rehabilitate the Criminal*

It has been shown repeatedly that newspaper misrepresentation of facts relating to parole has been responsible for much uneasiness on the part of the citizenry, resulting in demands for the tightening or abolition of the parole law. Several cases of misrepresentation are quoted by the *Institution Quarterly*.¹¹⁶

In making a fight on the operation of the Parole Board a Chicago newspaper, in 1921, published a story to the effect that twelve members of the Chicago Police Department were killed in two years by paroled convicts. Investigation showed that only one policeman had been killed in that period by a paroled convict.

A cartoon published January 13, 1921, showed all the steps, from the commission of crime to the receipt of parole and indicated that the steps were easy and the time short. This was apparently directed at the release on December 15, 1920, of Abe Schaffner, at Joliet, after serving two years for robbery. The release was effected on bonds under a writ of supersedeas from the United States Supreme Court. The *Institution Quarterly* says, "The amount of harm the cartoon and the article has done to the parole law cannot be computed." It further suggests that the paper printing the cartoon might have obtained all the facts relating to Schaffner from the court in question. He was released on court order, not by order of the parole board.

On January 17, 1921, the Division of Pardons and Paroles notified Charles C. Fitzmorris, Superintendent of Police in Chicago, that there were paroled in Chicago as of January 1st, 1921, 148 men. On January 19, 1921, a \$17,500 robbery occurred, whether committed by paroled men is not stated. In writing up this robbery, a leading Chicago daily paper reported the number of paroled prisoners in Chicago as 1148. This was apparently a typographical error, which may or may not have been corrected in subsequent issues, but, coming as it did at a time when public feeling was high on account of the robbery,

¹¹⁵*The Negro Press in the United States*, Frederick G. Detweiler, 1922, gives two or three lynching stories that had appeared in Negro newspapers. They are written entirely from the Negro's angle, show the trifling nature of the lynched person's offense, call the mob "crackers" and contain similar items that stir race feeling.

¹¹⁶*Journal of the American Institute of Criminal Law and Criminology*, Vol. 12, No. 3, November, 1921, pp. 419-423.

its effect on the parole law could have been only bad. Relating to the same 148 men, another newspaper published an editorial to the effect that those men had been paroled in three weeks; whereas the report simply indicated the total number of paroled men in Chicago on January 1, 1921. The *Institution Quarterly*, which is the mouthpiece of those who have in charge the administration of the parole law, says:

"Such articles, wholly without foundation in fact, must on their face condemn the newspapers that publish them of gross carelessness in gathering their facts."

Such unguarded, erroneous reports as these inevitably lead to erroneous generalizations by the public that most crimes are committed by old offenders under parole; that the parole law is a measure of clemency; that the majority of paroled men violate their parole; and that too great leniency is shown by the parole board in granting paroles. These generalizations, F. E. Lyon¹¹⁷ answers point by point with the statement that statistics will support not a single one. He shows that the great majority of offenses are committed by those never before under sentence, or by old offenders who were either discharged outright or whose parole was long since completed; that under the operation of the parole law the average sentence is one year longer than it was under the definite sentence law; that about fifteen per cent of paroled men commit other offenses, while an additional ten per cent fail to report, or leave the state; and that leniency is shown in the case of first offenders sent to the reformatory on definite sentence, against the intent of the parole law. The clear inference of Lyon is that the periodical recommendations made by grand juries for the repeal of the parole law is the result of these misleading ideas fostered by the press.¹¹⁸

Because they are subject to the same biased, careless treatment, probation, the individualization of punishment, and other measures designed for the rehabilitation of the offender, meet such opposition. Indeed, in the popular mind, which is the reflection of the reportorial mind, probation and parole are synonymous.¹¹⁹ Parmelee expressed doubt as to the feasibility of thoroughgoing individualization of punish-

¹¹⁷*The Truth About the Parole Law in Illinois*, The Am. Journal of Criminal Law and Criminology, Vol. IX, No. 4, p. 484, February, 1919.

¹¹⁸For confirmation of this statement, see *The Journal of the American Institute of Criminal Law and Criminology*, Vol. IX, No. 1, p. 143, May, 1918; *Ibid.* Vol. X, No. 3, pp. 327-340, Nov., 1919, the address of Hugo Pam, President of the Institute; *Criminal Justice in Cleveland*, The Cleveland Foundation, 1922, pp. 548-551.

¹¹⁹*Journal of the American Institute of Criminal Law and Criminology*, Vol. XII, No. 3, Nov., 1921, p. 416.

ment¹²⁰ because of his distrust of public opinion. That his doubt is well-founded was illustrated by the hostile reception accorded the Loeb-Leopold decision by the press of Chicago. Some of the papers (notably *The Chicago Tribune*) insisted editorially, that a murderer then under sentence of death in the county jail should not be hanged because of the patent injustice involved in hanging one murderer and sentencing two others to a term of imprisonment with the possibility, however remote, of their ultimate release.¹²¹ If the attitude of the press toward parole, and toward other devices intended for the rehabilitation of the criminal, be taken as a criterion, we may hope for little assistance from it in reforming the administration of criminal justice. Particularly will this be true so long as many of our newspapers preach in news story and editorial the doctrine of "an eye for an eye and a tooth for a tooth."

D. *Newspapers, Deliberately or Unintentionally, Create Opinions as to Guilt or Innocence, and Thus Defeat or Delay the Administration of Criminal Justice*

Types IA, IB and IIA discussed in Part IV are unquestionably opinion forming elements which make it exceedingly difficult, or impossible, to secure an unbiased jury for the trial of criminal cases. After the jury is empaneled and while the case is in progress, scare heads and news stories freely condemn the prisoner at the bar as guilty in the opinion of some person hiding behind the well-worn phrase "it is alleged," or "it is believed," or even "it is rumored."

Frequently, where evidence is lacking, the newspaper turns its reporters into detectives, apparently for the purpose of assisting the state, but in reality to make a "scoop" which will boost circulation.¹²²

Although activities of this nature, resulting from the intense competition in the newspaper field, are thoroughly honest on the part of most newspapers, others are not so honest. One paper in a great poisoning case in New York went so far as to "pay large sums of money to induce persons to make affidavits incriminating the defendant on trial."¹²³ William P. Lawlor was doubtless thinking of such practices when he wrote, "A law should be passed making it a crime for any newspaper for hire to attempt to corrupt public opinion."¹²⁴ Of

¹²⁰Op. Cit. pp. 395-396.

¹²¹In the case of the first murderer the problem of sanity was not broached. In the case of Loeb-Leopold it constituted the issue.

¹²²*Moral Overstrain*, George W. Alger, Boston and New York, 1906.

¹²³Alger, Op. Cit. pp. 34-35.

¹²⁴*Journal of the American Institute of Criminal Law and Criminology*, Vol. 1, No. 6, March, 1911, p. 891.

course, the honest newspaper would not knowingly engage in any such practice; but when any newspaper yields to the practice of detective journalism it places a burden of temptation on the shoulders of its reporters who are ambitious of securing recognition through "scoops."

M. K. Wischart, surveying the relation of newspapers to criminal justice in Cleveland,¹²⁵ found the following practices in vogue, many of which he illustrated by examples from the Cleveland papers:

"When a suspected person has been caught, the case is given somewhat different treatment by the papers. The arrest is often made the occasion for giving again all the details of the case, adding what the prisoner has to say, what his lawyer and his friends have to say, and sometimes even what private citizens think about the need for speedy trial and punishment. If the case is murder, interviews with friends and relatives of the murdered man may appear, expressing more or less certainty of the guilt of the person under arrest. The arraignment of the prisoner in court, or an intimation from the police that the prisoner has expressed fear of death in the electric chair, may be made the occasion for another complete review of the case. The reporters make frequent visits to the offices of the prosecutors and their assistants. Names of witnesses to appear before the grand jury, or to testify in court, and occasionally advance information of the trial of the prosecution are frequently obtained in this way and immediately appear in print."¹²⁶

He found further that in the progress of the trial newspapers do not as a rule give summaries of evidence and arguments but are quick to seize upon "human interest" material of the most trivial nature, by the exploitation of which they arouse sympathy or hostility for one side or the other. The "atmosphere" thus created, Wischart maintains, "is charged with an emphasis which it is asking too much of human nature to resist."¹²⁷ He found "unwritten law" cases particularly susceptible to such treatment, involving appeals to varied cross currents of passion. He particularly condemned the practice of creating the presumption of guilt by referring to "confessions" before their validity has been established.

We see such practices going on every day, but we do not always follow cases through to ascertain the results of thus "lynching" public opinion. These unethical methods produce either (a) an absolute breakdown in the administration of criminal justice as shown in the discussion of lynching¹²⁸ or (b) they are responsible for delay in the administration of criminal justice arising from (1) delay in empaneling

¹²⁵*Criminal Justice in Cleveland*, The Cleveland Foundation, 1922, Part VII.

¹²⁶P. 531.

¹²⁷P. 536.

¹²⁸Cf. p. 88 ff., *Supra*.

juries, (2) in securing change of venue, and (3) in furnishing a valid excuse for appeal.

Edwin R. Keedy, writing of delay in the selection of juries, says:

"The second great cause of delay in the selection of our juries is the daily newspaper. As soon as a crime has been committed, the newspapers publish extensive accounts, giving facts in detail, rumor as well, and not always making a distinction between them. Not content with this, they often adopt an attitude for or against the prisoner. Opinions as to the guilt or innocence of the accused are thus created in the minds of the readers, which tend to make them unfit for jury service."¹²⁹

J. W. Garner furnishes some interesting statistics with reference to this subject. In the Lee O'Neil Brown case in Chicago, 800 veniremen were summoned in the course of three weeks to complete the panel. In the Gilhooley case, 4,150 veniremen were summoned, the examination entailing four million words of testimony with hotel expenses and fees aggregating \$6,000. In the first trial of Shea, 9,425 veniremen were summoned, and 4,821 were actually examined before the panel was secured at a cost in jury fees alone of more than \$13,000. In San Francisco 91 days were consumed in selecting a jury to try Patrick Calhoun on a charge of bribery. Garner says:

"The chief cause of such delays is the American practice which assumes that one who may have hastily formed an opinion concerning the guilt or innocence of the accused from hearsay evidence or from newspaper report is incapable of rendering an impartial verdict on the basis of the evidence brought out in the course of the trial."¹³⁰

The justification of this practice of excusing veniremen for having formed opinions based on newspaper articles is, of course, a judicial matter. The practice is frowned upon, but it has been widely established as precedent. It is the first step in delay.

The next step is the delay caused by the change of venue, for which the reason commonly given is that the defendant cannot secure a fair and impartial trial on account of prejudice.

"It is a significant fact," writes George W. Alger, "that nearly all applications in New York City for such change in the place of trial have been for many years based mainly upon complaints against the inflammatory zeal of the sensational press."¹³¹

¹²⁹*Proceedings of the Academy of Political Science*, Vol. 1, No. 4, July, 1911, pp. 674-675.

¹³⁰*Journal of the American Institute of Criminal Law and Criminology*, Vol. 1, No. 4, Nov. 1910, pp. 531-535. See also *Ibid.* No. 6, March, 1911, pp. 849-851, and "Needed Reforms in Criminal Law and Procedure," Wm. P. Lawlor, pp. 887-892; *Ibid.* Vol. II, No. 5, Jan., 1912, "Trial by Publication," John H. Wigmore, pp. 668-669; *The Green Bag*, Vol. XVIII, No. 4, April, 1905, pp. 223-226, "Newspapers and the Jury," Clarence B. Smith.

¹³¹*Moral Overstrain*, George W. Alger, Boston and New York, 1906.

Case after case might be cited, showing that the newspaper is responsible for changes of venue, but I shall discuss only one. This is the case of the *People v. Suesser*,¹³² which came before the Supreme Court of California May 9, 1901. Suesser, a confirmed criminal, had killed in cold blood the sheriff of his county who was attempting to arrest him, and the murderer was saved from lynching only with difficulty. Feeling ran high and the defendant was "denounced in the church pulpits and the public press." Sixty-eight jurors were examined, of whom sixty had formed an opinion as to the defendant's guilt. The attorney general said that the opinions formed by the jurors were based on rumor or newspaper reports. The judgment was reversed and the trial court was directed to grant the motion for a change of venue for purposes of a new trial.¹³³

The cases chosen for change of venue illustrate the delay that ensues when a case is appealed on account of newspaper prejudice. The contentions are the same, and the principles on which reversals are ordered are the same. The point with reference to the whole matter of delay is not so much that it is a costly process¹³⁴ as that the delay of justice is tantamount to the denial of justice. Further, delay produces more criminality, causes litigants to lose patience with our system and gives the newspapers additional opportunities to criticize the situation which they thus help to create.¹³⁵

SUMMARY

The foregoing has established clearly the social and anti-social results of the publication of anti-social news. These results have been established in each case by reference to social or anti-social opinion created, or by group action of a decided character resulting from such opinion.

Besides these, certain pernicious practices might be cited, the anti-social results of which are not so clearly shown. The attempt to influence elections by retailing scandalous stories about candidates, is such a practice. For example, the presidential campaign of 1884

¹³²*Pacific Reporter*, 64, pp. 1095 ff.

¹³³See for similar cases, *State of Iowa, appellee, v. F. S. Crafton, appellant*, 89 Iowa, 109; *State of Oregon, respondent, v. Charles Olds, appellant*.

¹³⁴Judge Bruce in *The American Judge* says that the cost of the average criminal appeal is in the neighborhood of \$1500, p. 111.

¹³⁵Additional cases of newspaper litigation from every angle are cited in numbers by Rome G. Brown in "Some Points on the Law of the Press," *The University of Missouri Bulletin*, Vol. 23, No. 15, May, 1922, Schroeder, Op. Cit., Chapter 10, cites cases of appeals handled by state and federal courts. Many of the cases were criminal, and the ground for appeal was newspaper interference.

was a campaign of base insinuations rather than of principles—a campaign in which the private lives of Cleveland and Blaine were aired by opposing newspapers for no other reason than to secure the election.¹³⁶ In fact, the scandalous story is used—and has been used—by partisan papers wherever there is a chance to swing an election by means of its exploitation. But while this practice is unethical, we should have to show that the results of an election thus accomplished were anti-social in order to prove that the practice is anti-social.

Further unethical practices, the results of which are not clearly proven, are charged against the newspaper in its handling of anti-social news. These include the brow-beating of judges¹³⁷ and the exploitation of crime news to accord with the policy of the paper. In the former of these practices the press is represented as holding up a judge to ridicule for his decision in criminal cases or as branding him as a tool of capitalism for his decision in civil cases.

Some newspapers undoubtedly exploit news of crime to support editorial policies. Just how this is done is explained by *The Nation*.¹³⁸ Referring to the labor troubles in Chicago pursuant to the Landis award of 1922, this article points out the fact that until two policemen were murdered on May 9-10, 1922, the chief crimes were laid at the doors of bandits and gunmen. Immediately after the murder a union meeting was raided and 200 indictments ensued, the implication being that the union was guilty. Therefore, the newspapers attributed the principal crimes to a reign of "labor terrorism." In one case an apartment building under course of construction was burned. The newspapers announced in scare heads that the fire was spite work on the part of dissatisfied union labor men who were fighting the Landis award. Subsequently one paper inserted in an inconspicuous place an announcement by the police that boys had set fire to the building which was being constructed by union labor. The 200 indictments also came to naught, a notorious thug, having no connection with labor, being convicted. The article continues:

"There was no conspiracy among Chicago newspapers to inaugurate a reign of 'labor terrorism.' The trouble is that the news service of the average American daily is not directed toward ascertaining facts or recording modern history. Its two great aims are to play up current sensations and to support the editorial policy of its owners. The idea of 'labor ter-

¹³⁶*Recent History of the United States*, Frederic L. Paxson, Houghton, Mifflin, 1921.

¹³⁷See for an example *The Journal of the American Institute of Criminal Law and Criminology*, Vol. IX, No. 2, p. 267, August, 1918.

¹³⁸"Factories of Public Opinion," *The Nation*, Dec. 5, 1923.

rorism' was beautifully in line with both these purposes. It supplied a novel angle for the reporting of crime, and it hinged with the editorial policy of enmity toward unionism."¹³⁹

Such practices as this must result in larger rifts between capital and labor, and in the crystallization of classes into virtual castes.

PART VI

Conclusions

Enough has been said to indicate the possibilities for good or for evil connected with the handling of anti-social news. What are the methods proposed to enhance the good and to minimize the evil?

Many methods which would indirectly help in the solution of the problem have been proposed, among which three are outstanding: namely, the endowed press; the state press; the state licensing of journalists. The first is dismissed by most authorities as too idealistic and the second as too susceptible to the influences of bureaucracy. The third proposal has been defeated in the state legislatures of Illinois, Oklahoma and Connecticut. Its principal effect, if it becomes a reality, will be to raise the ethical standards of journalism by legalizing it as a profession.¹⁴⁰

What will help to get lasting results?

A. More Careful Instructions Relating to the Handling of Anti-Social News

Writers of textbooks on reporting and editing, from years of experience as newspaper men, have undoubtedly given us the office practice of the best newspapers relating to the handling of anti-social news. A cursory examination of some of the better texts will show the necessity of giving more careful attention to the story of crime and scandal than these authorities advise.

One writer, confessing that his equations are rather satirical, gives the following as "some varied examples of news arithmetic:

"1 ordinary man plus 1 ordinary life = 0.

1 ordinary man plus 1 extraordinary adventure = NEWS.

1 ordinary husband plus 1 ordinary wife = 0.

1 husband plus 3 wives = NEWS.

1 bank cashier plus 1 wife plus 7 children = 0.

¹³⁹For further material showing this attitude of unfriendliness toward labor in the matter of reporting crime, see "Injunctions Don't Make Dresses," J. N. Bffel, *The Nation*, May 14, 1924.

¹⁴⁰Admirable discussions of these methods will be found in *The Ethics of Journalism*, N. A. Crawford, 1924; in Ross, Op. Cit. p. 70 Supra; and in Fenton,

- 1 bank cashier minus \$10,000 = NEWS.
- 1 chorus girl plus 1 bank president minus \$100,000 = NEWS.
- 1 man plus 1 auto plus 1 gun plus 1 quart = NEWS.
- 1 man plus 1 wife plus 1 row plus 1 lawsuit = NEWS.
- 1 man plus 1 achievement = NEWS.
- 1 woman plus 1 adventure or achievement = NEWS.
- 1 ordinary man plus 1 ordinary life of 79 years = 0.
- 1 ordinary man plus 1 ordinary life of 100 years = NEWS."¹⁴¹

It is a significant fact that of the nine items here labeled *news* five represent news of scandal or crime. Although this list is by no means complete it serves to indicate the preponderance of notice given to anti-social news by a great copyreader.

Bleyer¹⁴² stresses the importance of giving motives for crime and clues as to the identity or whereabouts of perpetrators. He says further:

"Ingenious methods used to gain entrance to places robbed make interesting features. In defalcation or fraud, peculiar means of deception employed may be 'played up.' The 'human interest' in the accused or the victim must not be overlooked in crime stories. When either individual is well known, his name is the important 'feature.'"¹⁴³

Harrington and Frankenberg¹⁴⁴ while insisting that suicide should be handled "constructively and with repression," say:

"For instance, if his (the reporter's) investigations show that wood alcohol and rough on rats are being used for suicidal purposes, he should see that these facts are brought prominently into the story; if he discovers that lack of employment, meager wages, loneliness, desertion of friends, half-balanced mentality, criminal tendencies, are responsible for suicide, he should bring out these fundamental causes so that some remedy may be applied to prevent recurrences of such things in the future."¹⁴⁵

Further,

"Adhering always to the facts it is obviously printable news that Chief X is of the opinion that the crime was committed by such an individual, although as a matter of truth Chief X may be all wrong in his conclusions. The Chief, however, is an officer of the law, appointed for the purpose of having theories in just such cases, and if he is willing to divulge his opinions they become pertinent because advanced by him" and, again, "he (the reporter) will not fail to assemble his own facts and make his own theories."¹⁴⁶

¹⁴¹P. 16, *Editing the Day's News*, Bastian, George C., New York, 1923. Capitals are the author's.

¹⁴²*Newspaper Writing and Editing*, Bleyer, Willard G., 1913.

¹⁴³Pp. 110-111.

¹⁴⁴*Essentials in Journalism*, H. F. Harrington and T. T. Frankenberg, 1924.

¹⁴⁵P. 163-165.

¹⁴⁶P. 167.

Criminologists and psychologists would answer these directions point by point. Ferri and Healy, for example, would say that careful reports of methods employed by robbers and swindlers would be admirable laboratory manuals for other robbers and swindlers. Aschaffenburg would likewise hold that featuring the human interest in the more or less drab criminal is a fair way to cause potential criminals to itch for the limelight. They would all say, moreover, that by telling the would-be suicide how another destroyed himself and why, newspapers have given all but the dosage of poisons and suggested to him that he is in exactly the same predicament from which the actual suicide removed himself. They would object to the reporter's advancing theories of criminality and particularly to his giving expression before trial to anyone's views as to the guilt or innocence of an accused person, such practices being nothing more nor less than trial by newspaper.

B. Codes of Ethics Should Be Enforced

Codes of ethics for newspapers adopted by state and national organizations, may do—undoubtedly have done—much to purge newspaper columns of objectionable matter. The code adopted by the American Society of Newspaper Editors in 1923¹⁴⁷ insists on sincerity, accuracy, truthfulness, impartiality, fair play and decency in news reports. The Kansas Editorial Association adopted in 1918 one of the earliest codes ever adopted by an association of journalists. It condemns lies, injustice, indecencies of every kind in news reports. Other local and state organizations have adopted similar codes, and individual papers have adopted their own codes.

Of course, the code operates only by moral restraint. Since the newspaper man is not licensed, he is not subject to loss of license; hence he may violate the code of ethics with impunity. But the code is beneficial, in that it teaches the unexperienced or careless editor that there are dangerous factors connected with the handling of anti-social news. Moreover, the fact that such codes are adopted, and from time to time amended, indicates that the editors of the country are open-minded with regard to reform. These editors can make their codes more than mere "scraps of paper" by withdrawing association privileges from those who habitually violate the codes of the association, and by giving the offenders the cure of publicity.

C. The Editor Should Know the Social and Anti-Social Significance of News

The chief trouble with the code of ethics is that, in the case of too many honest editors, it is simply a "scrap of paper" when a

¹⁴⁷Cf. Crawford, *Op. Cit.* pp. 183 ff.

"scoop" or a big story appears that will sell the paper. Particularly is this true when the editor does not recognize the dangerous elements that may lurk in the piece of anti-social news which tempts him. At such a time there is needed at the copy desk, or in the editorial chair, a man who is trained in at least the rudiments of criminology. In the large news distributing agencies and on the larger metropolitan dailies, all stories of crime and scandal should pass over the desk of a criminological expert before being distributed or printed.

His duty would be to weigh carefully each piece of anti-social news presented, to accept those stories which gave promise of social results, to reject those which were definitely anti-social in presentation, or to modify them in such a way as to remove the offending elements. He would have complete charge of the crime policy of the organization or paper. In the latter case he would specify the position a piece of crime news should occupy, the space to be given it and the typographical presentation. Editorials, letters, book reviews, "love problems"—in fact, all copy containing anti-social matter, would be subject to his scrutiny before presentation. He would not necessarily eliminate scandalous or criminal matter; he would treat it in such a way as to remove its insidious effects, in this way turning a social poison into a social laxative.

To the end that reporters and editors of the future may be properly trained, schools of journalism should require the same training in criminology as that proposed for, and required by, reputable law schools. That a lawyer should be trained in criminology is beyond dispute, for he is preparing himself to deal with crime in its relation to the individual. The journalist, who is to be responsible for the presentation of anti-social facts to society should have even a better training in the subject. His work affects society as a whole.

D. *Court News Requires Special Treatment*

Court news will require special treatment at the hands of the editor whose special duty it is to edit anti-social news. As a layman, I can offer no better suggestions for improvement than those which have been offered by lawyers and others who have studied this problem.

J. W. Garner, writing of this subject, says:

"Mr. Untermeyer suggests the enactment of laws similar to those in England, prohibiting newspapers from publishing anything concerning a case in court other than a *verbatim* report of the proceedings in open court; prohibiting newspapers from commenting, either editorially or otherwise, upon the evidence until after final judgment, and forbidding

under penalty of removal and fine, any prosecuting officer from expressing or suggesting for publication an opinion as to the guilt or innocence of an accused person, or from disclosing the proceedings of a grand jury, or from publishing any evidence in his possession bearing upon any case which he is prosecuting."¹⁴⁸

Nathan W. MacChesney, speaking before the American Academy of Political and Social Science, advocated the following principles:

"Press comments should be stringently limited to (a) actual report of the proceedings (b) without comment editorially or otherwise (c) and without comment from the state's or district attorney."¹⁴⁹

On the other hand, the *Cleveland Survey* expressed the belief that "Newspapers cannot be coerced by legislation or by structural reform," and that improvement must come through voluntary acceptance and enforcement of standards of public duty in the presentation of anti-social news. The standards recommended are worth quoting as one of the outstanding results of the work of the Survey. They were:

"1. Adherence to a rule that newspapers are to have no direct participation in the administration of criminal justice.

"2. Formulation by the newspapers, in consultation with representatives of the police, prosecution, and courts, of rules of practice governing the publication of evidence before its actual use in public trials, so as to avoid possible embarrassment to the official detection of crime or to the impartial processes of law in the trial of cases.

"3. Increased effort to make 'stories' of criminal trials sober and informative reports of the course of a trial, giving a fair perspective, however brief, of the entire evidence presented in court.

"4. Recognition of the fact, as the guiding consideration of newspaper practice toward treatment of 'crime' matters, that the administration of criminal justice is most potently influenced by 'public opinion,' and that the quality and effectiveness of public opinion in its turn largely depends on the quality of the daily news column."¹⁵⁰

Somewhere between the recommendations of the lawyers and those of the survey, the true course must lie. I believe that the pilot will be the criminal news expert, whom I suggest.

SOCIAL SANITATION

Crime is the great sewer of society. Now sewage can be so treated—not, indeed, by ignoring it—that by subtle chemical action its

¹⁴⁸*Journal of American Institute of Criminal Law and Criminology*, Vol. 1, No. 6, March, 1911, p. 850. The comment related to an address of Mr. Samuel Untermyer before the American Academy of Political and Social Science at Philadelphia.

¹⁴⁹*Proceedings of the American Academy of Political Science*, Vol. 1, No. 4, July, 1911, p. 738.

¹⁵⁰*Criminal Justice in Cleveland*, p. 527.

own bacteria destroy each other. But it took years of misery, scores of plagues, and countless lives to point the way to scientific sanitation which came from the labors of bacteriologists. They did not treat sewage by uncovering it, by shouting its stench and terrors to the world, by probing into it, by advertising it in lurid, sensational form. They confined it in its proper place, put in the proper mixtures of beneficent ingredients and thus secured the hygienic results for which they labored.

May we not ask our great newspapers to study this problem of social sanitation with the same thoroughness manifested by the bacteriologists? Will they not be able to see that the social bacteria of crime news when released among the diverse elements of our population before being purged of their deleterious qualities, is the moral equivalent of the open sewer? Finally, will they not admit that it is folly to depend on the unskilled mind for direction, while the process of pollution is allowed to go on?

When they do realize these things, then we may trust their patriotism to replace the sensational reporter and the sensational editor with reporters and editors who are willing to forego "scoops" for the public good; who will weigh and treat carefully each piece of scandal and crime instead of throwing it raw to the masses; who will gradually build up public morals and stimulate public interest by stressing, not the destructive, anti-social, but the constructive social elements in our civilization.

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