

Winter 1928

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Recommended Citation

E. R. Cass, National Crime Commission Conference, 18 Am. Inst. Crim. L. & Criminology 497 (1927-1928)

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NATIONAL CRIME COMMISSION CONFERENCE¹

E. R. CASS²

Crime, from whatever standpoint it is considered, is seen to transcend in importance most of the other great problems of the day. It is a more complex phenomenon than is generally supposed, and is a constant source of degradation of public and private morality.

The citizens of many states have been aroused because of crime, more particularly spectacular crime, and the many statements, some accurate, and too many inaccurate, relative to it and the treatment of the criminal. Attempts to determine the exact crime situation and its causes bring forth marked differences of opinion. Many reforms are proposed, and cover the entire range of administrative activities from the police to the final Court of Appeals, and even the conduct of governors in criminal matters. Each separate official agency dealing with crime defends its methods and attempts to place the responsibility elsewhere. In the meantime the public mind is left in a state of confusion and alarm.

Early in November a conference on crime was held in Washington, D. C., under the auspices of the National Crime Commission. This gathering, in accordance with its purpose, served well to inform many persons and organizations of the existence of others in the fight on crime, and of their viewpoints, accomplishments, problems, objectives, and methods.

The report of the National Crime Commission, available at the conference, stated that the Commission came into existence to take advantage of the temporary awakening of popular alarm to secure the establishment of state and city bodies, composed of qualified and conservative men, to go over the weak spots in the judicial armor of the different states, and obtain a legislative enactment of statutes which would remain after the crime excitement itself had subsided. Further, that, although only a year had passed since the Commission had announced its determination to encourage the establishment of local bodies, and while at that time there were practically only three such bodies existing, there were represented at the conference twenty-six commissions, and over fifty additional important organizations, which have taken up seriously the question of crime reduction. Of course

¹Held in Washington Nov. 2 and 3, 1927.

²President of the American Prison Association.

it should be remembered that, particularly in the latter group of organizations, many had been engaged in the work of crime prevention for years.

An index to widespread public concern, in the report, is the statement, prepared from legislative records in forty-two states, showing that there were 2,261 amendments to the penal codes introduced, 587 of which were passed and less than 20 vetoed by the governors. While there is not available at this time an analysis of the character of the legislation enacted it can be said with certainty that much of it is punitive. It is frequently referred to as an effort to put "teeth into the law," represents only one side of preventive effort, and too often neglects a consideration and study of the more deep rooted reasons for the existence of crime.

The opening session of the conference was devoted to a brief statement of the work and plans of state and city crime commissions and crime committees. These reports were made with considerable enthusiasm and satisfaction, and practically all sounded alarm. The word "vigilante" was revived in the report of a representative of the American Bankers' Association. The vigilantes are present today in the middle and far West, principally for the purpose of warding off attacks on banks. In Ohio it seems that the organization of vigilantes aims to educate, awaken, and inspire communities to stricter enforcement of law, but close examination of its report indicates again that the effort is wholly in the direction of punitive methods and the strengthening of the existing crime machinery. It may be that citizens of the middle and far West feel that they have no local crime problem other than that caused by the invasion of those from other parts of the country, and therefore need not give any attention to preventive effort through a study of life within their own communities.

A further analysis of the statements made by the various groups reporting at the first session will show that, in addition to increasing penalties and tightening up generally the criminal court procedure, they express a tendency to discard some relatively new methods, namely, probation, the indeterminate sentence and parole. These systems were frequently advanced as the "cause-all" of the crime situation. Practically nothing was said that would indicate that these systems possess considerable merit, and that, with few exceptions, they had not received a thorough and wholesome opportunity for the demonstration of their maximum benefits, and that, after all, while sound in theory they were weak in administration.

Unfortunately, the trend in this connection was therefore the elimination of these systems rather than a strengthening of their administration. A return to good, old-fashioned, hard justice was something of a keynote. Lost sight of was the fact that this much beloved type of crime treatment had been tried for decades previously and found wanting. Moderation was lacking in most of the reports of the various crime bodies, and it was evident that those interested in the various movements saw only a part of the whole picture of crime. One exception, possibly, was that of the report of the New York State Crime Commission, ably presented by its Vice-Chairman, Hon. Burton D. Esmond. Analysis of the report shows that that body is striving to see the crime problem in its broadest aspects, and while appreciating the need of improving court procedure and strengthening the administration of probation and parole, has, at the same time attempted to learn something of the conditions that bring young boys and girls, men and women, into conflict with the law. The members of the Commission deserve to be commended, and their efforts should serve as a beacon light of intelligent procedure and well rounded effort for other crime studying bodies.

At the luncheon meeting a more sober and better balanced approach was made to the crime situation, and one of the fundamental weaknesses of the whole situation in respect to the measuring of the extent of crime, was emphasized through a plea for the setting up of necessary machinery and standards for the gathering of criminal statistics. The lack of uniform and reliable criminal statistics in the United States is the cause of confusion and regret, and is responsible for ridicule from workers in foreign countries. It is a condition that has been noted and complained of for decades. One can easily obtain from the Home Office in London complete and reliable statistical and other information relative to crime in England. That is impossible in the United States because each state keeps records in its own way. Professor Raymond Moley of Columbia University, one of the speakers, summarized the needs as follows:

We want to know more than we now know concerning the number of crimes that are reported to public authorities in this country. That is the measure of crime. We want to know what happens to those who are arrested. We want to know what happens to these cases that are thus initiated. We want to know how many drop out in preliminary hearings. We want to know how many drop out in the next stage. Then after we know these few simple facts, we want to cross-reference them and correlate them in order to determine, so far as possible, what degree of efficiency our agencies for the prosecution of criminals are attaining. We

want to know more about our prisoners. We want to know more about the operation of parole. We want to know more about the operation of probation. We can not just thoughtlessly discredit these new agencies for correction. We must know more about what they have done.

Important also were the remarks of Mr. William M. Steuart, Director of the Bureau of Census, Washington, D. C.

We have been so absorbed in collecting data that will assist us in our industrial, business, and financial advancement that I am afraid we have neglected the more fundamental questions involved in social improvement. To assemble such information does not in any degree encroach upon State rights and privileges. During the last thirty years the Bureau of Census has been engaged in persuading State governments to adopt uniform laws providing for the proper registration of the number of births and the number and causes of deaths, establishing what is known as a registration area. It is to be regretted that, notwithstanding our persistent efforts in this direction, and the expenditure annually of considerable sums, there are still eight States without proper birth registration and six States without proper death registration.

The afternoon session was devoted principally to discussion of the receiver of stolen goods, commonly referred to as the "fence." Hon. Joab H. Banton, District Attorney of New York County, said "in discussing crime, we should focus our attention on two of the most vicious enemies of society. The one is that person who corrupts the useful employee and entices him to steal, and the other is that person who receives the proceeds of larcenies." His feeling is that if we did not have these two classes of criminals, crime would be reduced to a minimum, because no one will steal merchandise, or any article other than money, unless he has a market for the article which he steals.

Mr. Banton explained the difficulty in New York State in prosecuting the "fence." He characterized that type of criminal as a shrewd and businesslike man who protects himself against all the efforts of the law to reach him. "His favorite protection is a statute that was passed in New York in 1888, which has been copied in a great many states, and which is known as the 'Accomplice Rule' or 'Accomplice Statute,' and provides that a person accused of crime cannot be convicted upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the crime. The common law did not know any such rule, nor does federal procedure. It was written in with perfectly good intention on the part of those who adopted it, but it has been misused."

Mr. Banton stated further that in his opinion "the best way to reach the situation, as far as legislation is concerned, is just to repeal that statute and revert to the common law rule, by which the young person who has committed a crime, either at the instigation of a Fagin, or who commits a crime knowing that he can market his product to the 'fence,' and becomes conscience stricken, as they do very often, and tells the prosecutor the truth, can be used by the prosecutor to convict the real criminal." Mr. Banton feels that in many theft cases the law catches only the little criminal, because the big criminal is always hiding behind some fine point of the law.

Mr. Charles H. Tuttle, U. S. Attorney for the Southern District of New York, very carefully made the point that "the 'fence' evil is not confined by State lines. It is one of the chief causes of all organized crime in this country." Mr. Tuttle's conclusion is "that the power which Congress has to regulate interstate commerce and free it from all things and practices injurious to good morals, furnishes the most comprehensive and dependable weapon for warfare upon the nation-wide organization of criminal receivers of stolen goods, and that because of the absence of any arbitrary requirements of corroboration, prosecutions in the Federal courts are sure to be more effective and productive of just results than prosecutions in state courts where such arbitrary restriction prevails."

The evening session of the first day was devoted to the long perplexing problem of prison labor. Mr. Sam Lewisohn of New York, Chairman of the meeting, in his introductory remarks, made one of his strong points in stating that practically all penologists are agreed that the first principle of prison reform is to keep the prisoners busy at some useful work, and that the abolition of idleness, only too prevalent in the penal institutions of the United States, is therefore one of the major problems of prison reform.

Mr. E. R. Cass of New York spoke on the prison labor problem generally. He emphasized that imprisonment at hard labor is still the sentence specified in most of our criminal codes as the legal punishment for felons, but that too often the judge's reference to this in sentencing a prisoner is a mere formality. Attention was directed to the prevalence of idleness or inadequate employment and its many attendant evils. Also that this condition, altogether too general, defeats any earnest effort to bring about the rehabilitation and reformation of the prisoner, and reacts ultimately to the injury of society.

The various systems of prison labor were outlined by Mr. Cass, the monetary value of their products, and the extent to which they

are used; also the extent to which they compete with free labor. The question of competition was dealt with, and the point made that no work could be found that would not compete with free labor to some extent. The weakness of the State-Use system, and the system of giving prisoners industrial training, was pointed out, but, at the same time, both systems were favored, and it was urged that there be set up some kind of machinery to study the individual with a view to determining his needs and the kind of treatment which will reasonably tend to satisfy those needs. It was shown that there does not exist any system of convict labor which is wholly satisfactory, and on this basis a plea was made for a more patient, tolerant and understanding effort on the part of all the interests concerned, and it was urged that they keep in mind always that it is a public problem that needs to be solved, and not the problem of one person or any particular group.

The attitude of the manufacturers was presented by Mr. A. F. Allison, Executive Secretary of the International Association of Garment Workers, who, at some length, pointed to existing abuses, unfair practices, and various antagonisms, all of which, he contended, work an injustice to the manufacturer.

The attitude of organized labor was voiced by Mr. Edward F. McGrady, legislative representative of the American Federation of Labor. He stated:

The American Federation of Labor is interested in trying to reclaim these people. It can only be done by the prisoner receiving the proper training while in prison to enable him to get a new start upon his release. It is impossible to give these men and women a new start when prisoners are kept working upon a machine doing the same thing continuously. For instance, a young man may be kept making buttonholes for garments. Where will this young man fit upon his release? We believe that the state, instead of thinking of turning out quantity prison products, should be thinking more of turning out rehabilitated young men and women who will become useful citizens to the state and nation. There should be diversified industries in the prisons, and young men and women should be given work in those trades that they are best qualified to become proficient in.

In conclusion, we want you to know that the American Federation of Labor will continue its activities, not only in trying to prevent crime, but also to train the prisoner so that he may become a decent self-supporting citizen, and we are willing at all times to cooperate with all bodies that are interested in these two projects. We favor the State-Use system as against the systems of States'-Use, Public Account, Piece Price, and Lease. We will continue at all times, everywhere, to oppose the vicious, inhuman, and un-American institution known as contract labor.

Major LeRoy Hodges of the Virginia State Chamber of Commerce, presented the plan of States'-Use, which differs from State-Use only in that articles made in the prisons of one state may be sold to public institutions in other states. From his remarks it was evident that he felt that competition would be minimized to the extent of becoming a negligible factor, the training of prisoners would be practicable, there would be a more equitable distribution of prison products, and idleness would be practically eliminated, if the States'-Use plan were put into operation.

However, it should be noted that there are numerous difficulties in connection with Major Hodges' proposal, the chief one being that it is to be operated by a private corporation. In other words, a private corporation is to be set up to do business for the States of the Union, and on a commission basis. The certainty of market, the cost of machinery, and all other risks which should be of considerable concern to the taxpayers of the various states, are not included as a part of the responsibility of the private corporation desiring to conduct the business of regulating prison industries and selling the products.

The consensus of the discussion on prison labor was that the problem is an exceedingly important one, and that the most acceptable system of prison labor is State-Use, that is, each state to manufacture in accordance with the needs of its public institutions. The contract system, although improved in recent years, was regarded as undesirable and a system that should not be encouraged, in that while it provided employment, it, at the same time, embodied an exceedingly objectionable element, to wit, exploitation of prison labor for private gain.

The second day of the conference opened with a morning session devoted to the subject of Pardon and Parole. The first speaker was Hon. William Howard Taft, Chief Justice of the Supreme Court of the United States, who said:

Without examining closely the statutes proposed and partly carried through by Senator Baumes and his associates, it seems to me that they indicate that the forgotten man, the victim of the murderer and the robber and the criminal, as well as society at large, is being remembered in the new legislation in New York. We are all in favor, of course, of measures which will induce criminals to become law-abiding citizens, but we must never forget that the chief and first object of prosecution of crime is its deterrent effect upon future would-be criminals in the protection of society. We must not allow our interest in criminals to go to the point of making effective prosecution of crime and its punishment subordinate to schemes for reform of criminals, however admirable they may be.

Our system of criminal prosecution suffers, because we have not throughout the States an adequate police force that can apprehend criminals and bring them to justice. We need more policemen in most cities and we need more constables in the rural regions of the States. We need legislation to secure prompter information or indictment and prompter trial. We need legislation to reduce as much as possible the opportunities of counsel for convicted men to delay a review and final disposition of the cases. We need legislation that shall render impossible new trials except for real injustice in a trial.

We need legislation to enlarge the power of the judges to guide the trial and to help the jury in understanding the evidence and in reaching its conclusions upon the evidence. This means that the law should not prevent the charge of the court from being enlightening and clarifying. It should obviate the camouflage that is so often created in a court room by the skill and histrionic ability of the counsel. We must trust somebody in the supervision of the trial and that somebody must be and should be the judge. The procedure and rules of evidence should not be such that the lawyers can weave a web to trip the trial judge, which an upper court by reason of technical rules would have to set aside. Neither the English judges nor the judges of the Federal court are restricted in the aid which they can give the jury to enable it to understand the real issues and to weigh evidence intelligently. But judges are more restricted in other courts. The truth is that the American people in many States have distrusted the judges and preferred to let the juries wander about through a wilderness of evidence without judicial suggestion or guide and often to become subject to an unfair and perverted presentation by counsel of the evidence, leading to a defeat of justice.

The chance of conviction of innocent persons by a jury of twelve men, of course, by judicial conduct and tyranny must be minimized by fair review on appeal. But the danger is not sufficiently great to require that the reins should be thrown on the back of the jurors to follow their own sweet will in their conclusions. They constitute the tribunal to pass on the facts and they are the ultimate judge of the facts. But the judge is there, and it should be his sworn duty with his experience to help the jury to consider and analyze the evidence and weigh it with common sense.

There will have to be a further examination of the methods by which jurors are selected. The method of selection ought not to be such that counsel for the defendants by exclusion of worthy citizens from the panel can choose jurors of weak intelligence, of little experience, and subject to emotions easily aroused. Exemptions from jury service ought to be cut down and society ought to be able to secure a jury that approaches the issues with a sense of its obligation to enforce the law without fear or favor and with intelligence enough to learn from the judge what the law is and to weigh the evidence with reference to its violation. It is not an easy reform, but I am very confident that with the people aroused as they are on this subject and with their energy and attention and criticism directed to the legislatures such progress can be made.

The probation system was outlined and defended by Mr. Herbert C. Parsons of the Massachusetts Probation Commission, and Mr.

Charles L. Chute of the National Probation Association. In substance their contentions were very similar, both arguing that probation was sound in theory, was a progressive method that had proved beneficial wherever it was given a chance, and that it had suffered, like parole, mostly through a public misunderstanding of its purposes, the lack of public funds, and poor administration.

The subject of parole was treated by Dr. Clair Wilcox, Assistant Professor of Economics at Swarthmore College, who, in his opening remarks, stated:

There are those who say that parole is very good. There are others who say that parole is very bad. It seems to me that both groups are right, for they are talking about two very different things. Those who say that parole is good are right, because they are talking about the principle of parole as an ideal method of releasing prisoners. Good parole, it is true, is the best method of release that has yet been devised. But those who say that parole is bad are right, too, because they are talking about the present administration of parole, and that administration, as most of us know, is, by and large, nothing to boast about. If the critics of faulty parole administration would but make this simple distinction between the parole principle, on the one hand, and present parole practice, on the other, we should all be spared a great deal of confusion.

Dr. Wilcox is to be commended on this very sensible and clarifying statement. His survey of the parole situation for the State of Pennsylvania, and other states, as set forth in Part II of the report of the Pennsylvania State Parole Commission to the 1927 Legislature of that state, qualifies him to speak. His plea for good parole work as a means of releasing prisoners, and as a system designed for public good and protection, is worthy of high praise.

Also at this session, Professor E. H. Sutherland of the University of Minnesota, made an excellent address on "Social Aspects of Crime." It is to be regretted that a crowded program did not allow for a more favorable opportunity for the presentation of the fine thought embodied in his address. The following is noteworthy:

Four methods are being used in the effort to increase the certainty of our knowledge regarding the causes of crime. The first of these is the use of such general statistics as we have and the further development of these general statistics. It is evident that such statistics are not at all adequate at present. It is perhaps not so generally recognized that we could not learn very much from them regarding specific causal processes even if the statistics should become as complete and satisfactory as the statistics of some of the European countries. A second method is the intensive study of individuals by psychiatrists, probation officers, sociologists, prison authorities, child guidance clinics and others. A third method is the intensive study of small culture areas in cities or country. A fourth.

method is the observation of results of policies which are used. Child guidance clinics and similar organizations try various policies, one after another, on the same child. Finally one policy succeeds. This throws light on the nature of the difficulty and is somewhat like an experimental method. In addition, a great deal of information is being secured from the general studies by psychologists, psychiatrists, sociologists and others who are interested in behavior in general rather than in criminality.

These studies reveal certain facts and generalizations, of which a few will be submitted.

1. The real problem of crime is not principally robbery, burglary and murder. These three offenses constitute about one or two per cent of the arrests, 3 or 4 per cent of the convictions in courts, and 5 per cent of the commitments to jails, prisons and reformatories. Burglary and robbery, and to a very slight extent, murder, are crimes of professionals who have developed to that stage through a series of minor offenses. If they had been dealt with properly in the earlier stages the later crimes would not have been committed. Burglars and robbers of 1937 are now stealing from fruit stands and breaking window panes. Furthermore, it is not likely that these three offenses combined do as much injury to the welfare of the country as do all other offenses combined, and many other offenses taken singly, may cause more injury than any one of these three. The amount of money lost in fraudulent investment is probably much larger than the amount of money lost in burglary or robbery. It is not at all unlikely that the injury to the welfare of the country by violations of child labor laws as they now exist is greater than the injury from burglary. The number of deaths resulting from carelessness in driving automobiles is greater than the number of lives lost by felonious homicides.

2. Modern criminality has not been proved to be a youth movement to an unusual degree, though many people assert very dogmatically that the average age of criminals has been reduced very greatly and that "youth has gone crazy." There is no good test of this statement. Statistics of imprisonment show little difference in average ages or in the distribution of ages, but statistics of imprisonment are not a good criterion for this purpose, because of the differential development of alternative policies such as probation. For offenses of all kinds young persons are arrested less frequently now in comparison with persons of older ages than a generation ago. For instance, in Chicago, in 1900, nineteen per cent of the persons arrested were twenty years of age or under, in 1925 only six per cent. Statistics are not available to determine whether there has been a significant change in proportions of youth arrested for serious offenses. But it is well known that serious crimes which require agility have always been committed principally by young adults. Alexander Smith found this to be true in England two centuries ago. In his history of notorious robbers in England he gives biographies of fifty-two robbers who were hanged in England during the decade from 1710 to 1719; of those the average age was twenty-six, and thirty per cent were twenty-two years of age or younger. This evidence does not justify a statement that youth are relatively less criminal; it does justify a statement that it has not been proved

that they are more criminal now in comparison with later ages than they were a generation ago.

3. These studies show that no one thing taken by itself is very important as a cause of crime. Mentality, economic conditions, nativity, heredity, and other things have been claimed by various investigators to be *the* important cause of crime, but further investigation reduces the significance of every such factor, when considered by itself. The most serious claimant for this position in earlier decades was the economic factor. But recent attempts to find a correlation between business cycles and rates of criminality have been chiefly negative. Other people who insisted on having one simple factor as an explanation of crime then turned to feeble-mindedness as an explanation, and they showed by mental tests that criminals had several times as large a proportion of persons of low mentality as the law abiding public. Further investigations showed, however, that they had overestimated the average intelligence of the general public; when they placed the rest of us on the lower level where we belonged, according to these tests, they found very little difference between criminals and non-criminals. Similarly for each other particular factor it could be shown that the criminal population and the law-abiding population are not significantly different. The two things that do stand out as most significantly different are sex and broken homes. From eight to ten times as many males as females are arrested, convicted and sentenced to prisons. But males are killed by lightning about five times as frequently as females. Both the rates of arrest and the frequency of death by lightning appear to be, not expression of sex as such, but the result of manner of life, occupation, and other social and cultural relations. Delinquents in juvenile courts come from homes that have been broken by death, divorce, desertion, or other thing in about fifty per cent of the cases, which is about twice as frequently as broken homes are found among ordinary school children. But this, also, is a complicated situation, and the delinquency may be the result of the things which caused the home to be broken rather than of the break in the home, as such.

4. These studies show that crime is always due to multiple factors, and that any trait of the person, whether it is good or bad, and any condition of the environment, whether it is good or bad, may enter into the total set of factors which is instrumental in producing the crime. In one situation selfishness may be the significant motive in crime, while in another situation altruism may be the significant motive. In one situation a feeble-minded person may become delinquent while in another situation the feeble-minded person may be less likely to become a criminal than the person of normal intelligence. Wealth, or the lack of wealth, stability of emotions, or the lack of stability of emotions, physical agility or the lack of physical agility, a wart on the nose or the absence of such distinguishing mark, parental solicitude or the lack of parental solicitude, religious training or the absence of religious training, may be conducive in particular situations to the development of criminalistic behavior. Probably, when the traits and conditions are what are popularly regarded as normal or good the individual does not so frequently meet with conflict and isolation, and his tendencies toward criminality do not become so definitely integrated

into the rest of the personality. When they do become so integrated it is likely to be by the relatively rapid piling up or accumulation of tendencies and conditions which become integrated into a somewhat consistent and unified type of behavior by the resistance of others. This often occurs at the time of adolescence. But this period, whether early or late in life, may be regarded as constituting a zone of criminalistic integration.

If crime is this accumulation and integration of cultural traits it is clearly impossible to inherit criminality as a specific thing. One may inherit capacities and perhaps slight tendencies. But these capacities and tendencies are always necessarily conditioned in a process of social interaction. It would be impossible to inherit criminality as a specific thing if for no other reason, because behavior is a crime only when so defined by the group. Even if an irresistible impulse could be inherited by an individual and its expression were defined as crime in the parental generation, its appearance in the filial generation would not need to be regarded as a crime. Furthermore, it is not the fact of the impulse but the manner of its expression, which determines its criminalistic nature. A sex impulse or "acquisitive instinct" may be expressed either in a legal manner or in an illegal manner, and manner of expression is not inherited. Italian male immigrants in Massachusetts are committed to prison for murder six times as frequently in proportion to population as the old American stock. Many people think this is because Italians inherit a hot temper. But the second generation of Italians are committed to prison for murder in that state no more frequently than the old American stock. In one generation the hot temperature of the Italian cools off in the culture of Massachusetts and the behavior becomes similar to that of the native born of native parents. In this accumulation of culture in the person which is always characteristic of criminality it is not the gross external differences such as place of birth, amount of wealth, age or sex, which are significant; the processes are much more subtle and complicated.

5. Similarly in the community criminality represents a type of culture and flourishes most in certain zones in which influences work consistently. This may be called in a particular city, the zone of criminality integration. It is generally just outside of the central business district; there is found a distinctive type of family life, many divorces and desertions, infrequency of home ownership, many "charity cases," many delinquent boys' gangs, relative infrequency of constructive influences, and a general atmosphere of criminality. The character of the district is determined partly by selective migration, partly by the fact of great mobility in the district, partly by the influence of the culture upon those individuals who come into it. This zone has been studied somewhat intensively in several cities and appears to have characteristic traits. The Department of Sociology of the University of Chicago has made excellent studies of such districts in Chicago. They have found that along most of the important radial streets the amount of boy delinquency, measured by frequency of juvenile court cases per 1,000 boys in tracts one mile square is about one hundred times as great in the zone immediately surrounding the central business area as in zones six or eight miles distant from the central business area. It is true that boys in outlying tracts are less likely to be taken to court for offenses equally seri-

ous than the boys in the tracts close in. Perhaps it is the very fact of conflict which is thus expressed that makes the difference. But the delinquency much more frequently becomes integrated and organized as a behavior pattern which is consistently and persistently followed in the tract close in. Consequently this may be called the zone of criminality integration in the community, both in the sense that the influences there surrounding the children are more consistently organized with reference to crime and delinquency, and that the children in greater numbers follow the occasional delinquent tendencies until these become organized and integrated into character.

The afternoon session of the second day was devoted to a consideration of the following subject, "The Substitution of Scientific Mental Examination of Prisoners for the Present System of Paid Expert Medical Testimony." The author of the Massachusetts law, Dr. L. Vernon Briggs of Boston, explained to the conference the conditions and events leading to the passage of the law, and the way in which it now operates.

Before this law was passed the procedure employed in ascertaining the mental responsibility of persons accused of crime was almost inconceivably futile, cruel and wasteful. Hardly a day passed and certainly never a week without the spectacle in some one of our courts, of two or more physicians, possibly graduates of the same medical school and belonging to the same scientific and medical societies, pitted against each other, testifying to diametrically opposite opinions as to the mental condition and responsibility of the person in question.

The press seized upon this condition of affairs to subject the psychiatric specialist to ridicule. A jury, often with some members of very low mental calibre, sat as judges to decide complicated medical questions, frequently involving the life of a human being. Often the conflicting testimony of two eminent psychiatrists so confused the jury that they threw out all the medical evidence. Seldom did they get an unbiased scientific opinion, for no sooner had one side employed an expert in mental disease than the other invariably engaged another scientist, of whom there were plenty to be found who could be employed to offset their rival's testimony.

For years it had been the desire of the medical men in our State to remove from their profession the stigma occasioned by the acts of these few men—for my criticism of expert testimony does not apply to the great majority of physicians who refuse to be employed in any case where they are not permitted to express their honest scientific opinion. As expert for many years on important murder and will cases in our courts I had seen the expense to which the State was being put for the employment of alienists, as well as the expense to the family of the accused, which frequently they could ill afford, and in murder trials the expense of the whole trial often amounted to as much as \$20,000 to \$30,000, which I believed could be saved if a proper law were enacted.

Then, to me as to many others, the humanitarian aspect was really the most important factor, especially when the accused was mentally distraught

and was obliged to listen to the testimony of the experts concerning delusions, hallucinations, etc., day after day, before it was decided by a jury of laymen whether he was mentally ill or not. On the one hand, the contentious method which has been used in the past in Massachusetts and is today being utilized in other jurisdictions, opened the door to the possible execution of mentally ill persons and made it equally easy for persons acquitted because of "insanity" to be shortly thereafter returned to society although dangerous.

Dr. Frankwood E. Williams, Medical Director of the National Committee for Mental Hygiene, New York, expressed his views in the following words:

There is but one excuse for law of any kind—to protect the individual from the group and the group from the individual who, by his conduct, injures the group. Courts are for but one purpose—to determine when an individual has injured a group by transgressing the law and to take steps to see that this transgression does not occur again. The question then arises as to what steps the court may take to assure itself that the crime will not be repeated. Obviously, this will depend entirely upon the kind of individual the convicted person is. As the individuals, coming before a court are as various in intelligence, emotional make-up, character and personality traits, educational and social backgrounds and experience, and in the presence or absence of disease, either mental or physical, as any group could possibly be, it is apparent that the same prescription for all will not bring equal results. The courts are not treating one disease "crime," for which there is but one remedy, but almost as many different complex and complicated conditions as there are individuals before them. A hospital staff would be considered ridiculous if they went no further in their understanding of individuals than to call each one who came to them a "patient" and then prescribed the same remedy for all. So well established are the facts as to the wide differences between persons convicted of crime that no one seriously questions that it is the criminal, and not the crime that must be attended to and that remedies must be found to fit the criminal.

The American Institute for Criminal Law and Criminology, the International Prison Congress and the American Psychiatric Association, all representative associations of lawyers, psychiatrists and criminologists, have carefully studied the matter and are in agreement as to where the emphasis must be placed in criminology. The question remains of obtaining for the court unprejudiced, accurate, technical knowledge of the criminal, which can guide the court in determining the course to be pursued in the criminal's rehabilitation. There exists nowhere a laboratory of such complex human material as a court room. The judge unaided can no more be expected with any degree of accuracy to differentiate between the human material before him than he could be expected to differentiate between pure water and water containing typhoid bacilli by looking at it or tasting it. The facts he needs cannot be obtained through the "expert witness" hypothetical question and medico-legal dueling over such words as "insanity," "responsibility" or other legal or metaphysical speculations. There is no

more difficult question to solve than the mental status, mental mechanisms or capabilities of a prisoner and the bearing these may or may not have upon his conduct and the possibility of his rehabilitation. All the resources of modern psychiatry and psychology are necessary and these should be available to the court through the possibility of the appointment of psychiatrists from a qualified list, who shall be given opportunity for thorough psychiatric examination, using such aids as psychiatrists customarily use in practice, clinics, hospitals, etc., with obligatory written reports and a remuneration from public funds. With such data, as unprejudiced and scientific as it is now humanly possible to make it, before him, the court can determine with some expectation of success the precise treatment that he will prescribe for the individual prisoner. This process allows of no "letting off" of the prisoner on the ground of an actual or supposed "irresponsibility." The process is not primarily in the interest of the prisoner, but in the interest of the social group, there being but one end in view—the protection of the group from any further attacks by the prisoner. In the end it does help the prisoner, of course, in that being understood and properly treated it either assists him to rehabilitate himself or provides for him the custodial care that his condition requires. The interests of both are, therefore, served.

The evening and closing session was presided over by Hon. Newton D. Baker, former Secretary of War. Much of importance was said by Mr. Baker, but of particular significance was the following:

Well, now, we too often stand on different premises. The value of this kind of a convention, it seems to me, is that it gives us a body of common knowledge; it brings together those who feel that the solution of the crime problem lies in probation; those who think that parole is the better answer, and those who think that the psychiatrist's function is to be the chief one, and those who feel that procedural reform is the necessary *sine qua non*. It brings together all who are working on the problem and gives us the problem as a whole, and shows perhaps, that a concert of our forces with sympathy from each group to each other group, with knowledge of what the other is doing, is the real answer to the problem.

We have a great hill here that we must dig down. If each of us starts in with his own pick and shovel and knows nothing about what is going on around the perimeter of the hill, but only where he himself is standing and digging, it is a long and lonely task, but if in some magical way either his eyes can be made more acute or the hill made transparent and he can find all around the base there are other men equally effective working with their picks and shovels, and each digging away from the hill, the final task of overcoming that reluctant mass becomes more compassible and more possible.

So I think the value of this convention has been to make us know each other, make us know each other's part of the job, to give us a common basis of feeling and tradition about the thing we are trying to do, so as to let us all see how important it is and how many, thank fortune, how many earnest workers there are in the field. . . .

Speaking for the National Crime Commission, upon the success that has thus far attended our efforts, the National Crime Commission wants to be useful. Its function has very decidedly changed from that to which it set itself when it started. I don't know just what anybody else thought at the time, but my own first impulse was that the nine or ten of us who met in New York would soon solve the crime problem and dispose of the whole matter. (Laughter.) Our function has changed, our point of view has changed. We realize that the real work of the Crime Commission is going to be done in the state commissions and in the local commissions, and if we can galvanize them just a bit, if we can stimulate and support and encourage and aid them, we feel that the National Crime Commission's functions will then be best done.

The Committee on Criminal Information appointed on the previous day made its report, which was adopted. It contained the following recommendations:

First, that the essential unity of all types of criminal statistics be recognized. In other words, that it is not sufficient to collect, for instance, statistics on certain limited subjects, such as the number of persons committed to penitentiaries, or the number of blacks, whites and foreign-born who are inhabitants of such institutions, but that complete and comprehensive information should be gathered on all phases of the problem, including police statistics, judicial statistics, and penal statistics.

Second, that there is an essential relationship between criminal statistics and criminal identification. That whole body of knowledge which includes criminal identification systems and criminal statistics should be recognized generally, as criminal information, and wherever possible, except perhaps, in the National Government, the collection and dissemination of the two kinds of subject matter should be vested in the same governmental authority.

Third, that it is not conducive to scientific and practical results for criminal information to be collected sporadically by miscellaneous public and private agencies, but that a centralized public agency should be secured, charged with the responsibility of collecting complete information of such character that it can be relied upon by all persons concerned with the administration of criminal justice.

Fourth, that all existing national, state and local agencies charged with the administration of criminal justice in all its phases should be brought into the work of collecting such information.

Fifth, that all public agencies now engaged in the collection of such information should be encouraged to go forward with such work in cooperation with other agencies and with the centralized public agency recommended above, and in this connection steps should be taken to put upon a permanent basis the gathering of criminal information now being done on a temporary basis by the Department of Justice.

Sixth, that the National Crime Commission should establish a permanent committee on criminal information, to be appointed as soon as may be, charged with the duty of securing the coordination of all efforts directed

towards the end set forth above. That the personnel of this committee should represent all important agencies interested in the gathering of such information.

The above is a presentation of the high spots of the conference, and it is regretted that space has made necessary numerous omissions. With the conference over the crime situation remains about the same, but there is this to be said in favor of the Washington gathering, that it gave opportunity for reflection, for workers to get together, exchange views, and learn something of what is being done in various parts of the country. Thus it had a stimulating, enlightening and strengthening influence.