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Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.

Monument to Lombroso.—The municipality of Verona (Italy) has recently appropriated 5,000 lire as the initial contribution toward the erection in that city—his birthplace—of a monument to the late Cesare Lombroso. A committee of eleven distinguished Italian criminologists and jurists, including, among others, Professors Ferri, Sergi and Ottolenghi, has been constituted to solicit subscriptions to the fund. Contributions may be sent to the vice-secretary of the committee, Dr. Vasco Forli, 13 Via Penitenzieri, Rome. A Belgian committee containing among its members Professors Prins, Errera and Thiry has been appointed to raise funds in that country to be applied toward the erection of the monument.

J. W. G.

The Holtzendorff Prize.—The Holtzendorff Foundation of Berlin offers a prize of 1,200 marks for the best essay on the following subject:

"Peines et mesures de sécurité sociale, les caractères distinctifs qui séparent ces deux notions et les conditions de leur application législative."

Papers may be written either in the English, French, Italian or German language and must be addressed not later than May 1, 1911, to the secretary of the Foundation, Dr. Halle, Berlin, W. Kronenstrasse, 56. The jury of award will consist of Professors Lilienthal of Heidelberg, Stoos of Vienna and Mittermaier of Giessen. The decision of the jury will be published in the Bulletin of the International Union of Penal Law.

J. W. G.

Hospital for Juvenile Criminals.—Special courts for juvenile criminals have been in existence in Prussia for several years and have proven in the main successful. It is now proposed to erect in Berlin a hospital for such youthful criminals as have shown mental or physical defects, in order that they may be given treatment which will eventually correct these defects and make them useful members of society. In addition to the proposed hospital for juvenile criminals, a movement is now on foot in Berlin under the leadership of Professor Ziehen, a prominent psychiatrist of that city, to raise funds for the establishment of an institution for psychopathic children.

F. G.

Juvenile Criminality in Chicago.—Judge John R. Newcomer of the Chicago Municipal Court recently declared in a public address that between 65 and 70 per cent of the criminals tried in the courts of Chicago were between the ages of sixteen and twenty-five years. The truth of this statement, in the main, seems to be borne out by others who are familiar with the facts. Commenting on this state of affairs a Chicago paper remarks that it is much more serious than the people realize. A day on the bench as the procession of boys moves along would, it says, appall many citizens who are content to shun the courts. It would be well if they were to look in occasionally to find how great is the need of coöperation to check the vice and crime and encourage reform.

J. W. G.

What Shall We Do With Our Criminals?—Under the above caption Maynard Shipley discusses in *The World To-Day,* for October, the crime problem and the means of solving it. "This question," he says, "is one in which not

only specialists in criminology but the average citizen as well is intimately concerned. First of all, the findings or recommendations of experts are without practical value unless an enlightened public opinion is formed capable of passing intelligent judgment on any measures proposed, and that shall see to it that those approved shall be carried into effect. Moreover, the question of what to do with criminals is of particular interest to the general public from another point of contact. The existence of a large criminal class in this country, under present methods of treatment, involves a daily expenditure of at least three and one-half million dollars, considerably more than a billion dollars annually. One high authority, Professor Bushnell, of Washington, D. C., estimates the annual cost of crime to the nation as six billion dollars. If the cost were only two-thirds of the latter figure, it would still equal the total value of the corn, wheat, cotton and hay raised in the United States in the banner year 1909. To this waste of millions of dollars annually, must be added a yearly toll of more than eight thousand human lives, besides many thousands of brutal assaults, hold-ups, burglaries, robberies, and other serious crimes, all involving untold suffering and annoyance."

First of all, he continues, the public must be brought to understand, that in the last analysis, crime is not a personal matter, but that it is a social matter, an economic product. The criminal can no longer be regarded as an insulated, self-caused phenomenon, but that he is the product of all the economic forces and moral influences of the age, and that society, not the individual, is responsible. Most of the crime of our age, he adds, springs from the very foundations of our industrial and political organization—in short, the problem is largely an economic one.

"A careful examination of prison statistics," he remarks, "will show that men employed at stable pursuits, in the manufacturing and mechanical industries, in commercial pursuits, in transportation or in the professions, do not commit enough serious crimes to constitute a serious problem. It is almost exclusively from the necessarily roving, homeless, poverty-stricken day-laborer class that the bulk of our dangerous criminals is recruited, subject as this class of workers is to long periods of unemployment, especially during the winter months."

As far back as 1890, we are told, no less than 70 per cent of the persons held for manslaughter in our penal institutions had no trade or profession, while 16 per cent were out of employment.

"In the United States, as a whole, official statistics show that the highest proportion of serious crimes are committed by the day-laborer class, one in every 3,323 of this occupation group having been convicted of homicide (murder or manslaughter) in 1904, a ratio of 30.9 for each one hundred thousand, as against 18.7 per one hundred thousand among miners and quarrymen.

"Homicides become less and less frequent as we progress from the unskilled outdoor workers, with their intermittent employment, to the settled factory operatives with their steady employment and home life, as may be seen by examination of the foregoing table.

"The (necessarily) migratory, homeless, day laborer is responsible not only for an undue proportion of the homicides committed yearly, but also for other serious offenses, one out of every 316 finding his way to prison each year convicted of some grave crime.

"If society is not to remain an incorrigible enemy to the criminal, it can in no better way prove its good faith than by affording the convict the training in prison which it denied him outside.

"The biographical registers of the Elmira Reformatory (New York) show that over 90 per cent of the men committed to its charge have no knowledge of a trade upon arrival. Such are at once set to work at one of the fifty-four or more trades taught in the institution. What is the result? About 37 per cent of those released are capable of earning journeymen's wages upon their discharge, while over 50 per cent go out as advanced apprentices. In all, about 75 per cent of those paroled secure employment at trades acquired in the reformatory."

In conclusion, Mr. Shipley advocates the more general establishment of trade-school prisons and the introduction of the indeterminate sentence.

"The application of the indeterminate sentence, with minimum or maximum limit, presupposes (1) the total abolition of all merely punitive institutions, and the establishment of a modern reformatory system along the lines of the Elmira institution; (2) the existence of training schools for prospective prison officials and teachers, also for the education of expert criminologists and penologists; the school to offer two courses, bearing about the same relation to one another as a training school for hospital nurses bears to a medical college; (3) courts of release, composed, in part, of specialists in criminology and psychiatry, the resident physician, the warden, and of as many lay citizens as there are political parties in the state, no two members to be adherents of the same political party; (4) a liberal parole system; (5) the certitude of employment for the discharged 'graduate.'" J. W. G.

Responsibility of the Moving Picture Show for Crime.—The demoralizing character of some of the moving picture shows, says the *New Jersey Law Journal,* continues to be exemplified by proceedings from time to time in our local and county criminal courts. One of the latest instances was a case which came before Judge Case, of the Somerset County courts, where a bright little fellow of nine years of age was arraigned before the judge for truancy and for incorrigibility. The prosecutor informed the court that the root of the boy's misconduct was the moving picture show, and the counsel for the boy stated that the offender had been a good child at home and obedient until he developed the passion for attending moving picture shows. The account of the case then goes on to say: "When the boy was commanded to stand up before Judge Case he burst into tears. Judge Case called him to his seat behind the bar and talked to him kindly, after which he announced that he would place him in charge of Probation Officer Osbourn for three years. In closing his remarks Judge Case said that the moving picture shows were undoubtedly the most demoralizing force in the country to-day. The pictures had a great fascination for even adults, and the graphic portrayals of holdups, robberies, and of immoral scenes and characters, made a lasting impression on the minds of children that were demoralizing in the extreme. Judge Case said that the court would expect the law relating to moving picture shows to be strictly obeyed in the county." J. W. G.

The Car Barn Bandits.—In the *Medical Record* for August 27, Dr. G. Frank Lydston of Chicago discusses under the title of "The Car Barn Bandits" the three criminals hanged in Chicago some years ago for murder in connection with the robbery of the Chicago Street Railway Company office. Since the execution of the men, whom Dr. Lydston designates as V., M. and N., he has had an opportunity of observing the remaining members of the family and the results of his study are presented in the article.

V., who was twenty-two years of age at the time of his execution, was sub-

ject in early life to epileptoid fits. His mother is a most admirable woman, with a family history free of neuropathic taint. Since the execution of her son she has been doing reform work among juvenile criminals and has become a fairly good practical sociologist. V.'s father was a "good fellow" of the unsteady, vacillating type. Although not vicious he was easily influenced. His reputation was good until he was about forty, when he came under the influence of a woman of dissolute character, and defalcated for a considerable amount. On being arrested and placed under bond, he fled to Mexico with the woman, and is still there. V.'s paternal ancestry was neuropathic for generations. The paternal grandfather died of tuberculosis. The paternal grandmother died insane. One paternal uncle was violently insane and died in an asylum. Two of V.'s cousins on the father's side have each two epileptic and feeble-minded children. One paternal aunt was formerly in an asylum for the feeble-minded. A younger brother is a cripple from tuberculosis of the hip. A sister in early life had convulsions and was, at last accounts, in an institution for the epileptic. V. as a child was quick-tempered and pugnacious, but later industrious, and after his father's downfall endeavored to obtain money to buy comforts for his mother and sister. Evidently the desire to acquire money easily led him into the crime for which he was executed. He was emotional, and during his confinement in jail he professed religion and wrote a quantity of verse displaying considerable sentimental exaltation.

N., the leader of the trio, was of the "rat" type of criminal. He was a cunning, blustering braggart, whose reputation as a bold, desperate man was entirely undeserved. Following his conviction, he attempted suicide, and so completely collapsed that it was necessary to carry him bodily onto the scaffold and hold him in the chair until the drop fell. Since his execution his father has died insane, and his mother, arrested twelve or more times for disorderly conduct due to mental derangement, has also recently died. Her brother is at present suffering from senile dementia.

M. was, in the opinion of Dr. Lydston, the strongest character of the three. His father died in the penitentiary. His sister died insane. His brother became insane and was sent to an asylum, discharged as cured and shortly after his release shot himself.

Careful study of the crania of the bandits after their execution showed defective frontal development in all, specially in M. Marked flattening of the occiput was present in all three. In M. the jaws were markedly assymetric and the palatal arch was saddle-shaped. All three of these boys were arrested some years before the car barn murders for breaking into a schoolhouse and dismantling a stationary engine. M. and N. were sent to the Bridewell and V. to the John Worthy School. Dr. Lydston says: "Here was society's opportunity to study the young malefactors and their family histories, and to so supervise their subsequent lives as to give them an opportunity to develop into decent citizens. No further attention was paid to them, however, until they committed the crime for which they were afterwards hanged." F. G.

Sterilization of Criminals.—In *American Medicine* for July, Dr. F. W. Robertson discusses the "Sterilization of the Criminal Unfit," including under this classification hereditary and habitual criminals, the chronic insane, the epileptics and the defectives, to which he adds: "It is to be hoped that in a few years there may be included certain transmissible diseases." Dr. Robertson re-

views the history of the treatment of the insane and methods of dealing with crime, and, for comparison, reviews the history of the Jukes and of the descendants of Jonathan Edwards. He reports a number of interesting cases observed by him as general superintendent of the New York State Reformatory at Elmira. He sums up his experience by stating that criminals as a class are "possessed of a vast number of physical and mental peculiarities, while, almost without exception, they have a diminished conception or an entire absence of anything like ethical sense. Insanity, epilepsy and various degrees of feeble-mindedness and defectiveness were ever present, while tuberculosis was most common. We should expect, then, in investigating their family histories and antecedents to find insanity, epilepsy and defectiveness common, with nervous disorders, alcoholism, syphilis, tuberculosis and drug habits frequent and common factors." Dr. Robertson's tabulations from over two thousand cases observed at Elmira show that 81 per cent used tobacco; 65 per cent used alcohol; 2 per cent were addicted to drugs; 24 per cent suffered from venereal diseases; 28 per cent were defective; 5 per cent were epileptic; 2 per cent were insane on admission; 22 per cent were in poor physical condition. Dr. Robertson emphasizes two characteristics of criminal classes—lack of self-control and absence of fixed purpose or perseverance. He states that it is the lack of these two qualities that place a large number of defectives in the ranks of criminals. Having no purpose in life nor the perseverance to follow any undertaking, they drift around eager for adventure and without the self-restraint or will power to resist temptation they readily yield to crime and soon exhibit their hereditary criminality. Regarding reformatory efforts, Dr. Robertson concludes that "while desirable environment (after discharge) is essential in any scheme of reformation it cannot compensate in the majority of instances for poor hereditary." In his opinion, we have been paying too much attention to environment and too little to cause. More attention should be given to proper breeding. The efforts to prolong the life and overcome the defects of the unfit have imposed a heavy and ever-increasing burden upon a long-suffering public. He proposes sterilization as a remedy and reviews the efforts at legislation in the different states. A bibliography and a discussion on Dr. Robertson's paper accompanies the article. F. G.

Prevention of Racial Degeneracy.—In the *Maryland Medical Journal* for September appears an address by Lewellys F. Barker, Professor of Medicine, Johns Hopkins University, on "The Prevention of Racial Deterioration and Degeneracy, Especially by Denying the Privilege of Parenthood to the Manifestly Unfit." In discussing this question Dr. Barker said that the class of people to which he referred includes the insane, the imbecile and feeble-minded, the chronic inebriates, the criminal classes, the habitual vagrants, the permanent pauper class, the congenital deaf and dumb and the sexual perverts. In every state there is a relatively large number of people who come under some one of these headings. Many, fortunately, are segregated, but many are outside of institutions, and even those who spend some time in institutional life have periods of liberty. There are no less than 3,700 insane persons under care in Maryland at the present time. In the Maryland Asylum and Training School for the Feeble-Minded there are 305 idiotic, imbecile, feeble-minded and epileptic children, and there is a waiting list of 200. To these, 48 families have contributed from 2 to 4 individuals each. It is safe to assume that there are at least 2,000 defective children in the state, not including the so-called backward or exceptional children.

In the Maryland Penitentiary 1,102 persons are incarcerated, in the House of Correction 570, and in the City Jail 579. A large proportion of the children who are arrested and brought into the Juvenile Court came from homes in which the parents are abnormal. During 1909, no less than 2,562 children under 16 years of age were so arrested in this city. The large number of paupers in the state is indicated by the fact that there are on the average between 1,300 and 1,400 people constantly at the Bay View Almshouse, some tuberculous, some insane, but mostly inefficient, intemperate ne'er-do-weels. According to Dr. Dana, the cost of the care of the insane and feeble-minded in this country is $85,000,000 and is increasing absolutely at the rate of 4 per cent. As to the causes of this dreadful burden of degeneracy, two main sets of influences are at work; first, those of environment; second, those of heredity. Most attention has been paid to the first of these. Very little attention is paid to the important matter of parenthood. Of the various methods which have been suggested for limiting the procreation of the unfit, the only ones likely to receive any large public endorsement in the present state of society are (1) permanent segregation, or (2) some form of surgical sterilization. Permanent segregation of all members of the class we are considering is practically impossible, and if it were possible it would cost an enormous sum. Surgical sterilization in the form of castration will probably never meet with widespread approval. Whether or not surgical sterilization in the form of Rentoul's operation of vasectomy in the male and salpingectomy in the female will become popular remains to be seen. Belfield of Chicago, writing of vasectomy, says: 'It is an office operation—it is less serious than the extraction of a tooth.' The Indiana Legislature in March, 1907, passed a bill authorizing the sterilization of 'confirmed criminals, idiots, imbeciles, and rapists' in the state institutions of Indiana; since then more than 800 convicts have been sterilized; in more than 200 of these the operation was done at their own request. At the present, he preferred not to make any specific recommendations; the important thing to do is to take the whole matter of race improvement under consideration, to inform ourselves and the citizens of Maryland of the conditions which prevail and to try to find out the best methods of improving them. 'A good tree cannot bring forth evil fruit; neither can a corrupt tree bring forth good fruit.'" F. G.

Newspaper Incitement to Crime.—"Do newspapers, through their news columns, incite to crime because of the publicity given to murders, trials, crimes and illegal acts?" is a question recently raised by a council of clubs in Kansas City. The Kansas City *Journal* in reply points out that the fear of publicity is a very strong deterrent and claims that "the great trouble about the whole proposition of reform is that the newspapers constitute the only agency that keeps at the work all the time." On the other hand, the Raleigh, N. C., *News* states that in Great Britain, when capital punishment was provided for offenses too atrocious to permit more than a passing reference, the press, with one accord, forebore any description of the crime or of the court proceedings. An English newspaper has recently been severely criticised for "trying out of court" the Crippen case. In general, intelligent public opinion in this country has little patience with yellow crime columns, although it recognizes the necessity of a reasonable report of criminal trials. O. F. L.

Sterilization Legislation.—In the *Medical Press and Circular,* London, for August 17, is the paper of Dr. Robert R. Rentoul, read before the Psychological Section of the British Medical Association at its annual meeting in July, in which he discusses the sterilization of degenerates with special reference to the laws recently passed in the United States. He discusses the adoption of restrictions to marriage as an alternative and presents an historical synopsis of legislative efforts in this direction.

On February 10, 1907, Indiana passed an act empowering a committee of experts to perform a sterilizing operation on such inmates as the institution physician and board of managers have pronounced unimprovable. On April 20, 1909, California passed an act empowering the superintendent or resident physician to call in consultation the general superintendent of state hospitals and the secretary of the State Board of Health before performing any operations.

On August 12 Connecticut passed a law authorizing two skilled surgeons in conjunction with the physician in charge of the state institutions to examine and if advisable operate on such persons as are referred to them by the warden, superintendent or physician in charge.

In 1905 Pennsylvania passed a sterilization bill which the governor refused to sign.

In 1906 Wisconsin discussed the question, but no law was passed. In 1908 Oregon passed a sterilization bill, but it failed to become a law through the veto of the governor. In 1910 a sterilization bill was introduced into the Ontario, Canada, legislature, but the bill was withdrawn, owing to the opposition of the Prime Minister. F. G.

Proposed Abolition of Death Penalty in Germany.—Considerable discussion has of late been aroused in Germany relative to the abolition of the death penalty. The attention of the public was directed toward this subject by the action of the committee on criminal law, one of the three committees of the Congress of German jurists recently held at Dantzig. In one of its sessions a member proposed that the committee recommend to the Congress the abolition of capital punishment. The chairman, however, refused to consider the question on the ground that it would only serve to delay the revision of the penal code, which retains the death penalty. A similar fate befell a compromise measure which called for a complete examination of all criminal punishments provided for in the code.[1]

Punishment as a Deterrent.—John Galsworthy, in a recent article in the London *Daily Chronicle,* enters a strong protest against the view that punishment is a deterrent to crime.

"Crime," he says, "is a disease. It is either the disease of weakness or the disease of inherited taint. We have fought against this conclusion because we still harbor the spirit of revenge; but as knowledge advances we shall, we must, accept it. And the sooner we do accept it the less money shall we waste, the less harmful and unnecessary suffering shall we inflict. For a man with any sympathy in his composition it is impossible not to feel for those who, administering justice, earnestly desire to do their best, and are often, I am sure, sick at heart from the feeling that what they are doing is not the best. It rests

[1]Furnished by Mr. C. O. Gardner.

with public opinion in this country to reanimate our attitude toward crime; to shake itself free of our muddled conceptions of the object of punishment; to scotch once for all the evil spirit of revenge; to rise to a higher, more generous, more scientific and decent conception of our duty to our neighbor, even when his conception of his duty to ourselves has been deficient.

"Let us get rid of the idea that we are protecting society and reforming offenders by inflicting suffering that we falsely call deterrent. Let us detain our offenders, as it were, in school instead of sending them to prison. Loss of liberty is, next to loss of life, the most dreaded of all fates; it has in and by itself all the deterrent force that is needful; the statement sometimes made that a certain type of criminal finds prison rather pleasant than otherwise, I do not for a second believe. If it were true it would be contrary to all that we know of human nature. Let us, then, take loss of liberty as our sole deterrent, and on those whom we deprive of liberty let us use all the resources of a humanity and common sense that shall refuse to apply to criminals methods which would be scouted in the reform of human beings outside prisons. I am talking to the wind, but the wind goes round the world. May the wind carry these words into a few hearts not too indifferent and not too scornful to open to them a corner of welcome!" J. W. G.

Is the Pistol Responsible for Crime?—In a recent article in *Leslie's Weekly,* Mr. John W. Broadman discusses the question as to whether the pistol is really responsible for the acts of criminals. Describing an investigation recently undertaken by him, he says: "Mr. George S. Dougherty, of the Pinkerton National Detective Agency, kindly lent me a chapter from the homicide files of the New York office of the Pinkerton agency, containing apparently all of the homicides, both in and out of New York City, that had been referred to in the New York papers during a period of seven years, from January, 1902, to January, 1909. Of the total number of slayings reported, 47 per cent were committed with pistols and 53 per cent with other weapons. Of the pistol murders, 50 per cent were committed by criminals as an incident or sequel of robbery. Of the remaining slayings with pistols, about 60 per cent were committed by men with criminal or semi-criminal records; about 18 per cent were bona fide cases of self-defense; maniacs were responsible for 5 per cent; Sicilian and Neapolitan vendettas for another 5 per cent; the so-called unwritten law answers for 3 per cent, and the remainder do not admit of classification."

The conclusion which he draws is that "the people who commit murder are for the most part either criminals who take human life as an incident to their trade, or men who have skulked furtively along the frontier of crime, committing occasional infractions of the law, possessing criminal instincts and dissolute habits, and perhaps best described as criminals in the making."

"In remarkably few of the cases noted," he says, "was the victim's resistance responsible for his death. This leads one to inquire whether a pistol is really of any protection or value to a law-abiding man. The Pinkerton files show that 18 per cent of the homicides committed with pistols were bona fide cases of self-defense. In making this calculation, I did not include pistol duels between lawless men or other cases in which the facts might be distorted to sustain a plea of self-defense. I took only those instances where the facts and circumstances exhibited unmistakably that the slayer was fully justified under the law. In reviewing the murders committed with other weapons than pistols, it seems to me

quite within the bounds of possibility that 25 per cent of the victims would have escaped if they had been provided with firearms. This is, of course, entering into the realms of speculation; but it can be accepted as a fact that a considerable percentage of these murders, whether 25 per cent or more or less than 25 per cent, would not have occurred if the victims had been armed with pistols. Therefore, as a concrete fact, it seems permissible to say that the pistol has saved a good many lives, not to mention property, and apparently could have prevented a good many of the murders committed with other weapons."

Mr. Broadman inveighs against what he calls misguided legislation against carrying pistols and concludes that such legislation is necessarily ineffective. We regret that we cannot take this view of the matter. We are certain that a wider examination will show that a large majority of the homicides of the country are committed with pistols and by men who habitually carry this weapon.

United States District Judge George C. Holt, in a recent address before the Wisconsin State Bar Association, declared that "the repeating pistol is the greatest nuisance in modern life. Every criminal, every madman, every crank, every bad boy carries one. Nineteen-twentieths of all the crimes of violence that are committed are effected by its use." Commenting on this statement, the *Independent* rightly remarks that "In this country practically all of the murderous assaults upon public men have been made with the pistol. It is improbable that Booth, or Guiteau, or Czolgosz could have accomplished his purpose with any other weapon. The attempt to kill Seward with a knife resulted only in serious wounding. No assassin, however crazy, would have attempted to shoot Lincoln in a theater box with a gun, or Garfield in a railway station, or McKinley in a public hall. Gallagher would not have gotten near his victim on a steamer deck with such a weapon, and an attempt with a knife would probably have failed.

"These facts should raise the most serious reflections, and they should provoke prompt and thoroughgoing measures to put an end to the most indefensible and monstrous habit of this people, a habit which falls little short of an epidemic insanity."

Chief of Police Steward of Chicago has recently declared that, in his judgment, the carrying of concealed weapons should be made a felony punishable by a term of imprisonment in the penitentiary, and this view, we believe, will commend itself to most police officials. The right of the citizen to bear arms *openly* for purposes of defense should not and cannot be infringed, but no law against carrying *concealed* weapons can be made too stringent and no penalty too severe.

J. W. G.

Police Discretion in the Enforcement of Law.—In the Proceedings of the Minnesota Academy of Social Sciences for 1909, Hon. Edward F. Wait, judge of the Municipal Court of Minneapolis, discusses the question as to whether there is a sound basis for police discretion in the enforcement of law. He divides the functions of the police into five classes: (1) the execution of process; (2) ministerial services in behalf of the public health as removing sick or injured persons to hospitals; (3) service as peace officers in quelling riots and suppressing disorders; (4) apprehending without warrants persons who have committed acts which the community recognizes as essentially criminal; (5) duties in respect to the enforcement of laws and ordinances in matters that affect the general welfare but which are not inherently criminal. Debatable questions of discretion, he says, can arise only with respect to the fifth class of functions. Can a police administration, he asks, with power to enforce a penal regulation for the conduct of

citizens in a matter affecting the public welfare but not essentially criminal, refuse to do so because of an opinion, held in good faith, that the interests of the community will be best served by non-enforcement? Where police restrictions are approved by solid and active public sentiment no question of the duty to enforce ever arises. Police discretion in such cases is never claimed, and, if claimed, would not be tolerated. It is urged by some, however, that some laws have been enacted against the demands of public sentiment, others are obsolescent on account of changed conditions, others were never intended to be enforced and that the enforcement of others would be productive of more harm than good. Shall the right of discretion on the part of the police be recognized in such cases? Judge Wait's conclusion is that in the long run the evils of enforcement in such cases are less than those of non-enforcement. If, however, the law is generally disapproved by the community, so that it cannot be uniformly enforced and that attempted enforcement will involve a waste of time and result in the neglect of other and more important duties, the police should wait for a clear mandate from the people. Here, he says, is a legitimate field for police discretion to determine when activity ought to cease because it is futile and when it may be resumed with the prospect of success. There is also, he says, a wide discretion in respect to the emphasis that ought to be laid upon the enforcement of different laws. In the case of continuing offenses like keeping saloons open on Sunday where tolerance amounts to virtual license the only true rule is enforcement. J. W. G.

Crime in the British Empire and Its Treatment.—The above is the title of the annual report of the Howard Association for the year 1909 (Thomas Holmes, secretary, 43 Devonshire Chambers, Bishopsgate, London, E. C.). The report reviews the crime conditions of the empire and shows that everywhere there has been a decided increase of crime. In the United Kingdom the average committals to the prisons during the year per thousand were: Scotland, 12.64; England and Wales, 6.03, and Ireland, 5.7. No satisfactory explanation is given for the extraordinarily high average in Scotland. In England and Wales the total number of persons committed to prison during the year was 205,681 (including 18,996 persons imprisoned as debtors or on civil process and 1,319 in default of sureties), as against 196,233 for the year 1908.

The number of convictions for murder during the year was also larger than usual. For England, the number was 23; for Scotland, 5, and for Ireland, 1. In all of these cases except 7 the death penalty was inflicted.

A large part of the increase of crime in Scotland consisted of drunkenness, there being 3,000 more commitments under this head than the average for previous years. Indeed, nearly one-third of the total commitments to prison for the year were for this offense. On this point the committee remarks:

"We believe that if some method more reasonable and effective than simple fine or imprisonment were adopted in dealing with the numerous cases of drunkenness and of other offenses and crimes where inebriety was the cause or contributory cause, the difference between the numbers of imprisonments in the two countries would be much decreased, and we are glad to know that steps are being taken by the government in the direction indicated, and that inquiries are being made into the working of the Inebriates Acts with the view of their amendment at an early date."

Of those imprisoned for drunkenness, nearly 700 had been previously com-

mitted more than 50 times; 2,000 more than 20 times, and 3,500 more than 10 times.

Concerning the amount of crime in London, the report states that the number of persons apprehended during the year for offenses was 109,787, being a slight increase over that of 1908. Of these, more than 80,000 were convicted. During the year there were 19 cases of murder in the city, as compared with 12 in the previous year. Five of the murderers committed suicide. Of the other 14, ten were arrested; of these, four were convicted and executed; four were found to be insane, one committed suicide while under remand from the police court, and one died while awaiting trial. A remarkable increase in the employment of the finger-print system as a means of identification was shown, there being 9,440 cases in which it was resorted to with striking success. J. W. G.

Proposed Reestablishment of the Death Penalty in Belgium.—An almost imperceptible but fairly well organized movement seems to be on foot to reëstablish capital punishment in Belgium, where, although never formerly abolished, it has in practice been suppressed. This sentiment is voiced by a constantly increasing number of petitions to the King, praying for more severe sentences than those ordinarily applied to wrongdoers. Some of these openly suggest adoption of the death penalty as the only recourse. The movement is the direct result of a series of particularly revolting crimes recently committed within the kingdom. There can be little doubt, however, that these advocates of capital punishment represent only a very small minority of the population, but the movement is interesting largely because it shows that the system still has some partisans in Belgium.[1]

English and American Justice Compared.—Mr. H. Ringrose, formerly a member of the New York City bar, but now a London barrister, in a recent letter to the New York *Sun* takes occasion to compare English and American methods of criminal procedure, using the Crippen case as an illustration. Among other things, he says:

"Comparisons are sometimes as instructive as they are odious, and I take the liberty of pointing out the fact that in New York State the Crippen appeal would have taken nearer two years than two weeks to be disposed of. This is not the fault of the learned and characterful judges who compose your Court of Appeals, but is due entirely to the antiquated system of criminal jurisprudence obtaining in your great state.

"Ten years' active practice as an advocate in the criminal courts of New York State, followed by the Middle Temple Inn of Court accepting me here for membership, is my excuse for saying that a criminal trial in New York is conducted too much like a game of chess. There is too much playing for points; too many technicalities, too many quiddities and quillets. After a solemn and fair trial by jury, presided over by a learned judge, there should be no reversals on appeal simply for technical irregularities of procedure, unless such irregularities worked a substantial injustice to the defendant.

"Your Court of Appeals should have the power now exercised by our Court of Criminal Appeal to call witnesses to the stand so that the consciences of the judges may be fully advised. The principal change needed is that the court

[1]Furnished by Mr. C. O. Gardner.

should decide the case at bar before taking up any new business. I have sat in the Capitol at Albany listening to case after case being argued, with decision reserved, and have often wondered just how much counsel expected the court to remember. The English judges will not listen to a second case before they have disposed of the first. This is better for the court, better for counsel and better for the administration of justice than listening to a hundred appeals before deciding the first.

"I am quite sure that your judges would welcome such a change, and it would go a long way to expedite the disposal of appeals. Fully 50 per cent of appeals in either civil or criminal cases are *prima facie* based on trivial grounds and ought to be wiped off the slate at the earliest possible moment." J. W. G.

The Layman and the Law.—In an address before the Pennsylvania Bar Association, at its annual meeting on June 28 last, Chief Justice James Pennewell of New Jersey discussed some of the causes of the popular dissatisfaction with the administration of the law. Mr. Pennewell called attention to the widespread criticism to which the courts are now being subjected on account of the delays of the law and declared that "we are forced to admit that some of the things which are said are just and true." "I wonder if we realize as we should," he says, "the strong feeling which undoubtedly exists in the layman's mind that there is something wrong with the administration of the law?" It is not a sufficient answer, he continues to say, that the layman does not understand the situation and that his point of view is different from that of the lawyer.

"The layman finds much fault with the law's delay, and who shall say he has no cause? When it takes weeks, and sometimes months, to empanel a jury in a single case, there is something wrong. When two or three years intervene, as is often the case, between the rendition of the judgment in a trial court and the final decree in the court of appeals, he will listen to no excuse, however good it may be. When large assets are exhausted in the payment of expenses and costs and there is nothing to apply to creditors' claims, he is utterly unable to understand. When the costs of appeal are so great as to make it available only for the man of means, he says the law is not for the poor, or even those of moderate means. We have it from high authority, a highly honored member of our profession, that the administration of the criminal law is in some places disgraceful. Certainly President Taft is an able lawyer, intensely in love with his profession and deeply concerned for its welfare and success. It is because of such concern that he sometimes uses plain and forceful language in speaking of the failures of the law. It is eminently proper and fortunate that the head of a nation whose strength and hope is in the law should manifest so much interest in its proper administration, and confidently hope for improvement and better things."

If the confidence of the people, and especially of business men, is to be retained, or perhaps regained, he goes on to say, some improvement must be made in our methods of procedure and administration. Business men are quick to think and act, and they cannot quite understand the tedious processes and the technicalities of the law. Many of the delays and much of the expense are due to the right of appeal—a right which should be restricted to more reasonable limits. Judgments of the lower courts should never be set aside unless the court of review is clearly of the opinion that an error has been committed

which was prejudicial to the defendant and without which a different result might have been reached in the court below.

"I am willing to admit that lawyers, and judges, too, may be sometimes controlled too much by what are called the technicalities of the law. Substance is perhaps too often sacrificed to form, and many cases are lost before the merits are reached. It is not surprising that the layman is unable to understand or appreciate why such should be the case. When he listens to the reading of an indictment for murder framed under the rules of the common law, to a declaration in ejectment, or some other legal paper which contains all the verbiage of the old English law, he wears a puzzled look, and cannot comprehend why it is necessary or what it all means. He wonders how the defendant can clearly understand the charge. Such things are not easy for us to answer in a satisfactory way. By retaining these old forms, and adhering so closely to matters that are sometimes purely technical and unessential, do we not lay ourselves open to the charge that the profession is not progressive, but is standing still in a rapidly moving and changing age? It will not do to say that the present condition of the law is the result of centuries of thought and growth, that it represents the accumulated wisdom of the ablest minds of the past—the fathers of the law—and is the perfection of reason.

"We realize that intelligent and honest public opinion should be respected, and its demands complied with if they are reasonable, practicable and fair. It is unfortunate whenever a case is determined otherwise than upon the merits, and especially so if the result is caused by the mistake of counsel in the case. Unquestionably every proper effort should be made to avoid such results. Much is being done in this direction, and there is no doubt that the time will soon come when the sincere and sound criticisms of good and well-meaning people respecting the law and its administration will be fully met." J. W. G.

The Organization of Police Forces.—Leonhard Felix Fuld, the author of an excellent treatise on Police Organization and Administration, read a paper before the recent annual meeting of the National Municipal League at Buffalo, in which he laid down some of the fundamental principles which should govern in the organization of a modern police force. First of all, he said, the head of the department should be a single commissioner instead of a board, because boards are not well adapted to energy and promptness of decision and action. Bipartisan boards in practice are no better than any others. Their proceedings are marked by dissension and delay, and sometimes by deadlocks, and are never conducive to prompt and energetic action.

In the second place, he says, the commissioner should have a fixed term of at least ten years, and should be removable only after a trial and that his removal should be subject to review by the courts on a writ of *certiorari*. Under the present system of short tenures the commissioner is a mere "bird of passage," for whom the force has little respect. Before the police are able to understand his policy he is displaced by another man. Moreover, his term has frequently expired before he has learned the details of his office. Such a system leads not only to waste, but is productive of administrative inefficiency.

In the third place, every police force should have an efficient system of inspection, a system of efficiency records and a promotion machinery which will insure the advancement of the more capable policeman and the elimination of the unfit. One source of the efficiency of the London police service is the excel-

lent system of inspection and the keeping of efficiency records. The efficiency records kept in most of our cities are nothing more than records of extraordinary rewards and penalties. For determining the worth of the great body of policemen they are practically worthless. The individual policeman should be given credit for the number of arrests made by him and the number of convictions secured by him. Those making unjustifiable arrests should be severely disciplined and account should be kept of absences. Appointments to the force should be made only after a physical and intellectual examination. Whatever may be said in favor of the principle that intellectual men do not make good firemen, it has absolutely no application to the police force. Policemen should be men of intelligence since their duties frequently require the exercise of tact and judgment. Not only should recruits be carefully instructed by competent teachers, but it would be desirable to furnish all policemen an opportunity for instruction in the elements of civics and criminal law.

Mr. Fuld attributes much of the popular dissatisfaction with American police administration to the failure of our laws to distinguish between vice and crime. An act is vicious when according to local standards it is immoral. It is criminal only when it is forbidden by law, and it ought to be prohibited only when it is socially expedient to punish it criminally.

"There seems to be a feeling in this country," he says, "that unless a vice is made a crime, the state countenances the vice and becomes a party to its commission. There are, unfortunately, a large number of men in the community who believe that they have satisfied the demands made upon them to lead a virtuous life by incorporating into some statute the condemnation of a particular vicious act as a crime. The fallacy of the reasoning that the failure to declare a vicious act a crime amounts to a ratification or condonation of the viciousness of the act needs no extended explanation. The declaration of the criminality of the act is simply a question of expediency. If the state comes to the conclusion that it costs more to attempt to punish a vicious act criminally than it is worth to the community, a failure to prevent it by police regulation is in no sense a countenancing of it. The fact that the cost of attempting to punish as a crime what is only vicious far outweighs the benefits derived therefrom, is undoubted in American police administration. The American police forces have been corrupted almost solely by the statutes which have been placed on the statute books, regulating the leisure of the citizens. Under American conditions at the present day, it is possible for the state as a whole to regulate the leisure of the inhabitants of the city in accordance with its own puritanical ideas. The state may regard as vicious and declare as criminal the drinking of beer on Sunday, because a large number of the rural inhabitants of the state believe in such a law, while in the cities the drinking of beer on Sunday is not only not regarded as vicious, but it may be perfectly innocent and unobjectionable from every point of view. The enforcement of this puritanical law is placed in the hands of a police force which is recruited from citizens of the city and which is controlled by the moral influence of the city. At the present day there is no more successful get-rich-quick institution than the control of an American municipal police force, and in making this statement neither the superior officers of the department nor the subordinates should be criticized unduly, since this unsatisfactory condition is due almost entirely to the fact that what the state which enacts

the statutes regards as criminal the people of the city may regard as innocent. The people of the city, accordingly, are quite satisfied to see the police force sell the right to disobey a law which the city people regard as unjustifiable."

J. W. G.

The Finger Print as a Means of Identification.—Chief of Police Corey of Brookline, in an article in the *International Police Service Magazine* for July, 1910, calls attention to the increasing part played by the finger print system as a means for the identification of criminals and compares its efficiency with that of the Bertillon method. He says:

"The Bertillon system has been in use now for a long time, and has given much satisfaction, but, to my mind, it will be practically superseded by the finger-print system in the near future, and for the following reasons: As regards the Bertillon system we find (1) that the cost of installing the apparatus is expensive, (2) skilled persons are required to take the measurements, (3) the work of measuring a person occupies over half an hour, (4) the liability to make errors in measuring or registering can never be eliminated, while a single fractional error may render quite useless the entire record. Contrast the finger-print system, (1) a smooth metal plate or piece of glass, a little printer's ink, a small rubber roller to spread the ink, and a piece of smooth white paper are all the materials necessary, the entire outfit costing less than two dollars, and can be readily procured everywhere; (2) the most inexperienced person can take legible impressions and the time employed for the operation would not exceed ten minutes; (3) no error is possible, as the record is a facsimile of nature's own marks of identity."

American Medicine, he says, gives the following endorsement of the finger-print system from a physiological and anatomical standpoint:

"The theory and practice of finger-print identification form a special feature in the administration of criminal law in all civilized communities of the present day. The discovery of the interesting complex structure of the 'tactile corpuscles' made by itself an epoch in the history of the development of physiologic histology. It has now been found that there is an unchanging law of papillary arrangement, which has actually come to modify the powers of legal proof and the establishment of human identity. Nature never disposes these papillas in exactly the same order in all ten fingers. At least, according to mathematical calculation, the chances against a duplication are 64,000,000,000 to one. Rarely, indeed, does it happen that there are not striking differences in the arrangement of the papillary ridges on the corresponding fingers of the same individual. Then not only are the ridges themselves distinguished by peculiarities of physical disposition, but also their branches and their 'lines,' or wrinkles. The latter do not usually show in the young, but form gradually with the advance of years. It has been found that in persons of weak circulation they are prone to form earlier in life, but undergo temporary obliteration when the fingers become congested—by heat, etc. The presence of these ridges (and corresponding furrows) combined with the natural stickiness of the secretion of the cutaneous glands, accounts for the formation of the 'finger prints.' "

"The photographing of finger marks left by criminals on articles, such as plated goods, window panes, drinking glasses, painted wood, bottles, cash boxes, candles, etc., has, in many instances, from time to time, successfully supplied the clew which has led to the apprehension of the thief or thieves. One of the

most important cases where finger impressions were instrumental in detecting and convicting criminals was that of the Deptford, England, murders.

"An old man, Thomas Farrow, and his wife, Ann Farrow, were murdered March 27, 1905, and a few pounds sterling stolen from a japanned cash box. In handling the cash box, one of the murderers left the impressions of his fingers on the same; the impressions were developed, and two brothers, named respectively Alfred and Albert Ernest Stratten, were arrested as suspects, their finger prints were taken, and when the latter were compared with the developed finger impressions taken from the cash box it was found that the print taken from Alfred was an exact duplicate. These two men were tried on a charge of murder in May, 1905, found guilty, and sentenced to be hanged. The finger marks of Alfred left on the cash box brought about the conviction of these two men.

"In another instance the sensational robbery of jewelry from a London, England, store was traced to a gang of habitual criminals simply by reason of the fact that one of the thieves had touched with his hands a dusty skylight. Not long ago in New York City, where a house was burglarized, an impression of the burglar's right index finger was found on a silver-plated ladle, the impression was photographed and subsequently led to the conviction of the thief, who had been arrested on suspicion of having committed another crime, and when his finger prints were taken it was found that the one on his right index finger corresponded exactly with the impression found on the ladle; on the strength of this important clew the man was indicted, and, pleading guilty, was sentenced to prison for a term of years. These examples show the usefulness of finger prints in bringing home guilt to the habitual lawbreaker.

"But the system also works just as efficiently for the protection of the innocent person, or one wrongfully accused. Some time ago a store was broken into in Springfield, Mass., and a man who had served sentence for a like crime was suspected of having committed the robbery, but finger impressions found on a pane of glass where the thief had gained entrance, on being compared with the finger prints of the suspected man, taken at the time of his arrest for the former crime, were found to be entirely different, thus eliminating the suspect from the case.

"Many hundreds of identifications of persons under arrest have been made by means of the finger-print system. I will cite a few instances with which I am familiar. In August, 1905, a man was arrested at Laconia, N. H., for larceny; the city marshal took the fellow's finger prints on a sheet of blank paper and forwarded the same to Superintendent Moffatt, of the Lowell, Mass., police, for identification, if possible. The superintendent classified the prints, made search in his files, and found their duplicate, which identified the man as a notorious horse thief.

"In November, 1905, a man, who gave the name of Charles Adams, was arrested in Lowell, Mass., for larceny, his finger prints were taken, and a copy sent to the office of the Prison Commissioners, Albany, N. Y. In three days a reply was received, showing that the man had been convicted and served three sentences in New York State penal institutions, ranging from six months to four years.

"In March, 1908, a man was arrested in my own town for burglary. I took his finger prints and sent a copy to New Scotland Yard for possible identification. In due time I received returns, identifying the fellow under a different name, giving his record, a copy of his finger prints and photograph.

"In June, 1908, a photographic copy of finger prints and picture of one William Mason, wanted in New York City for murder, was received by the Prison Commissioner of Massachusetts. The case was referred to Superintendent Richardson of the Bureau of Criminal Identification, who made search in his accumulation of finger prints and found a duplicate of the prints in those of a man who was serving sentence in state prison under the name of George Jett. The New York authorities were notified and the man was subsequently identified as the murderer, by the widow of the murdered man."

The annual reports of the Chief Constable, Glasgow, Scotland, for the years 1904, 1905, 1906, 1907 and 1908 show that the finger prints of 731 persons were taken during that period which resulted in the identification of 219 as having previous records. J. W. G.

Prison Architecture.—A jury of award, appointed by the Mayor and Council of Milwaukee, to select plans for a new police station, and having as its chairman Prof. Charles R. Henderson, has made a report in which it lays down some of the principles that ought to govern in the construction and administration of a police station. Among other things it is stated that an institution ought not to be a place of punishment, though most of them, in fact, do inflict "the severest penalties, in cruel and unusual punishments forbidden by the constitution." "It ought to be fashioned to secure the function, as the eye to see, the hand to grasp, etc. It ought to provide simple, tidy, comfortable, dignified and becoming surroundings for the officers of the law. To avoid physical and moral pollution it is necessary to have the cells of sufficient size, although in this case the cell may be smaller than in the ordinary prison because the term of confinement is usually only a few hours. But it is absolutely necessary that each cell should have direct sunlight and access to the air. In this respect almost all the places of detention in the United States violate the simplest teachings of medical science and hygiene. In our plan, we have insisted upon this principle which is so elementary and sensible that it ought to be self-evident to any citizen of intelligence. This demand is, first of all, in the interests of public health. Places of detention easily become the centers of contagion and communication of disease. Tuberculosis and pneumonia are examples of such communicable diseases which are frequently traced by means of prison lock-ups which are imperfectly lighted and ventilated."

Under the head of administration the report says: "It is not enough to have a modern building, and the ideas of your jury of award will fail utterly unless they are understood by the public and carried out in a sincere spirit of loyalty to underlying principles. It would be possible even with the plans we recommend to make this station a pesthouse as so many similar institutions are already. If this police station is to be worthy of a civilized and progressive community such as Milwaukee is, the people must zealously and honestly study and carry out the following principles:

1. Public opinion must insist on an entire separation of the sexes.

2. The position of matron must be filled by a strong, vigilant and intelligent woman, whose duties are fixed by ordinace and whose work is carefully supervised by judges, mayor, women's clubs, and other representative associations. The most disgraceful scandals have arisen from neglect of this matter. Our jury has thought, in selecting and modifying the prize plan, to make it possible for the matron to know what is done in handling the unfortunate women who are

brought to this station. But where the architect ends, an honest public opinion must begin, or the ancient abuses will creep back.

3. Every public place should be under the constant and systematic supervision of the health authorities. It is incredible that the ordinary lock-up could have continued to disgrace our American cities if there had been systematic inspection by competent representatives of the medical profession.

4. The police station may be and should be the center of reformatory influences. The good people of the community, through a proper society, should systematically visit the prisoners, and from the very moment of their arrest offer them counsel and aid. Many societies already visit the asylums and the penitentiaries, but the police station is too generally neglected.

5. We strongly urge the establishment of night courts and Sunday courts, so that by the prompt hearing of cases, needless suffering, both physical and mental, may be reduced to a minimum. It frequently occurs in our cities that unknown persons, simply because they are without money and friends, are held all night or over Sunday when a brief inquiry by a competent judge would show that they might be released altogether or permitted to appear upon summons.

The committee also takes occasion to recommend the release of youthful offenders on probation.

"In all parts of the civilized world an effort is made with increasing success to avoid incarceration, which in itself is torture and degradation to the young and innocent but which has no terrors after one has become accustomed to it. We must urge that this measure requires the very strongest ability of legal counselors and a sincere sympathy on the part of the police and city administration to make it really effective."

A recommendation is also made for the establishment of a work colony for the treatment of the chronic cases of prisoners who are frequently arrested without benefit to themselves or to society. Fewer cells would be needed in the police stations, says the committee, if the considerable number of broken-down men and women, victims of drink and vice, could be segregated in open-air colonies under competent medical treatment until they were either restored to health and self-control or had shown that they needed still longer treatment of the same kind. J. W. G.

Payment of Wages to Prisoners.—From many sections of the United States come newspaper comment in regard to wages to prisoners' families, apropos of the discussion of the subject at the recent International Prison Congress which resolved "(1) That prisoners should be paid according to their industry. The amount thus paid should be administered for them, to support dependents and to provide a fund for rehabilitation after release. (2) For the present it does not seem practicable for the state to carry out the full program of relief. Until that ideal shall be practicable, it is advisable that committees of patronage and prisoners' aid societies should be the chief distributors of relief of the state, and furnish the same when not otherwise supplied."

Speaking of the success from the financial standpoint of the binding-twine industry in the Minnesota State Prison, the Milwaukee *Free Press* says: "Communities in Wisconsin behold the coffers of Minnesota overflowing with the income from this form of prison labor, they see its taxes remitted, and, forgetting wholly the crime which that state is perpetrating against its charges and hundreds of innocent victims, they clamor for similar reprisals on their unfortunate

brother men in their own prisons. Many thoughtful men are convinced that prison-made twine would be a failure in this state (Wisconsin). Be that as it may, the enterprise should not be entered upon as a money-making proposition except in so far as it may serve to maintain the penal institutions. What is made over and above that must go to the convicts or their dependents, dispensed or held in trust by the state as conditions demand."

On the subject of the earnings of prisoners, the handbook of the Minnesota state prison, published September 1, 1910, says: "The Legislature of the state of Minnesota has recently enacted a law providing for the payment of earnings to prisoners. The rate of compensation is left to the state board of control and warden so far as this institution is concerned. Many inmates are receiving pay for overtime and extra work. Under the new arrangement prisoners will be paid according to the value of their services, thus affording a proper incentive to strict application to duty and more and better results all the time. At the date of the compilation of this handbook there is being paid to prisoners about $2,000 a month. The payment of earnings will increase in accordance with the zeal and efficiency with which prisoners pursue their labor."

The handbook states that the twine manufactured from 1891 to 1910, inclusive, amounting to 138,625,000 pounds, has yielded a net profit of $1,590,981 since the plant started. O. F. L.

Profitable Convict Labor in Mississippi.—The superintendent of the Mississippi penitentiary reports that the net revenue from convict labor on the four state farms during the past year will aggregate nearly $200,000. The total number of bales of cotton produced was 4,864, which sold for more than $363,000. Other products raised brought the total receipts to $429,859. On the Parchman plantation, the largest of the state farms (11,500 acres), 600 acres of land were cleared, a tile and brick factory was established, 220,000 brick were manufactured, 1,312,983 feet of lumber sawed, 714,000 shingles manufactured, and 80,000 bushels corn, 8,000 bushels peas, 12,000 bushels potatoes, 1,570 bushels wheat, 350 barrels sorghum molasses, 75 barrels Louisiana cane syrup, 1,000 bushels peanuts, 1,200 tons pea-vine hay and about 4,500 bales of cotton were produced. This plantation owns 100 head of cattle, 500 mules and horses and 1,400 head of hogs. J. W. G.

Increase of Juvenile Criminality in France.—*The Revue de Droit Penal et de Criminologie,* for November, calls attention to the extraordinary increase of juvenile criminality in France. Within a half century the number of offenses committed by minors has increased from 13,500 to 36,000 per year. The increase of juvenile criminality has been paralleled by the increase in the number of divorces among persons having children. From 1900 to 1906 the number of divorces in France increased from 7,157 to 11,584. J. W. G.

National Prisoners' Aid Association.—At the recent meeting of the American Prison Association in Washington there was organized a national prisoners' aid association, for the purpose of bringing all agencies engaged in helping prisoners into greater co-operation with each other. There are at present about thirty prisoners' aid associations throughout the country, under various names. At Washington representatives of about fifteen such societies were present at the organization of the national body. Its purpose is the development and extension of the work for released prisoners, including prison visiting, inspection

of correctional institutions, probation, parole, research, legislation and public education on the problems of penology and criminology.

The annual meeting of the association will be held at the time of the annual meeting of the American Prison Association. O. F. L.

Proposed Prison Labor Investigations.—The national prison labor committee, organized in 1909 for the purpose of studying the prison labor problem in the United States, has issued a special report recommending that an international committee be appointed to work in co-operation with itself upon an investigation into prison labor problems. This report, circulated at the International Prison Congress, contained sections upon the "state prison and the state budget," "competition of prison labor," "prisons and dependency" and "prisons and tuberculosis."

Under the head of "state prison and the state budget" studies were suggested as follows: "statistical monographs on the economics of particular institutions, with special reference to industrial income and reformatory outlay; comparative studies of particular prison industries, with special reference to the proper balance between reformatory and financial needs; and comparative studies of particular prison labor systems, based upon ascertained statistical data, and designed to establish a balance between reformatory and financial needs."

Under the head of competition of prison labor, the following studies are suggested: "statistical monographs tracing relations of prison prices, wages, production, etc., to outside prices, wages and production in particular industries, similar to the study of the cooperage industry made by the Illinois Bureau of Labor; historical-economic studies dealing with the alleged tendency of prison industries to monopolize their particular fields, as the hollow ware and cooperage industries have tended to do; comparative studies of relative efficiency of convict labor and free labor; and studies of incipient prison industries with special reference to displacement of free labor and the depressant influence upon the wage scale and the standard of living."

In connection with prisons and dependency it is recommended by the national committee on prison labor that studies be made of the social and domestic relations of inmates of particular institutions, with special reference to the relief of dependent relatives by the prisoners' earnings from overtime labor. Further recommendations are: "statistical monographs, based upon charity records of particular cities, and of dependency having a penal origin; socio-clinical studies of particular families affected by penal dependency; and comparative studies of convicts as wage-earners before imprisonment and after imprisonment."

Under prisons and tuberculosis, the following studies are mapped out as possible: "studies of particular prison industries, with special reference to tuberculosis factors; statistical studies of the tuberculosis problem in individual institutions with special reference to the prevalence of infection among paroled or discharged prisoners; comparative studies of individual cases of tuberculosis in prison and outside, with special reference to the relative resisting powers of confined and free patients; hygienic studies of prison shops, particularly those manufacturing articles likely to communicate infection; studies of prison plans and construction, with special reference to the air and sunlight factors; and hygienic studies of particular prison industries, with special reference to factors of tuberculosis."

The national committee on prison labor, 27 East Twenty-second street, New

York, is reprinting this monograph, which was prepared by J. Lebovitz, delegate of the committee to the International Prison Congress. O. F. L.

The American Prison Association, 1910.—The fortieth anniversary of the American Prison Association was celebrated at its recent meeting held in Washington, D. C. During all these years the Association has been composed largely of men and women administering the practical affairs of our penal and reformatory institutions. For forty years their deliberations, discussions and reports have, year by year, been given to the world, at least our part of it, in the hope and with the purpose that out of them should grow a better general knowledge of the motives that impel men to criminal acts, the nature of the criminal, who he is, why he is, and what he may become under less adverse conditions; and, in the last analysis, how he may be prevented. As a result of these annual conferences there have been developed laws and institutions that have commended themselves to the American mind, but outside of America, because of the lack of scientific data properly arranged, they have not had general indorsement.

No greater service has ever been performed by the American Association than that of initiating the calling of the Eighth International Prison Congress to meet in Washington.

The program of the recent meeting, covering as it did less than half the time usually given to its annual sessions, was not on that account less noteworthy—rather otherwise. The two days' meeting, with five sessions, were given over to the presentation and discussion of the reports of the five standing committees on prison discipline, criminal law reform, prevention and probation, reformatory work and parole and discharged prisoners; the annual address of the President, Amos W. Butler of Indianapolis, and to the organization of the next Congress, to be held in the fall of 1911 in Omaha. Nor was the significant custom of having an annual sermon dispensed with.

The joint meeting of the foreign delegates with the members of the Association was a happy way of merging the two programs.

The address of President Butler at the opening session had for its theme "Convicts and Conservation." He dwelt upon the necessity of productive labor in the treatment of prisoners. After a general exposition of present conditions in the field of prison labor he drew special attention to the success that has attended the employment of prisoners in farming and land reclamation, citing the work done in Massachusetts, Mississippi, Texas and elsewhere. He said:

"The proper conservation of our natural resources and the proper employment of convicts are two great problems that must be solved by our people, and they should be solved right. . . . Why cannot these two problems be related? No present plan of employing convict labor is wholly satisfactory. Some methods used bring shame to our land, others breed scandal, most of them are a reproach to us.

"Why, since prisoners make again habitable the abandoned farms of Massachusetts and remove the boulders from the rich soil of Rhode Island, can they not reclaim the tide flats of New Jersey and the everglades of Florida? Think of the reclaimable land along the coats of the United States! If prisoners build dikes in Europe and levees in Louisiana, why not elsewhere? If convicts in Illinois crush rock for public roads, why not in other states? Why should not the finer material, the powdered limestone, be used to fertilize impoverished soils?

In Europe the courses of streams have been changed, mountains tunneled and canals built by prisoners. Why not adopt Mr. Pettigrove's suggestion and build the Cape Cod canal with prison labor? Since prisoners have been used in reforesting the heaths of Denmark and in practical forestry in Prussia and Switzerland, may they not be so used here? Here where there is need of forestry, there is opportunity for such work. In the great mountain districts, the lands of disappearing timber and along our sandy shores there are possibilities almost without limit.

"In many states, perhaps most of them, some one or more of these things could be worked out. Of course the prisoners should be selected. We must understand that not all prisoners can be worked without walls. In most prisons a majority cannot. All conditions must be considered. But with selected prisoners under the right kind of supervision, what could not be done? The suggestions provide for the very least competition with free labor, for doing something good for the state at the state's expense. Such outdoor labor is the kind most helpful to prisoners, is of value to the state, and seeks to provide a continual exhibit of better things in the object lesson afforded in forestry, agriculture, improved roads and more healthful regions."

The report of the committee on discharged prisoners, prepared by its chairman, F. A. Whittier, superintendent of the Minnesota State training school for boys at Red Wing, emphasized the need of a more general interest in the discharged prisoner on the part of the general public; affirmed that they, the prisoners, "are to be accepted as a part of the body politic, and as such are entitled to a fair chance in the industrial, social and religious world;" and declared that material financial aid was less necessary than "ready employment and a friend." The report advocated the employment of State agents for the care and oversight of discharged prisoners. Such agents, it asserted, determine very largely the successful administration of the parole law. The system of wage-earning in prisons was commended on the ground that thereby discipline is improved, opportunity afforded for at least partial support of the prisoner's family, and as being generally beneficial in stimulating in the prisoner a feeling of self-respect and recognition of the fact "that remuneration comes only as the result of honest labor and earnest effort." The report condemned the practice in vogue in certain States of sending discharged prisoners into other States. The report concluded:

"We believe that these agencies for aid should be so organized and perfected that upon his release from prison every man might have, at least, a definite chance of employment, where he could, if he would, succeed, and that the aid and supervision of the agency continue until he has acquired the three R's of good citizenship—self-respect, self-reliance and self-restraint."

An unusually comprehensive and valuable report was submitted by Warden George W. Benham of Auburn, chairman of the committee on prison discipline. The report laid special stress upon the necessity of the careful selection and training of prison officers, with a standard, as expressed by Mr. Pettigrove, chairman of the prison commission of Massachusetts, of "a prison officer with a clear head and a warm heart, who can think straight rather than shoot straight." The report and its subsequent discussion brought out also the disciplinary and controlling influence of work; the importance of wholesome food, properly cooked and decently served; the necessity for the segregation of unimprovable and therefore mentally deformed prisoners, and for up-to-date hospital facilities

for the physically diseased. The discussion was at least suggestive of the need of expert psychological study to determine mental and moral deviation.

Space forbids more than a mention of the report of the standing committee on reformatory work and parole, presented by its chairman, James A. Leonard, superintendent of the State Reformatory at Mansfield, Ohio, and of the committee on criminal law reform, presented by its chairman, Albert H. Hall of Minneapolis, Minn. The latter report was presented at the Friday evening session, to which members of the American Institute of Criminal Law and Criminology had been especially invited. Mr. Wigmore, President of the Institute, led in its discussion.[1]

Considerable discussion and diversity of opinion was brought out by the report of the committee on prevention and probation, prepared and presented by its chairman, George L. Sehon, superintendent of the Kentucky Children's Home Society. The particular phase of the report that called out a minority report, in which Judges DeLacy and DeCourcy, Miss Lathrop and Mr. Spalding joined, bore upon the advocacy of sterilization for certain classes of known and hopeless defectives. The "Indiana plan," so called, was defended by Dr. Sharp of Indiana, formerly surgeon at the Jeffersonville Reformatory, and as a result of whose work the operation known as vasectomy has been legalized in that state. It was the contention of those who opposed such legislation that custodial care and proper segregation will guarantee the safety of society.

On Sunday night a joint meeting of the members of the Association and the foreign delegates to the International Prison Congress was held under the auspices of the former. Addresses were made by Mr. Z. R. Brockway, Major R. W. McClaughry, Sir Evelyn Ruggles-Brise, Chairman of the Prison Commission of England, Dr. Guillaume of Berne, Switzerland, and Mr. Fred H. Wines of Springfield, Ill., son of the founder of the International Prison Congress. The addresses were all noteworthy and deserving of more than passing notice.

Where emphasis was laid upon so many important phases of prison reform it is difficult in a restricted article to speak of them separately. Those who attended the Conference must have been impressed with the necessity of providing a different form of administration of our county jails and prisons that will relieve us of the shame and disgrace of present conditions. Impetus was given, too, to the matter of a bureau of criminal statistics.

The next meeting of the Association will be held in Omaha, Neb., probably in September, 1911. The President for 1911 is T. B. Patton, superintendent of the State Reformatory at Huntingdon, Pa.[2]

Meeting of the Wisconsin Branch of the American Institute of Criminal Law and Criminology.—The second annual meeting of the Wisconsin Branch of the American Institute of Criminal Law and Criminology was held in Milwaukee, November 25 and 26, 1910. Hon. Emil Seidel, mayor of the city, welcomed the delegates. The president of the branch, Judge E. Ray Stevens of the ninth judicial circuit, delivered the opening address, in which he reviewed some recent decisions in Wisconsin indicating a tendency of the Supreme Court to disregard unsubstantial technicalities. [See editorial comment above on "Wisconsin Justice Without Technicality."] He also called attention

[1]This report is summarized on another page of the JOURNAL.

[2]Furnished by Mr. J. P. Byers, secretary of the American Prison Association, Newark, N. J.

to an opinion in a recent Wisconsin case in which the Wisconsin branch was referred to as "a flame in whose light we are now administering the criminal law." Following the president's address, Hon. Harry Olson, Chief Justice of the Municipal Court of Chicago, spoke on "The Organization and Unification of Courts." The meeting was notable for the large number of delegates in attendance. The personnel included judges of the State supreme court, of the circuit courts, of the municipal courts, district attorneys, prominent attorneys, physicians, ministers and laymen.

The principal work of the conference was the consideration of the reports of the committees appointed at the conference of 1909. The reports, which had been printed and distributed in advance of the meeting, related to the following subjects: Trial procedure; organization of courts; trial of the issue of mental responsibility; sterilization; jury; juvenile offenders; classification and segregation. Definite action on the following subjects, embodied in the reports of the above committees, was taken. It was resolved that the existing unrestricted constitutional guaranty against incriminating testimony by one accused of crime should be abolished and in its place should be substituted, either in the form of a statute or an amendment to the constitution, a modified or limited immunity; that as four years at least must elapse before any constitutional change is possible, the preparation of the substituted scheme will in the meantime be in charge of a committee of the branch; that the existing statutory provision declaring that the refusal or failure of an accused person to testify should create no presumption against him should be changed at once so as to permit such refusal to be considered by the jury with the other evidence in the case; that the statutes should be so amended as to require the defendant to raise, before jeopardy has attached, all questions of law which can be so raised, or be deemed to have waived his jeopardy so as to permit an appeal by the state; that a review on behalf of the state should be permitted on questions of law decided adversely to it, even though jeopardy has attached, such review, however, not to affect the result in the particular case; that where the defense of insanity is interposed the expert opinion in the case should be given only by experts chosen from a board or commission appointed by the state; that the existing statute requiring a judge to grant a change of venue on the filing of an affidavit of his prejudice should be repealed entirely or be so modified as to prescribe time limits for filing such affidavits, and notice thereof to opposite counsel; that the law should be so amended as to permit the defendant in all criminal cases to waive a jury trial or to be tried by a jury of less than twelve; that the age limit of girls coming under the jurisdiction of the juvenile court be raised from sixteen to eighteen years and of boys from sixteen to seventeen years; that a legislative committee of the branch be appointed to put into proper shape the foregoing action, to bring the same to the attention of the legislature and to urge legislation necessary to make such action effective.

The following questions were referred to committees for further consideration and report at the next annual meeting: the question of modifying the constitutional right of the accused to meet the witnesses face to face so as to permit the state in criminal cases to secure and offer in evidence depositions; that of the organization of courts; of the method and advisability of a trial on the special issue of insanity; of sterilization; the advisability of making obligatory upon all courts of record in the state the application of the principles of the juvenile court; the advisability of providing for the support of the wives and

the support and education of the minor children of convicted and sentenced persons out of the earnings of such persons; and the adoption of the indeterminate sentence.

The Milwaukee committee on arrangements added to the hospitality extended by the city of Milwaukee by tendering to the out-of-town members of the branch a complimentary dinner at the Hotel Pfister. At the dinner Chief Justice Winslow, of the Supreme Court, acted as toastmaster, and the following toasts were responded to: "Mere Technicalities," Howard L. Smith, Professor of Law, University of Wisconsin; "The Press a Mirror of Crime," John G. Gregory, of the *Evening Wisconsin,* Milwaukee, Wis.; "Reversed and Remanded," Joseph G. Donnelly, Chief Justice of the Civil Court of Milwaukee, and "The Administration of the Criminal Law in England," Professor E. R. Keedy, Northwestern University Law School. Chief Justice Winslow indicated that the number of those accused of crime in the state of Wisconsin who escaped punishment in the last year, in the Supreme Court at least, on what might in any sense of the term be called a technicality must have been few, as out of the nineteen appeals to that court in criminal cases in the last year, eighteen were affirmed.

The following officers were elected for the ensuing year:

President, A. H. Reid, Judge of the 16th judicial circuit.

Vice-Presidents, John B. Winslow, Chief Justice of the Supreme Court, and B. R. Goggins, Attorney.

Secretary, William U. Moore, Professor of Law, University of Wisconsin.

Treasurer, Louis E. Reber, Director, Extension Division, University of Wisconsin.

Councillors: E. Ray Stevens, Judge of the Circuit Court; E. A. Ross, Professor of Sociology, University of Wisconsin; C. B. Bird, Attorney; H. H. Jacobs, head of University Settlement, Milwaukee; E. A. Gilmore, Professor of Law, University of Wisconsin.

Pennsylvania Branch of the American Institute of Criminal Law and Criminology Organized.—At a luncheon given by Mr. Nathan William McChesney, President of the American Institute of Criminal Law and Criminology, at the University Club of Philadelphia, on December 5, the Pennsylvania State Branch of the American Institute of Criminal Law and Criminology was organized. This is the first State branch of the Institute to be organized in the East. Among those present at the organization were: Walter George Smith, Esq., Francis Fisher Kane, Esq., and Lucien Hugh Alexander, Esq., all of the Philadelphia Bar; William Draper Lewis, Dean of the Law School of the University of Pennsylvania; Lightner Witmer, Professor of Psychology; Leo S. Rowe, Professor of Political Science; Charles W. Burr, Professor of Mental Diseases; William E. Mikell, Professor of Law, and James P. Lichtenberger, Assistant Professor of Sociology, in the University of Pennsylvania. Judge William H. Staake, of the Court of Common Pleas, expected to be present, but was detained in court.

Professor William E. Mikell was elected Chairman of the Pennsylvania Branch and will proceed immediately to its further organization.

Reversals on Account of Instructions.—Recently the Bar Association of San Francisco sent a letter of inquiry to the attorneys-general of all the American states asking for their opinions concerning the necessity of instruct-

ing juries in criminal cases and also inquiring to what extent, in their judgment, errors in giving instructions were responsible for reversals. The following is an analysis of their replies:

The attorneys-general of the various states generally agree that reversals are frequent for erroneous instructions; all of them think that instructions are necessary, but many of them believe that they should be limited to clear statements of the law. Some of them, evidently, believe that appellate courts are too ready to reverse for errors in instructions. The attorney-general of Virginia says that whatever instructions are given, the verdict of the jury is generally right. The attorney-general of Idaho has come to doubt the necessity of instructions in criminal cases. They practically agree that judges should not comment on the facts. The attorney-general of Montana thinks that their new practice of settling instructions before they are given and that of requiring exceptions to specifically indicate objections is an improvement. The attorney-general of Oklahoma says: "Our courts will not reverse on account of erroneous instructions, if it is apparent that none of the substantial rights of the accused were prejudiced thereby." The attorney-general of South Dakota thinks that instructions should be limited to a "plain, clear, concise statement only of such laws as are necessary to a determination of the case." J. W. G.

Report of Committee on Criminal Law Reform, American Prison Association.—At the recent meeting of the American Prison Association in Washington, its Committee on Criminal Law Reform, of which Albert H. Hall, Esq., of the Minneapolis bar, is chairman, presented a report summarizing the year's progress in criminal law. The patient zeal of many men and institutions, he said, had been revived and powerful agencies had been brought into effective and constructive coöperation. The spirit of the new reform, he declared, was broad in its scope and intense in its method. It seeks to be scientific, sympathetic and searching without the limitations of convention or school. Mr. Hall then reviewed the work of some of the organizations and institutions whose efforts have recently been directed toward criminal law reform, such as the American Institute of Criminal Law and Criminology, the American Academy of Political and Social Science, the American Bar Association, the bar associations and associations of prosecuting attorneys of various states, the National Civic Federation, the National Conference of Charities and Corrections, and medical societies, state and local. The effective work done by the American Institute of Criminal Law and Criminology through its committees, whose reports have been published in the JOURNAL, was the subject of special comment. Of this organization, Mr. Hall said in part:

"The American Institute of Criminal Law and Criminology, that was organized and tendered its coöperating and coördinating help to this organization a little over a year ago, has united a force of intelligent experts, working in harmony with true scientific spirit. It drew its membership from the thinkers and workers in medicine, philanthropy, religion, sociology, penology, politics and science, but made the chief object of its invitation the administrators and practitioners of law. The indifference of the legal profession has been shaken, and many valuable experts have been secured from its ranks who have been giving, and will continue to give, to the carrying forward of this reform the results of patient labors. From such combinations of effort substantial results were assured, and events have justified the hopes of its founders."

He next dwelt upon the progressive legislation of the year, so far as it related to the criminal law and procedure, and called attention to the valuable reforms that had been undertaken in the various states.[1] By way of recommendation and conclusion, Mr. Hall suggested that the government ought to gather and record full biographic and civic data concerning each of its component units, the life of every man. We have, he said, developed the registration and identification of its thoroughbred domestic animals, why omit the record of human life, the supreme product of creation?

"It should be national in scope and authority, embracing a continuous enumeration and consecutive numbering of the whole citizenship. It could be conveniently evidenced and effected by a duplicate card certificate system, identifying its bearer by photo or finger print, recording birth, parentage, education, vocation, marriage, residence, military and civil service, felonious criminal conviction and atonement therefor and discharge, restoration or pardon therefrom. The duplicate of the same entries should be kept in a Federal bureau, corrected, indexed and cross-referenced to date by compulsory daily entry and report by all courts of record and other official keepers of social and vital data to show every contact of the man with the state. Such a system, besides constituting a continuous daily census of the included facts, a body of concrete knowledge of the highest direct and immediate value, in its secondary or resultant effects, would be even more potent and widespread."

The speaker expressed approval of the growth of opinion that legal and judicial functions should be confined to the discovery and determination of the facts of each criminal offense and the relation of the accused thereto, leaving the application of all penal and correctional treatment to a more extensive, deliberate and individual research and observation than the processes of the courts permit; this to be carried on by executive experts coöperating with the judiciary.

He also suggested "legislative sanction and authority to police and examining magistrates to inquire of the accused concerning his identity, his whereabouts at the time of and his movements in connection with the alleged criminal act, providing stenographic or phonographic record of the same, or his refusal to answer be kept and a copy furnished him. Also to introduce in evidence the record of the inquiry and the refusal of the accused to make disclosure, and remove the statutory prohibition to court or prosecuting officer to comment on or draw fair conclusions to the jury therefrom."

Regret was expressed at the growing tendency to too much written law and to elaboration of detail in the framing of the criminal law. Criminal legislation, he thought, would gain much if it again learned to express itself in terms of the common, the general, the universal and the unvarying." To effectively individualize the administration of punitive justice, wide range must be left for discretion and the exercise and guidance of the personally enlightened judgment of the man performing judicial function. Arbitrary classification of offenders or offenses, detail in definition, regulation and direction and all elaboration of detail tend generally to hamper, hinder and pervert wise administration. For the wise, orderly and scientific reform of criminal law in the United States there is now the pressing need of an expert criminal legislation bureau,

[1] A summary of this legislation may be found in the JOURNAL for July, pp. 148-151.

equipped with all available statistics, reports, forms, precedents and treatises, prepared to quickly furnish the same on application and draw and propose bills and codifications and furnish expert service, counsel and assistance generally to legislators and legislatures.

"Such a bureau would be a most powerful agency in promoting uniformity and the perfecting of criminal law in these states. It would operate as a conserving as well as a stimulating influence upon the reform spirit now abroad, and which, unless wisely guided, may lead to unfortunate reaction that will retard the steady course of progress. This high mission may, and should be, assumed by the American Institute of Criminal Law and Criminology. It has the talent, is accumulating the necessary equipment, is now, or soon will be, coördinated with all the other institutions of the country working to the same end and is particularly fitted to take up and carry on this particular branch of the work." J. W. G.

The Juvenile Court in Paris.—A recent circular from Ed. Julhiet, Paris, gives the following information relating to the development of the juvenile court in Paris:

During the four years since the court was established 560 children have been placed at liberty under supervision by the tribunals or by the prison administration; but 83 among them have been promptly returned to the latter, 7 have died, and of 51 we cannot form a judgment. Our statistics, therefore, deal with 419 children. Of this number, 127 children appear to have become good citizens; 117 have been placed in the country after a period of supervision; 35 have been employed in the army or navy; 17 have been sent to their distant families; 35 have disappeared, and 88 have committed new offenses.

Thus for 127 children liberty under supervision has been a method of salvation and improvement. For 169 others it has been a measure of observation which has permitted a decision as to the moral therapeutics suitable for them, as military engagements, return to their homes or placing in the country. The rest is the contingent of disappointment of the systems which we have not altogether to regret, because we have given one more chance to the little people. These four years of practice show us distinctly what probation means and what we may expect of it in France. Two-thirds of the children have profited by it.

The sketch of a law which was suggested by the writer and by Mr. Marcel Kleine was laid before the Chamber by M. Paul Deschanel and was the object, on March 2, 1910, of a report by M. Viollette, in the name of the commission of judicial reform, and favorable action was taken on the 31st of March.

C. R. H.

A Formula for Measuring the Degree of Criminality in a Social Group.—For the purpose of subjecting to statistical analysis certain data which cannot be measured by distances from zero, such, for instance, as the values assigned to ability and conduct of certain kinds, the expedient has been resorted to of assigning such data to successively numbered positions in a scheme according to a definite marking scale and then subjecting them to familiar mathematical methods. In an article on "The Social Marking System," in the *American Journal of Sociology* for May, 1910, Prof. F. H. Giddings applies this expedient to the measurement of the degree of departure from equality or degree of sub-homogeneity, assuming a standard of equality or homogeneity in any particular social

group. The relative homogeneity or heterogeneity of any social group may be investigated with reference to various qualities, such, for instance, as race or religious system. Attention is here especially called, however, to the proposed formula as a measure of the degree of departure from the assumed normal standard of conduct of any social group or, in other words, of the degree of criminality.

"Let us then suppose," says Professor Giddings, "that we have to describe a group of human beings, twelve in number, of whom three are unobjectionable in conduct; three are vicious persons, or minor misdemeanants; two are petty criminals or major misdemeanants; two are felons, not capital; and two are felons, capital. The group as a whole is sub-homogeneous. * * * Imagine, now, that by expending one unit of some kind of effort, we could lift any one vicious person up to the level of the men whose conduct is unobjectionable; that by expending two units of the same kind of effort we could lift any one major misdemeanant to the same standard level; that by expending three units of the same kind of effort we could lift any one of the minor felons, and by expending four units of the same kind of effort we could lift any one of the major felons, to our standard level. Then, by expending 1 unit $\times 3 + 2$ units $\times 2 + 3$ units $\times 2 + 4$ units $\times 2$, or 21 units in all, or 1.75 units per capita for the whole group of twelve persons, we would convert the entire sub-homogeneous group of twelve persons into a group perfectly homogeneous in respect of a standardized conduct.

"Students of the physical sciences who are accustomed to measure physical phenomena of every description by the number of units of effort necessary to transform them from one state into another will assent to the proposition that if we could thus actually transform any heterogeneous group of human beings into a homogeneous group, the number of units of effort necessarily expended in the process could be taken as an accurate measure of the total sub-homogeneity of the original group, and that the total number of units of effort so expended, divided by the total number of individuals in the transformed group, could be taken as a measure of the per capita degree of sub-homogeneity of the original group.

"Is it legitimate to conceive of any heterogeneous group as ideally transformable by such a procedure and then to assume that we may measure its sub-homogeneity by (1) multiplying each successive numerical mark on a marking scale of resemblance positions by the 'frequency' or number of individuals assigned to that position, (2) obtaining the sum of the products, and (3) dividing it by the whole number of individuals in the group or population? It is, I think, an adequate and satisfactory answer to this question to observe that the conception and the assumption are legitimate, if mankind is warranted in believing that by an expenditure of educational and reformatory effort it can standardize knowledge and conduct, and can assimilate alien habits and ideals to prevailing or national types. If the valadity of this pragmatic belief be conceded, there can be no objection to conceiving of an average and abstract unit of standardizing effort, practically unchanging throughout the same group or population, living under practically constant conditions. If so much be granted, we may write the formula for measuring sub-homogeneity as follows:

Designate positions on the marking scale by the numerals 0, 1, 3, 4, ... n.

Designate frequencies by K_0, K_1, K_2, K_3, K_4, ...Kn.

Designate total individuals, or population, by P.
Designate per capita degree of sub-homogeneity by S.
Then:

$$S = \frac{K_1 + 2K_2 + 3K_3 + \ldots + NKn.}{P}$$

E. L.

The American Bar Association on Procedural Reform.—The special committee appointed by the American Bar Association in August, 1907, to consider the alleged evils in connection with the administration of justice and to suggest remedies therefor, presented a report at the meeting of the association at Chattanooga in August last, reviewing its efforts to secure the enactment by Congress of legislation looking toward the introduction of certain reforms in the procedure of the Federal courts. In the May number of the JOURNAL we summarized the provisions of the bills recommended by the association and introduced in both houses of Congress at the last session. Speaking of the proposed legislation, the committee says in its report:

"The objects which the association had in recommending the proposed legislation were to diminish the expense and delay of litigation, and to facilitate the decision of causes upon the merits. To accomplish these results we recommended legislation which in effect provided:

"1. That issues of fact may be found specially by a jury, reserving the decision of questions of law for subsequent consideration by the trial judge or by the Appellate Court, with power to order final judgment upon the law held applicable to the facts found by the jury.

"This practice existed at common law. It now exists in New Hampshire, New York, New Jersey, Pennsylvania, Kansas and in other states.

"2. That judgment shall be rendered upon the merits without regard to technical errors that do not affect the merits.

"We cannot think that these changes can be called radical, and we hope that when more fully considered they may be adopted by Congress.

"One way of testing a proposition is to consider its converse. Who could possibly maintain the converse of these two recommendations, or seriously support a bill or a rule of court which should provide: (1) that a new trial should always be granted if any error of law had been committed on the first trial, notwithstanding that the verdict of the jury upon the facts was satisfactory to the court; (2) that a judgment should be reversed and a new trial granted whenever any error of law had been committed on the trial, although it did not affect the merits. Yet in effect the practice which would be embodied in these two last propositions is the practice which we are seeking to change, and concerning which our proposals are said by some to be radical.

"In presenting to Congress the bills before mentioned, your committee has been much aided by the Civic Federation. That body has a committee on uniform legislation. That committee has had conferences with us, and has recommended for adoption the bills which have been recommended by this association. They have also urged upon us the importance of the reforms in procedure which were considered in our last report, but respecting which we made no definite recommendation. We have had under consideration the subject of a practice act for the courts of the United States which would embody in concise form

the principles of procedure which experience has shown to be fundamental, leaving to the courts the regulation of details."

In pursuance of this recommendation a committee was authorized to prepare a federal practice act and report at the next meeting of the association. The committee was also authorized to present to Congress at its next session the bills heretofore reported by it and recommended by the association, in such form as to obviate as far as possible the objections thereto that have been taken in Congress, but retaining the essential principle of the bills heretofore recommended by the association. The report was signed by Everett P. Wheeler, Roscoe Pound, Charles F. Amidon, Frank Irvine, Samuel C. Eastman, Samuel Scoville, Jr., Henry D. Estabrook, Edward T. Sanford, Charles E. Littlefield, Charles S. Hamlin, Stephen H. Allen, Arthur Steuart, William L. January.

J. W. G.

National Civic Federation on Reform of Criminal Procedure.—At the meeting of the National Civic Federation committee on reform in legal procedure at Chattanooga, August 29, 1910, a sub-committee was appointed to consider the question of reform in criminal procedure. The committee appointed consisted of Selden P. Spencer, St. Louis; Stephen H. Allen, Topeka, Kan.; Charles L. Jewett, New Albany, Ind.; Stephen S. Gregory, Chicago; Lawrence Cooper, Huntsville, Ala.

The committee unanimously adopted the following resolution as expressive of the sense of the committee: "No indictment or information shall be held defective at any stage of the proceeding provided it fairly informs the defendant of the offense with which he is charged."

The committee also unanimously adopted the following resolution:

"Upon any second or subsequent trial of a criminal charge the testimony of any witness who testified on a former trial and who is dead or beyond the jurisdiction of the court may be introduced by the prosecution or defense."

J. W. G.

Unpunished Murder in Louisville.—The Health Department of the city of Louisville, in a recent report, declares that during the past year—August 1, 1909, to August 1, 1910—there were forty-seven homicides in the city and not a single legal execution, the proportion being one case of homicide to every 6,000 of the population. Such a reign of lawlessness may be compared with conditions in the city of London, with a population of approximately 5,000,000 people, where, according to the report of the Howard association reviewed elsewhere in this number of the JOURNAL,[1] there were 19 homicides during the past year and only 12 during the preceding year. In all England, including Wales, there were only 23 homicides during the past year and all but seven of the offenders were executed.

J. W. G.

The Administration of the Law.—Ralph W. Breckenridge, of the Omaha bar, in an article published in the *Docket* for September 10, dwells upon some of our antiquated methods of procedure, especially in the Federal courts, and declares that the people are waking up to the fact that the delays of the law and the frequent miscarriages of justice are becoming intolerable. The system by which the people of this country are required to get justice, he says, is most extraordinary. We are trying to administer law according to a system which

[1]See p. ——.

is from one hundred to three hundred years old. We have borrowed a lot of rules from the English chancery practice which had their origin in the dim and dusty past.

"In the Federal equity courts there are bills, demurrers and pleas; there are bills of revivor and supplemental bills; there are bills of review and bills in the nature of bills of review; there are bills de bene esse, bills of discovery, bills of interpleader, bills to construe decrees, bills to eventuate decrees, bills to impeach decrees, and bills to perpetuate testimony. There are altogether ninety-four of these equity rules, of which ninety-one were adopted in 1842.

"I do not propose that law shall be administered without some form and by systematic rules which shall insure the orderly dispatch of business and which shall secure not only justice to litigants, but uniformity of decisions. But rules of procedure should exist only to secure to all parties a fair opportunity to make out the case as brought, and a full opportunity to present the defense thereto. The problem is, to quote Professor Pound, 'How shall we make the rules of procedure rules to help litigants, rules to assist them in getting through the courts, not rules to be made instruments of stratagem for the bar and of logical exercitation for the judiciary?'"

"The stagnant conservatism of the American bench and bar, as shown by the tenacity with which we cling to these useless and costly rules and forms is out of joint with this age."

One of the most singular absurdities in the practice and administration of the lay in the Federal courts, says Mr. Breckenridge, is that there are forty-six different ways of trying lawsuits, as distinguished from equity cases.

"President Taft has been the most conspicuous and perhaps the most vigorous advocate of legal reform in this country, and largely upon his initiative and with his hearty co-operation a plan is taking shape for the cure of defects in the administration of the law in the United States, with an excellent prospect for its achievement. The American Bar Association has a committee of fifteen of its ablest members charged with the duty to suggest remedies and formulate laws to prevent delay and unnecessary cost in litigation.

"The National Civic Federation, at its conference on uniform legislation held in Washington last January, created a standing committee on reform in legal procedure, with instructions to co-operate with the committee of the American Bar Association having the same subject in hand, and to back the movement with all the power and influence at its command. These two committees recently conferred in New York. They criticized the federal equity rules, the current system of appellate procedure, and the lax and inefficient administration of our criminal laws. Subcommittees from each of these two committees have been appointed for the purpose of preparing a model practice act, which the Congress will be asked to enact, covering trials in all cases pending in the Federal courts, and which may be taken as a model for adoption in the several states. While progress toward reform in the substantive law is not lost sight of, the profession is keenly alive, not only to the advantages of, but to the necessity for, procedural reform." J. W. G.

The Alabama Bar Association on Legal Reform.—At the thirty-third annual meeting of the Alabama State Bar Association, held in Mobile, July 13 and 14, 1910, the subject of legal reform occupied an important place on the

program. The president of the association declared that human life was too cheap in Alabama and that some method ought to be adopted by which the criminal law could be better enforced. He favored reducing the number of peremptory challenges allowed the defendant and advocated the restoration of the power enjoyed by judges at common law, to comment on the evidence. The superiority of the English procedure was dwelt upon and the suggestion was made that a committee be appointed to compare the procedure of Alabama with that of England to ascertain whether the Alabama practice could not be improved. After a lengthy discussion in which general dissatisfaction with the existing administration of the criminal law was expressed, the association agreed to the appointment of a committee of five to revise the criminal law and recommend needed reforms. The association also adopted a recommendation that the criminal code be so amended as to provide that no judgment of conviction shall be reversed by the Supreme Court for error unless the court is clearly satisfied from the record as a whole that the case of the defendant was prejudiced by such error. The committee on jurisprudence and law reform in its report called attention to the criticism directed against the Supreme Court for insisting upon unnecessary particularity in the framing of indictments and for presuming that error in the record was necessarily prejudicial to the cause of the defendant. J. W. G.

The Administration of the Criminal Law in Alabama.—At the meeting of the Alabama State Bar Association, referred to in the preceding note, C. B. Verner, Esq., of Tuscaloosa, a former prosecuting attorney, delivered an address in the course of which he dwelt upon the large amount of crime committed in the state and the failure of the courts to inflict punishment upon the guilty. More homicides, he said, were committed in the one county of Jefferson during the past year than were committed in England, Ireland, Scotland and Wales combined. Only a trifling percentage of the offenders were ever punished. One reason for this, he said, was that the criminal law throws around the criminal every protection that the ingenuity of man has been able to devise.

"Of late he is permitted to testify in his own behalf (and rightly) and is still attended with the presumption of innocence until the evidence has established his guilt 'beyond a reasonable doubt,' that will o' the wisp of the criminal law that has cost more human lives than war or pestilence. There is only one plea which the defendant is required to prove by a preponderance of the evidence, and that is 'not guilty by reason of insanity.' If the defendant sets up 'self-defense' he does not have to prove it; but, on the other hand, the state must show beyond a reasonable doubt that the defendant did not act in self-defense. There has never been suggested a good and satisfactory reason why this should be."

Another source of delay and frequently of miscarriage of justice is the practice of the lawyers of raising objections with the hope of trapping the court into committing error. Examples of the kind in which justice was sacrificed were cited. Speaking of the evil of reversals for technical error, he said, "I have examined about 75 murder cases that found their way to the Supreme Court and reported in random volumes 100 to 160 of the Alabama reports. More than half of these cases were reversed, and not a single one of them on any matter that went to the merits of the case; and very few of them upon any matter that could have influenced the jury in reaching a verdict."

"This thing should be remedied. The Supreme Court should not be allowed to reverse cases where the defendant has had a fair and impartial trial, no matter how many technical errors may have been committed by the lower court."

Some of the cases cited in illustration are the following:

"There is the case against Scott, 141 Ala., 39, which was reversed because the records recited that the 'court,' instead of the 'presiding judge,' drew the jury. This was good for the defendant, but how could he have been prejudiced by the recital? He was present when the jury was drawn, and if he didn't like the manner of the drawing he should have objected then.

"Take the Bankhead case, 124 Ala., 14, where the solicitor waived capital punishment; yet the Supreme Court held that this was reversible error, and reversed and remanded the case, while holding the first trial was an acquittal of murder in the first degree and knowing that the defendant could not have a special venire on the second trial. Truly, this is an absurdity of the kind that brings the administration of the law into disrepute.

"There is the Green case, 160 Ala., 1, where the cause was reversed because the record did not affirmatively show service of a copy of the indictment and list of jurors on the defendant. The court raised the question *ex mero motu*. If the defendant was not served below with such copies, why not make him raise the objection in the lower court?

"Again, we find the case of *Harris v. The State,* 153 Ala., 19, where the defendant was absent from court when the jury returned a verdict of guilty of murder; and the Supreme Court held that his absence worked an acquittal. If this was the law in Alabama before that decision was rendered it was bad law and should be changed. It would have been technical enough to have granted the defendant a new trial; but to say that he should not again be tried is but encouraging the murderer.

"Now, I did not prosecute any of these cases and have no interest in any of them, yet I could give instances where things almost as bad have happened in my practice, but I desist, as these examples are enough to show to what extent our court has gone to make the law a shield and a sword for the man-killer."

Mr. Verner urged the bar to begin a campaign for thoroughgoing reform. There were many difficulties and obstacles to be overcome, he said, before reform could be made effective, but it could be done if the lawyers of the state would make a determined effort to that end. J. W. G.

Reform of the Jury System in California.—The Bar Association of San Francisco, which has been particularly active during the past year in trying to bring about much-needed reform in the legal procedure of the state, has recently recommended the following changes in the penal code:

First, that the common-law powers of judges to charge juries in respect to matters of fact, as well as in matters of law, in both civil and criminal cases, be restored. The existing restriction is not found in the federal practice and now obtains in but eight states. It is a relic of the sixteenth century and no longer serves any useful purpose. On the contrary, it multiplies the chances of error in the record and thus tends to delay or defeat justice through reversals and new trials.

Second, that jurors shall be discharged after they have served twelve days, unless at the expiration of that period the trial is still in progress. The purpose

of this provision is to do away with the professional juror and at the same time to secure the service of a better class of men by making jury service for such persons less burdensome. In San Francisco men are frequently kept on the panels for periods of time varying from four to eight months. A provision similar in principle to the above exists in the practice of New York and in the Federal courts, and in both jurisdictions the results have been satisfactory.

Third, that the number of peremptory challenges allowed the defendant in capital cases be the same as that allowed the state, namely, ten; in other cases, five. The present law allows the defense twice as many as are allowed the prosecution.

Fourth, that the provision of the penal code providing for alternate jurors to take the place of regular jurors in cases of illness or death be extended to apply also to civil cases. J. W. G.

Proposed Reforms in the Criminal Procedure of California.—A committee of the San Francisco Bar Association, after a year's investigation, has recommended the following changes in the penal code of the state:

First, that before accepting a person drawn as a grand juror, the court must be satisfied that such person is duly qualified to act, but when drawn and found qualified he must be accepted unless excused. The purpose of this provision is to do away with the long investigations at the instance of indicted persons regarding the qualifications of grand jurors. Such investigations result in no advantage to the defendant, are expensive to the state and tend to bring the administration of the criminal law into disrepute.

Second, that an indictment or information may be amended by the prosecuting attorney at any time before the defendant pleads and at any time thereafter, in the discretion of the court, when it can be done without prejudice to the substantial rights of the accused. Provisions similar in principle are found in Kansas, Louisiana, Michigan, Wisconsin, New York, Montana, Texas and Mississippi.

Third, that the provision of the penal code which requires the defendant to be furnished with a copy of the testimony given in his case before the grand jury, be repealed. Such a requirement increases unnecessarily the expense of conducting investigations by grand juries, encumbers their deliberations, robs their proceedings of secrecy and frequently leads to the defeat of justice.

Fourth, that no witness shall be disqualified or excused from testifying in any of certain classes of offenses where more than one person is involved, on the ground that such testimony may criminate himself, but no prosecution can be had against such witness for any offense concerning which he was compelled to testify for the prosecution. It is believed that such a law will tend to discourage the class of crimes referred to because of the fear that each party will have of the confession of the other. Witnesses knowing of a crime should be compelled to testify to it, and, if they may thereby gain immunity, every criminal will be afraid of his accomplices and the conviction of persons guilty of crimes of conspiracy will be more likely.

Fifth, that in all criminal cases except official offenses three-fourths of a jury may render a verdict. This is the majority now required for conviction in civil cases, and it ought to be sufficient to convict in criminal cases except capital offenses.

Sixth, that the prosecuting attorney shall be allowed to make such com-

ment on the failure of the accused to testify and that the court may give such instructions to the jury regarding the same as the legislature may by law provide.

The United States Supreme Court has decided (*Twining v. New Jersey*, 211 U. S., 78) that the action of the trial court in commenting upon the failure of the accused to testify is not a violation of due process of law. Such a rule as is proposed by the California Bar Association will appeal to most persons as sound and just. If innocent, the accused will regard the privilege of testifying in his own behalf as a boon. If evidence has been presented showing his guilt, the jury should be allowed to interpret his silence as further evidence of guilt if they think proper, instead of being told, as is now the practice, that they must shut their eyes to the fact. The right of the defendant will not be injured by permitting the jury to draw from his silence such inferences as reason and common sense suggest. J. W. G.

California Judges on the Causes and Remedies for the Law's Delay.—A letter was recently sent out by a committee of the San Francisco Bar Association to all the superior judges of the state inquiring what, in their opinion, were the principal causes of delay in civil and criminal cases and what were the remedies for such delays.

"Less than thirty judges sent replies. One replied that tenure of office should be for life. Three stated there was no delay in criminal cases in their jurisdictions. Another stated there was no cause for complaint, except in San Francisco, where there should be eighteen departments. One said it is not the law, but our civilization and people, which are at fault.

"Another said that in his county (Alameda) there are sixty thousand people to one judge, with which condition he could not cope. Another, that in counties where there are several judges there is not a proper assignment. Another, that there are not enough judges in San Francisco and in Los Angeles.

"Seventeen expressed themselves that continuances were the cause of delay. Six of these mentioned both attorneys and judges as at fault, while eleven mentioned attorneys alone. Nine criticized the system of appeals; seven, our system of choosing jurors; three, time demurrers; three, the too great attention given to technicalities and trivialities. The district attorney was twice criticized for delay, and one judge believed too much time is given to that officer to file informations. One desired instructions given by topic; another said that the standard for admission to the bar should be raised.

"The remedies proposed are more varied than the causes, and may not be placed under topical heads. Continuances, lack of judges in several counties, system of appeals and the choosing of jurors stand out prominently in the letters received as subjects for criticism and the attention of the committee."

J. W. G.

Speedy Justice in Michigan.—The Saginaw (Mich.) *Courier-Herald* recently contained an account of an example of speedy justice in Grand Rapids which reflects credit upon both the police and the court concerned. It says:

"On Saturday night a well-known and aged merchant was sand-bagged and robbed on his way to his home. His injuries were immediately recognized as fatal, and on Monday death followed, the victim never returning to consciousness. This left the police without a tangible clew to the criminals, and the outlook for the solution of the murder was not promising.

"On Wednesday, however, one of the detectives found a clew and by following it up with intelligent, energetic effort, gathered sufficient evidence to warrant an arrest. The investigation continued without a let-up, and on Thursday morning the prosecuting attorney of Kent county faced the two suspects and secured their confessions. At 9 o'clock these confessions were signed, at 10 o'clock the prisoners were arraigned in the police court, waived examination and were bound over to the Circuit Court. An hour later they were under sentence to life imprisonment in Marquette prison, their pleas of guilty having been received and sentence passed. To-day they are enrolled as convicts at this penal institution, and the light of day will never again greet them—unless there is a miscarriage in the performance of the law.

"Retribution," says the *Courier-Herald*, "came with commendable speed in this case, and society to-day is freed from the presence of two of the most brutal and degenerate young men reported in Michigan criminal annals. Their guilt is undoubted, as their confessions were secured without any resort to the 'third degree' or jail punishment, and there is no ground for expiation of their awful crime." J. W. G.

Georgia Baptists on Crime and Its Punishment.—At a recent session of the State Convention of Georgia Baptists a resolution was adopted containing the following arraignment of the administration of the criminal law: "The evils above named and the remedies needed are confined to no part of the United States, but crimes and lynching have become so general and so frequent in nearly all parts of our country as to form an appalling aggregate, enough to make any Christian shudder or to sadden the heart of every patriot.

"But what shall we do about it? The answer is: make the law better and make it stronger. Amend the law. Give it more promptness, and more wisdom, and more justice, and more certainty in its own enforcement. Astonish the murderer and the rapist by its quickness and its certainty. If the law will protect the innocent and the good in all the states, the innocent and the good in all the states will respect the law. Enlarge the powers of the courts. Take away the unreasonable provisions, by which so many advantages are given to the criminal in the trials. Give the state the right of appeal or to have a writ of error just as the criminal has; and in every criminal trial put the state and the accused upon terms of perfect equality, so that innocent and good people may rely on the law for protection rather than rush into irregular and dangerous force under methods of their own." J. W. G.

Judge Emory Speer on the Administration of the Criminal Law.—Judge Emory Speer, of the United States District Court for Georgia, recently made the following arraignment of our treadmill, technical-ridden methods of criminal procedure:

"We must get rid of the slowness and undecisiveness of our criminal trials; we must refuse to permit criminal lawyers sedulously to devise schemes by which a righteous conviction can be averted, and, by technical obstructions, executions delayed so that the guilty may chance to escape. We prate about the liberty of the subject, and then legislate in behalf of criminals against the protection of society. To-day it is almost impossible for a judge in our state, who feels his nature outraged by crime even the most heinous, so to conduct a trial to avoid

what has been denounced as 'error' in the construction of certain baleful statutes which ought to be swept from the pages of our legislation.

"When strong men are weeping in the presence of crime, which has brought desolation to a happy family, a single judge may, by a technical objection to an indictment, exonerate the criminal, and the people have no appeal. If an outrage should haev been committed under the trees which environ this temple of justice, and the locality was proven—though not conceded by the defense, who may stand silent; had the judge said 'it was committed in the court house square,' that would be a reversible error, which would make a new trial inevitable.

"A skilful or crafty attorney, though guilt is plain, though sentence has been pronounced, though the Supreme Appellate Court may have confirmed it—may by repeated motions on the same point, which has already been decided, renew his appeals, and thrash over the old straw, although the highest court in the land again and again may have decided against him, until a horrified people stand aghast that laws, made for the administration of justice, are utilized for its shameless obstruction.

"Here, then, are the fields for the reformer; here, then, is a harvest of noxious weeds, bending to the hand of the reaper. These general considerations, which, as a Georgian who loves his state, I have a right, and which it is my privilege to make as a judge in our country's courts." J. W. G.