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Notes on Current and Recent Events

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Lombroso's Successor at the University of Turin.—M. Patrizi, ordinary professor of physiology in the University of Modena, has been appointed to the chair of criminal anthropology in the University of Turin, the chair formerly occupied by Cesare Lombroso. J. W. G.

Death of Heinrich Reicher.—Dr. Heinrich Reicher, a distinguished Austrian criminologist, died on December 15, last, at Filzmoos in Salzburg. Dr. Reicher was born in 1854 at Judenburg in Stiermark, studied at Graz, Bonn, Leipzig, Innsbruck and the Ecole des Sciences Politiques in Paris. He also served in the Landtag of Steirmark and in the Austrian Parliament. He traveled in many countries, including the United States, studying their juvenile court systems and methods of child protection. He was a prolific writer, his most important contributions being "Care of Destitute Children" (1904), and "Bibliography of Child Protection" (1909); the latter being a standard work in its field. He also published at Vienna, in 1910, a work entitled, "Present Studies of the Project of Law for the Protection of Children." Just before his death he wrote an article describing his observations of the American, English and German juvenile court systems, which will be published in an early number of this JOURNAL. J. W. G.

Laboratory of Criminal Anthropology in Belgium.—A laboratory of criminal anthropology has recently been established by royal ordinance, at the Belgium prison at Forest. Its declared purpose is to collect and coördinate the results of anthropological research in the conditions of the convicts confined in the institution, from the point of view of penological science. J. W. G.

Apparatus for Detecting Crime in Berlin.—The Berlin police possess apparatus for the detection of criminals, says the London *Globe,* far superior to that at the disposal of our Scotland Yard authorities, which explains a recent statement of the Prussian Home Minister that out of 118 capital crimes reported to the Berlin police since 1899 only eight had remained undetected, "whereas in London, according to the latest statistics, the proportion of such crimes of which the perpetrators had remained undiscovered was 23½ per cent." Investigations by the German police authorities are greatly facilitated by the "identity papers," which every man and woman in Prussia must carry about with them, and, above all, the system of registration at hotels, lodging houses, etc., which is all communicated to the police. The problem in Prussia is to reconcile the claims of personal liberty with those of social and national security, and in England we are inclined to subordinate the detection of the assassin to the freedom of the subject. J. W. G.

New Methods of Inflicting the Death Penalty in Nevada.—The Code Commission of Nevada has presented to the legislature of that state a bill giving condemned men the choice of death by hanging, shooting or taking poison. Hydrocyanic acid is the specified poison, and one drop of it on the end of the tongue

will cause instant death. If the condemned man chooses this means of death, he shall be provided at least ten minutes before the time for carrying out the death sentence, by order of the warden, with a sufficient quantity of the acid to cause death. The physician shall explain to him the proper method, and the following shall be written on the bottle:

"There is contained herein a sufficient quantity of hydrocyanic acid to cause instantaneous death. You are authorized to take the same for the purpose of carrying into execution the sentence of death heretofore legally pronounced against you." If the prisoner should fail to take the poison he shall then be hanged immediately.

Homicide and the Carrying of Concealed Weapons.—The responsibility of the pistol for murder has been much discussed by the press and police officials recently in many parts of the country. The coroner of New York recently reported that the number of homicides in that city during 1910 amounted to 185, or nearly twice as many as were reported in the previous year, and only 77 of the offenders were arrested. One hundred and eight of the killings were done by shooting. The coroner concludes that the trouble is due largely to the ease with which pistols may be purchased and concealed. He recommends that a system of licenses safeguarded by rigid regulations not only in the issuing office, but by stricter regulations of dealers in firearms, be provided, under which the applicant for license would be subjected to the closest scrutiny, and the sale to unlicensed persons practically prohibited. Commenting upon the present evil, the New York *Tribune* says: The laxity of the present system is sometimes defended by the argument that, pistols being put so freely into the hands of criminals, respectable and law-abiding citizens must be permitted to arm themselves in self-defense. But that logic is topsy-turvy, and if carried to its ultimate conclusion would re-establish in a great civilized city the conditions of a frontier mining camp. The aggressors should be, first of all, disarmed, and those who carry weapons for self-defense would then have no reason for burdening themselves with a too dangerous responsibility.

Commenting on the same subject the New York *World* remarks that any crank in that city may carry a revolver subject only to the contingent penalty of being found out after the murder has been committed:

"Every man with a loaded revolver on his person," it says, "is a potential criminal, and if he could be sent to jail for an adequate term some progress might be made in checking the evil and in reducing the number of homicides. But it can never be really ended while it is possible for a boy or man to buy at any pawn-broker's or at a hundred retail shops the weapon with which in a moment of passion for fancied grievance he can take the life of some other human being."

The large number of homicides in Chicago is also attributed, by Chief of Police Steward, to the carrying of concealed weapons. The Chief recently recommended that the practice be made a penitentiary offense and a bill for this purpose was recently introduced into the Illinois Legislature, but it was unfavorably reported by the committee to which it was referred. In many other states, legislation of this sort is now being advocated and everywhere sentiment is spreading in favor of greater restrictions upon what has come to be an intolerable evil.

J. W. G.

The Menace of the Pistol.—The Boston *Advertiser* in a recent editorial makes the following comment on the need of stringent legislation against the carrying of pistols:

"England has been slower than we of the United States in learning the horrible power and possibilities in the automatic pistol in the hands of criminals. It remains to be seen if she will also be slower in turning the tragic warning to account. It has been some years since the danger in this country was forced home, through the deaths of men and the menacing of communities, yet we are far from an end of the thing, except in so far as measures such as that favored drawn by District Attorney Pelletier go. Yet even this is not enough, for criminals will obtain their weapons in other states. We need some uniformity in state laws on this point; and we need so heavy a penalty for carrying a concealed weapon as to make that practice unprofitable, and detection in the offense more than a mere inconvenience or slight tax.

"In England the people are well aroused. They have suddenly learned that the automatic pistol is a far more dangerous thing than the bomb. So goes forth the demand that it be barred by law. The press of the necessity is particularly plain in England just now, with the coronation pageant approaching, and the need for guarding a very long line of march. That is not going to be an easy thing to do. Indeed, so long as there is a generous scattering of automatic pistols among the 70,000 aliens in the Whitechapel district, and among others whence criminals and anarchists are expected to be recruited, it will be an impossible thing to do. No such line of march can be guarded at every spot by soldiers or official guards of any sort. The public must be disarmed. That is the tune that the public of England is now singing, and singing loud.

"As one observer points out, the enactment of a law making it a punishable offense to carry firearms without a license would enable the police to arrest, search and secure the conviction of the aliens suspected of having automatic pistols in their possession. This could be accompanied with stringent regulations for the registry of weapons and supervision of the sale of ammunition. The fact that a suspect possessed a small magazine, quick-firing revolver would suffice to prove criminal intent, and it would be unnecessary to establish complicity with an assassination plot. 'Legislation of this sort,' it is concluded, 'is indispensable for the restoration of public confidence before the coronation. The ministers will make a serious miscalculation if they neglect to provide safeguards for disarming alien criminals.'" J. W. G.

A New Aid to Police Service.—The *International Police Service Magazine* (for August, 1910) contains the following description of the Bertillon Dynamometer:

"Alphonse Bertillon, inventor of the system bearing his name of measuring criminals, has hit upon a new contrivance to promote detective service in burglary cases. He is a profound believer in the efficacy of circumspection and accurate collection of data bearing on each occurrence of crime, so that the right culprit might be pitched upon with the fewest chances of error, pending closer individual investigation and collection of evidence. The new invention is a dynamometer by which measurements can be recorded of the muscular efforts made by burglars on boxes and furniture in the perpetration of an offense. It consists of a steel frame to which may be attached

two dynamometers, of unequal power, which can be used separately or together for measuring the degrees of horizontal or vertical exertion. A writer in the *Scientific American* gives the following description of it: 'The stronger dynamometer, having a maximum capacity of one ton, and designed for the measurement of vertical efforts, is connected to the top of the frame by a screw, by means of which it can be raised or lowered a few inches. The lower spring of the dynamometer is attached to a heavy vertical steel plate, which slides in grooves along the two vertical posts. When the index of the dynamometer is at the zero point, the bottom of this plate, which is about 1½ inches thick, is about ¾ inch above the sliding horizontal plate. In this interval is inserted a wooden board ¾ inch thick, with its edge flush with the bottom of the vertical steel plate. The experiment is made by inserting between the board and the vertical steel plate the end of a 'jimmy' or other burglar's tool, and endeavoring, by moving the handle of the tool up and down, to produce on the board impressions similar to those which have been found on doors and furniture. The index of the dynamometer moves in accordance with the effort exerted, and by means of a second index which remains fixed when the first returns to the zero mark, the instrument automatically registers the effort required to produce a given impression.

"The figure thus obtained indicates only the vertical effort, or effort of pressure; but there is always a horizontal component of greater or less magnitude, and this is registered by a horizontal or traction dynamometer, which is attached to the sliding horizontal steel plate.

"The idea of employing a dynamometer in the study of burglary appears so simple that it is surprising that it was not done long ago. Henceforth judicial inquiries will be guided by the results of a series of expèriments which will furnish points of reference. From measurements made with the Bertillon dynamometer, it is possible to discover whether the burglarious entrance was effected by a man, a woman, a child, or several persons.

"Finally, the study of the impressions made by tools has led M. Bertillon to give these impressions distinct names, according to the part of the tool by which they are produced. The word 'foulée' is reserved for the impression made by the point of the tool, 'écornure' for the notch made by the body of the tool in pressing on the edge of a door or piece of furniture; and the word 'pesée' for the indentation produced by the elbow of a 'jimmy' or similar tool on a plane surface. For the identification of the tool, the most valuable evidence is furnished by the 'foulée.'" J. W. G.

Wisconsin Conference on Penology.—Under the auspices of the Wisconsin branch of the American Institute of Criminal Law and Criminology, there was held February 17, 1911, at the Law School of the University of Wisconsin, a conference of trial judges and heads of correctional and penal institutions for the discussion of the question, "The Problems Presented to the Trial Judge in Sentencing Convicted Persons and to Heads of Penal and Correctional Institutions in Carrying out the Sentence." Twenty-six judges having jurisdiction to sentence to state institutions, the warden of the state prison, the superintendent of the state reformatory, the principal of the industrial school for boys, and several members of the board of control were present. The meetings were presided over by Judge A. H. Reid, president of the Wisconsin branch, who presented a paper summarized elsewhere in this JOURNAL, on

"The Problems of Imposing Sentence." This was followed by a paper on the "Relation of the Courts to Reformatory Sentences and Paroles," by Mr. C. W. Bowron, superintendent of the State Reformatory. Other papers were: "The New Penology," by Supt. Frank L. Randall, Minnesota State Reformatory; "The Work of the Industrial School for Boys," by Prof. A. J. Hutton; "The Grounds on Which the Board of Control Releases on Parole," by Hon. Allan D. Conover of the board. The addresses were freely discussed, and much interest taken in the subjects presented. The outcome of the meeting was a better appreciation of the difficulties involved in dealing with offenders.[1]

Annual Conference of the District Judges of Kansas.— Upon a call issued by Hon. J. C. Ruppenthal, judge of the twenty-third judicial district of Kansas, a conference of the district judges of the state was held in 1908, to discuss problems of common interest and to exchange experiences. Since then annual meetings have been regularly held, at which nearly all the judges attend. The fourth annual conference was held at Topeka, January 10 and 11, of the present year, the principal subjects discussed relating to verdicts by three-fourths of the jury in civil cases, divorces and the selection of jurors. Under the present laws of Kansas, the selection of juries is often unsatisfactory, both in the sparsely settled western parts of the state, and in the large cities. The evils complained of are: That the township trustees and city mayors who select names of voters and taxpayers often select too few and take the same ones very often, putting on many persons who are exempt for various reasons, and that in the cities, where sessions of court last for weeks, it is a hardship for a citizen to be held the whole term for jury service. J. W. G.

Influence of Newspapers on Crime.—A study of this subject by Frances Fenton is published in the November, 1910, and January, 1911, numbers of *The American Journal of Sociology*. From a detailed study of some two hundred issues of fifty-seven different American newspapers the author concludes that the newspaper leads to anti-social activity in a number of ways. "These may be summed up by saying that it influences people directly, both unconsciously and consciously, to commit anti-social acts. It also has a more indirect anti-social influence on public opinion during criminal trials through its accounts of these trials and through its partisan selection of evidence; and, finally, it aids in building up anti-social standards, and thus in preparing the way for anti-social acts." It is suggested in the article that the power of the newspapers to deal with news should be limited by law and that public opinion should be educated to secure support for constructive legislation along this line. Also that further investigation of the relation of newspaper suggestion to crime should be made, and public officials, such as probation officers, superintendents of institutions, etc., be encouraged and required to keep records of cases of such connection, that a basis for such legislation could be established. E. L.

Document Photography for Use in Court.—An article with the above title by William J. Kinsley, reprinted from *The American Annual of Photography*, points out some of the ways in which photography may aid in the ex-

[1]Furnished by Prof. E. A. Gilmore.

amination and study of documents; first and obviously, for preservation and a permanent record and as a multiplication of accurate copies. Then certain things unobserved by the naked eye may be disclosed by photographs, such as overwritten lines, erasures by chemicals or abrasion, differences in ink tints, breaks in continuity of writing, differences in printing, engraving, etc. Photographic enlargements, of course, often emphasize certain details and by the use of contrast ray filters, colors may be rendered clearer. It is also useful in bringing writings side by side for comparison. Many illustrations make clear the instances given of these various uses. E. L.

Palm Impressions As a Means of Detecting Criminals.—In a paper in the *Revue De Droit Penal Et De Criminologie* for January, 1911, Dr. Eugene Stockis of the University of Liége describes a method of classification of impressions of the palms of the hand for purposes of identification. He proposes that palm prints be added to finger prints in identification systems, and points out their value in that they offer a larger surface and a greater multiplicity of details and are thus easier to study comparatively. After a brief review of the literature, Dr. Stockis describes the method of taking the impressions and then proceeds to the method of classification. For this purpose the palm is first divided into three divisions, or regions, the thenar, hypothenar and superior. The thenar region corresponds roughly with that part of the palm delimited by what is called in palmistry the "line of life." The hypothenar region lies on the other side of this line and below an arbitrary line extended across the palm from the beginning of the line of life. Above this arbitrary line is the region superior, comprising the portion of the palm immediately at the base of the fingers. Within the thenar region the patterns of the lines are made the basis for a classification into five types: type one, what may be called the arch pattern; types two and three, two kinds of loops; type four, whorl patterns, and type five, a residuary class for some anomalous patterns. A similar classification is made of the hypothenar region. In the region superior the patterns are grouped around the eminences below the interdigital spaces and the bases of the fingers. The eminences are designated R. M. and C., and the digital bases I. M. A. O. This system is not very different from the system outlined by Dr. H. H. Wilder in an article on "Palm and Sole Impressions," in the *Popular Science Monthly,* Vol. 63, page 385. In Wilder's system, the pattern formula is what he calls his secondary classification. He recognizes five regions: hypothenar, thenar, first, second and third interdigital, which he designates respectively by the letters H and T and the numerals 1, 2 and 3. Wilder's primary classification consists in classifying the lines themselves by the regions in which they terminate. He divides the palm into thirteen areas, each designated by a numeral, and any given line will be described by the number corresponding to that of the area in which it terminates. The pattern system would seem to be a simpler classification, as is shown by the pattern formulas worked out by Dr. Stockis in his article, although he also recognizes the method of counting and tracing the lines as an auxiliary method. The pattern system is also more similar to that already employed in connection with finger prints. It seems clear that palm impressions afford more certainty than finger prints, are as easy to secure, are more readily compared and with less opportunity for mistake. Dr. Wilder in his

article also works out a method of classification of impressions of the sole of the foot similar to that for palm impressions. E. L.

New York Bar Association on Reform of Court Procedure.—At the recent meeting of the New York State Bar Association at Syracuse the subject of procedural reform was the principal topic of discussion. The leading address was delivered by Senator Elihu Root on "Reform oi Procedure." Mr. Root made a plea for a more simple and direct judicial procedure.

"The bench, the bar and the public," he said, in opening his address, "agree that there is undue delay in our judicial proceedings. A considerable number of able and public-spirited lawyers, including several committees of this association and the local bar associations of this state, have addressed themselves to the work of devising amendments of the law which should make our procedure more swift and certain in reaching the ends of justice.

"The fewer statutory rules there are to create statutory rights intervening between a citizen's demand for relief and the court's judgment upon his demand the better. The more direct and unhampered by technical requirements the pathway of the suitor from his complaint to his judgment the better.

"It seems to me that we have reached a point in our practice where the application of this principle requires very thorough and radical action; that mere improvement of the code of procedure in its details will not answer the purpose." The true remedy, he said, was "to sweep from our statute books the whole mass of detailed provisions and substitute a simple practice act containing only the necessary, fundamental rules of procedure, leaving all the rest to the rules of court. When that has been done the legislature should leave our procedure alone.

"The condition in which we find ourselves is that, in varying degrees in different parts of the state, calendars are clogged, courts are overworked, the attainment of justice is delayed until it often amounts to a denial of justice, the honest suitor is discouraged, the dishonest man who seeks to evade his just obligations is encouraged to litigate for the purpose of postponing them.

"The energies of attorneys and counsel and clients, their time and labor, are devoted to these statutory proceedings instead of being addressed to the trial of the case. Pending the disposition of the multitude of motions which it is possible to make, and which in number are often in inverse proportion to the merits of the case, the final disposition of the case is postponed.

"Serious and long-continued delay is the result in many cases. Witnesses die or leave the jurisdiction. Their memories become vague and the establishment of facts becomes more difficult. Suitors become tired and discouraged, or their means are exhausted. Conditions change, and the relief, when attained, is often deprived of much of its value.

"All this is wholly unnecessary. Our courts desire to do justice; they are competent to do it, and they will do it if left to themselves, under the guidance of a few simple, fundamental rules and unhampered by a multitude of statutory requirements.

"The situation cannot be met by merely increasing the judicial force.

We have often tried that expedient, but always ineffectually. The only real remedy is to be found in reforming the system.

"I have said that the most important thing of all toward reënthroning the principle of simplicity and directness in attaining the ends of justice is that we ourselves shall observe that principle in determining the standards of conduct at the bar. No system will work well unless it is applied in good faith.

"Even though we may escape in a great measure from the statutory restrictions which now hamper the courts in applying the rule of justice in the particular case to the proceedings in that case, the rule cannot be successfully applied unless the sentiment of the profession—the public opinion of the bar—makes conformity to that rule a requirement of honorable obligation."

Another address along somewhat the same line was delivered by Judge A. J. Rodenbeck, of the New York State Court of Claims. Judge Rodenbeck presented a comprehensive scheme of reform which embodied the recommendations of the committee of the American Institute of Criminal Law and Criminology which recently investigated the methods of English procedure and whose report will be found in the November and January issues of this JOURNAL. (See especially pages 777-778.) Judge Rodenbeck's recommendations were referred to a committee of the association for report. J. W. G.

Identification Bureau of the Munich Police Department.—An interesting article, with the above title, is contributed by Dr. Theodor Harster to the *Archiv fur Kriminal Anthropologie und Kriminalistik,* Bd. 40, Heft 1-2. This department was organized in 1898 and reorganized in 1909. The writer considers finger-prints the simplest, cheapest and surest means of identification. The English system of Henry is favorably brought before the police. The chief advantages over measurements are speed and cheapness, and he urges that the system should be extended throughout the whole German Empire and applied to all manner of delinquents. He likewise describes the methods for indexing photographs, which are arranged according to body weight, nature of the crime and apparent age of the individual. They also have a card index of articles of value lost or stolen and so arranged in a catalogue that each police officer can quickly obtain an accurate description of the article.[1]

Criminality in Spain.—An article on "The Cause of Spanish Criminality," by the late Professor Lombroso, is published in the *Archivio Antropologia Criminale, Psichiatria e Medicina Legale* for November-December, 1910. "Spain is truly the classic land for the study of criminality," says Lombroso. "Crimes of blood are numerous, as are also violent crimes against property, such as robbery, but Spain has comparatively little of the more petty crime against property. The character and extent of Spanish criminality finds its explanation in the geographical features of its isolation from the rest of Europe and of one part of the country from another by reason of its mountainous character; in its history, in which the fierce

1. Furnished by Dr. M. V. Ball.

religious persecutions, incessant wars and the draining of the best blood in the conquests and settlement of the new world are significant, and in the physical and social characteristics of the life of the people." The paper is interesting and suggestive. E. L.

Corporal Punishment in England.—In an article in *Le Temps* of Paris, reprinted in the *Archives d'Anthropologie Criminelle* for January, 1911, Philippe Millet describes the use of the cat-o'-nine-tails in England as a punishment for crime. The cat as now in use consists of nine cords attached to a handle. At the extremity of each cord are three or four knots. The prisoner is tied to a sort of frame, the arms above the head. A prison guard wields the cat with all his force so that the knots strike the prisoner between the shoulders. After four or five lashes he passes the instrument to another guard, and so on until twenty-five or thirty lashes have been given. A physician is in attendance to see that no more punishment is inflicted than the prisoner is able to support. It is rare that the flesh is not so torn that permanent scars are carried by the prisoner. This punishment is inflicted only for robbery—that is, theft from the person, accompanied with violence—and has been authorized for that crime since 1880. Prior to that time attacks upon pedestrians at night were of frequent occurrence. M. Millet asserts that within eighteen months after the institution of the punishment of flogging for this offense it became not only infrequent, but rare. He also states that English criminal statistics show that the crime of robbery, for which flogging is inflicted, is the only crime which has decreased in the last fifty years. In the period from 1893 to 1908 the crimes of burglary and shopbreaking show an increase, while robbery, on the contrary, has appreciably decreased. E. L.

Juries as Judges of the Penalty.—In view of the unreasonable verdicts and acquittals frequent in French courts, it is proposed that the jury be made the judge of the punishment within legal limits, as well as of the guilt of the person on trial. M. Nagels, writing in the February number of the *Revue de Droit Pénal,* argues that ignorance of the punishment which the court will impose is responsible for the leniency of juries. Convictions cannot be anticipated when extenuating circumstances make the penalty out of proportion to the offense; nor will reasonable men condemn to punishment when its nature is unknown to them. The jury represents society, which is as vitally interested in the nature and the extent of the penalty to be imposed as in the condemnation itself. A conference of the judge and jury on the nature of the law is permitted in some form in the more important European nations.[1]

International Congress of Juvenile Courts.—The first International Congress of Juvenile Courts will be held in Paris, June 29 to July 1, 1911, in the Musée Sociale. The presidents of honor are Mm. Leon Bourgeois, Alexandre Ribot and René Berengér, senators. The honorary committee is composed of representatives of many countries. The actual Presidents are M. Paul Deschanel, deputy, and Mr. Ferdinand Dreyfus, senator. The

1. Furnished by Mr. L. D. Upson.

President of the committee on organization is M. Ed. Julhiet, who has interpreted the American juvenile courts in France. All communications should be addressed to M. Marcel Kleine, Secretary General, 8, Rue Cribillon, Paris. Papers on any one of the subjects may be written in English and must be received before May 1. The topics for discussion are: (1) Special jurisdiction for minors; composition of the court; publicity of the hearings, the place of the lawyer, powers of the court, adults implicated, nature of sentences; (2) the action of charitable institutions; (3) suspension and probation. Papers will not be read at the Congress but the topics will be discussed by the delegates present. Members who send ten francs to the secretary general will receive the proceedings and papers in French. C. R. H.

Criminal Law Reform.—The February number of *Case and Comment* is devoted mainly to the subject of criminal law reform. Among other features, it contains a biographical sketch and portrait of Lombroso, articles by Harvey E. Remington on "English and American Administration of Justice;" by Frank H. Bowlby, on "Insanity as a Defense in Homicide Cases;" by A. Rech, on "The Humanity of the Law;" by L. A. Wilder, on "The Case Against Patrick;" by A. M. Harvey, on "The Unwritten Law;" by J. M. Sullivan, on "Criminal Slang;" by Francis L. Wellman, on "The Cross-Examination of the Prejured Witness," and excerpts from various addresses on criminal law reform, besides the usual editorials, notes on cases, bibliographical lists, etc. J. W. G.

The Law's Delay in Colorado.—It was stated at a recent meeting of the Bar Association of Denver that the supreme court of Colorado was four and one-half years behind with its work, there being 2,800 untried cases on the calendar. The association discussed means by which the present congestion of the court may be relieved. Two remedies were suggested: One proposes to withhold the salaries of the justices of the supreme court when they fail to decide their cases within ninety days after they have been entered upon the docket; another is for the appointment of a number of supreme court commissioners to dispose of the cases already on the docket. Concerning both proposals there is a difference of opinion among the members of the bar. Several years ago the supreme court itself suggested the appointment of a number of commissioners and the suggestion was carried out, but the remedy did not prove adequate and the commissioners were done away with. J. W. G.

Justice Wait on the Law's Delay.—The "Delays and Defects in the Enforcement of Law," was the subject of a recent address by Mr. Justice Wait of the Supreme Court of Massachusetts before the Economic Club of Boston. Justice Wait took to task Governor Foss for the statement in his inaugural address that the delay of justice in criminal cases has become an outrage in Massachusetts. The cases in which innocent persons are unnecessarily detained are very few, he says, so few, that no one is kept in custody as long as six months against his will. "The state," he says, "is not only administering justice without unwarrantable delay, but is furnishing a field for business speculation. A large and increasing number of litigants, he says, do not want justice, but a resort to chance; not the establishment of the truth and the enforcement of right, but a verdict obtained from ignorance, privilege or favor. This is espe-

cially true in courts of equity. If our procedure, he says, was so formed that no one who does not have a good case would go to trial, the evil would be removed. If the real issue were settled in one trial, a verdict fairly obtained would not be upset upon technical trivialities. J. W. G.

Judge De Courcy on Delays in the Administration of Justice.—In an address at Boston University on February 17, Judge Charles A. De Courcy of the superior court of Massachusetts discussed the subject of the law's delay and suggested certain reforms for the improvement of evils where they exist. There never was a time, he said, when there was not discontent with the administration of justice. Some of the causes for the present widespread dissatisfaction were inherent in all legal systems. While he did not deny that some of the complaints were well founded, especially in regard to procedure, there was much exaggeration and misapprehension. Taking Massachusetts as an example, he declared that the year ending September 30, 1909, the whole number of arrests in the state was 147,019. The cases begun in the superior court, grand jury and appeals totaled 9,015, the cases brought to jury trial, 1,432. In those twelve months but thirteen criminal cases were brought before the supreme court, and of these only one was sent back to trial.

"Again in the year ending September 30, 1910, the number of arrests was 149,680. The cases entered in the superior court were 8,366. The cases brought to jury trial were 989. The number heard in the supreme court was 17, and the number of new trials granted, three.

"These statistics of actual results show how exaggerated and misleading are the current complaints against the courts, and establish the fact that the administration of justice in America, generally speaking, is efficient and safe.

"The number of pending cases on the dockets of the courts is usually published as alarming evidence of congestion. But the bar knows from experience, and the public ought to be informed that not over one-fourth of the cases entered will ever be called to trial. A striking illustration of this occurred on the 23d of December last, at the calling of the 'long docket' in Essex County, when 1,152 cases were dismissed or otherwise disposed of, which had remained without action for two years. Yet these were apparently alive on the docket to that time.

"Concerning the law of procedure, he said the lawyers are especially responsible. In discussing needed reforms in procedure, it is necessary to emphasize the consideration that this is a local question. Too often popular criticism is directed against legislatures in general by reason of freak laws enacted in a distant state.

"A civil case seldom fails from pleadings, nor are they a source of serious delays. But some day we shall adopt the English system, abolishing all 'forms of action;' each party will state the facts on which he relies and the court will declare the law arising from the facts pleaded. The same radical action is required to shorten the time of trial. Fully one-half the time in trial of jury cases is spent on matters that are not really in dispute. This waste can be obviated by eliminating before the trial everything but controverted issues on the merits. This provision has long been in force in the High Court of England, and to it is largely due the prompt disposal of controversies there.

"Probably the worst feature of American procedure, and the chief cause of discontent, is the lavish granting of new trials in some jurisdictions. There

should be but one trial on the facts. It should not be possible to get six or seven trials of the same case. This would be avoided by Congress and every state legislature adopting the simple provision recommended by the American Bar Association, which provides that no judgment shall be set aside or new trial granted on the ground of misdirection of the jury, or the improper admission or rejection of evidence or error of pleading or procedure unless it affirmatively appear that the error has resulted in a miscarriage of justice. The adoption of this will put an end to incessant objections and exceptions which disfigure some trials and make them a game of chance.

"Personally, I favor the enactment of a law allowing the district attorney to amend an indictment, without leave of the court, at any time before the defendant pleads, provided the offense is not thereby changed; and at any time thereafter, if in the judgment of the court, it can be done without prejudice to the substantial rights of the defendant.

"Finally, I believe the time has come for seriously considering a modification of the unrestricted constitutional immunity against incriminating testimony by one accused of crime—a rule enacted when a defendant was not allowed to be a witness in his own behalf. The oppression which led to the enactment of the fourth and fifth amendments of the federal constitution can never exist again. But these constitutional immunities are invoked to-day in favor of crimes involving complicated financial transactions, with the result that in the popular opinion the machinery of justice has broken down.

"In the absence of power which should exist in a committing magistrate to examine a defendant and demand an explanation of the circumstances which have created suspicion—or even comment on his failure to take the witness stand—we have as a result the 'third degree' methods in the natural effort to learn the facts.

"The criticism is molding public opinion which will later influence legislation. The bar is best able and should be willing to lead and direct that opinion —first, by disabusing the public mind of exaggerated and false information and making manifest the fact that the problem is a local one for each state, and generally formulating and securing such reforms as we need from time to time, especially in the matter of procedure. J. W. G.

Report on Crimes and Criminal Procedure in Kansas.—A special committee on "Crimes and Criminal Procedure" of the Kansas State Bar Association has been investigating for the past two years the criminal procedure of that state. At the last meeting of the association, held at Topeka, January 11 and 12 of the present year, the committee made a partial report which was ordered printed for further consideration and action at the next annual meeting. The committee states that a code of criminal procedure and a crimes act was adopted by the state in 1868, one provision of which abolished the technical requirements of the common law indictment. Charges may be brought promptly and speedily against offenders by means of the information, the charges must be stated in simple and concise language, without repetition, and provision is made for the amendment informatus. Indictments may not be quashed for clerical errors or immaterial flaws, for the omission to allege that grand jurors were impaneled, sworn or charged, or for the omission of such allegations as "with force and arms," "against the peace and dignity of the state," etc. These and other provisions have largely relieved the administration of justice in

Kansas from the incubus of technicality, such as has clogged the administration of the criminal law in other states. The committee gives a summary of criminal prosecutions in eighty-three counties, showing that the number of convictions was more than six times as many as the number of acquittals and that a comparatively small number of appeals was taken to the Supreme Court.

While there is little to criticize in connection with the administration of justice in Kansas, the committee frankly acknowledges that the procedure is not perfect or incapable of improvement. The report then takes up the recommendations of committee E (on criminal procedure) of the American Institute of Criminal Law and Criminology (published in the November number of this JOURNAL, pp. 584-594), and shows that most of them are already the rules of practice in Kansas. The code of criminal procedure requires the Supreme Court to give judgment without regard to technical errors or defects, or to exceptions which do not affect the substantial rights of the parties, and while it has not been interpreted as to require the defendant to show affirmatively that the error complained of is prejudicial, the committee is of the opinion that the doctrine of "harmless error" need not be carried beyond the spirit of the code, as thus interpreted by the Supreme Court. For many years the information has been almost the sole means of charging the offense, in consequence of which the committee sees no need for a provision relating to the amendment of indictments. It does, however, recommend the following change in the code of procedure: The Supreme Court, without ordering a new trial, shall have the power to direct the trial court, from which the appeal was taken, to take additional evidence, make findings of fact therefrom, and transmit the same, together with the evidence, to the Supreme Court as now provided by law for a transcript of the evidence, such additional evidence being for the purpose of sustaining a verdict wherever error complained of is lack of proof of some matter capable of proof by record or other incontrovertible evidence, defective certification, or failure to lay the proper foundation for evidence, which can, in fact, without involving some question for a jury, be shown to have been competent.

It also suggests an amendment to the constitution, allowing the Supreme Court to pass upon questions reserved in cases where the defendant has been acquitted. J. W. G.

Problems of Imposing Sentence from the Judge's Point of View.— At the recent Wisconsin conference of judges and penologists, held in Madison, Judge A. H. Reid discussed some of the difficulties which confront the courts in imposing sentences upon convicted criminals. Trial judges, he said, have too few opportunities for observing the work of penal and reformatory institutions and their knowledge of the results of penal and reformatory treatment of criminals is too limited. There ought to be a closer relationship between the judges and the heads of such institutions, in order that the judges may the better understand their duties toward the criminal class and toward society. The imposition of sentences is too largely a perfunctory matter done without proper knowledge of the past life and character of the convict. Until very recently the judge had very little discretion in imposing sentence and could not decide whether the character of the prisoner required reformatory treatment or punishment in the penitentiary or to suspend the sentence or parole the offender. There are many cases which require individual treatment and in

such cases the judge should have an opportunity to become acquainted with the past history and personal characteristics of the offender and to study the probable effects in each case of punishment or leniency. Too frequently the court errs seriously in imposing sentences on account of the inadequacy of information concerning the accused—information which rarely comes to light during the course of the trial.

A case in point was cited of a burglar who asked of the judge that his name might not be given, as he did not wish to disgrace his relatives. He was an ordinary laborer and professed great penitence for his crime. Later it was found that the commitment was the fourth one. He had served a long term for homicide and had been at large less than three months, with never an attempt to do any honest work. More than half of his life, indeed, had been spent in the state prison, and he had been a professional burglar for many years.

Here was a case, said the judge, requiring information of previous history, which he had been unable to obtain. The minimum punishment was imposed, whereas he deserved to be confined in prison the rest of his life, as a protection to the public. Over and over again, said the judge, I have learned after pronouncing sentence, similar facts respecting criminals. Another case was that of a man who had burglarized a general store. The thief frankly said he would plead guilty. Then he told his story of having been thrown entirely out of work, and going to seek it in northern lumber camps and mines. On a cold winter night he was stranded in a strange town with no money. A glowing coal fire was seen in a store. He entered a back window to warm himself. Seeing food and other things all about, which he needed, he helped himself. Sympathizing with him, the presiding judge was reported to have swallowed a lump in his throat and lightened his sentence. Taken to the prison he was greeted with "Hello, Jack. Back again?"

The remedy, according to the speaker, is, first of all, greater care and deliberation in receiving pleas and pronouncing sentence; and, second, the repeal of the constitutional provision which exempts the accused from being compelled to be a witness against himself. So long as the latter immunity is allowed, district attorneys and officers are practically barred from investigating the criminal history of the accused. It is unlawful to compel him to submit to Bertillon measurements, to the taking of his photograph, the shaving of his face or the cutting of his hair, in order that his true features may be disclosed. The courts should have the power to obtain information regarding the accused and it ought to be exercised whenever such information will aid the court in imposing a just penalty. J. W. G.

Defects in the Criminal Code.—In an address before the Missouri Bar Association on July 28 last Mr. North J. Gentry, of the Columbia (Mo.) bar, dwelt upon some of the defects in the criminal code and suggested certain remedies. In the first place, indictments are required to contain too many unnecessary recitals. It should be unnecessary, he says, to state that the grand jurors have been duly empaneled, charged and sworn by the judge.

"Not only must the criminal pleader allege that the defendant wilfully, deliberately, premeditatedly and of his malice aforethought made an assault upon the deceased, but he must also allege that, by reason of said

assault, whether stabbing, striking or shooting, the wound was inflicted wilfully, deliberately, premeditatedly and of his malice aforethought. How A could assault B wilfully, deliberately, premeditatedly and of his malice aforethought, with a deadly weapon, and inflict a wound in some manner other than wilfully, deliberately, premeditatedly and of his malice aforethought, is a question that has never been explained. Not content with that, our criminal pleader is required to add, in case of shooting, that the defendant had a certain firearm, describing it, which he then and there had and held in his hand, which pistol or gun was then and there loaded with gunpowder and leaden balls, which the defendant proceeded to shoot off and discharge, and that by reason of the force of the gunpowder aforesaid, the bullet was shot out of said gun and struck, penetrated and wounded the body of the deceased, etc., etc. Our courts have often held that the *probata* must agree with the *allegata,* and many have been the cases where reversals have been had because there was no such agreement. Yet no one ever heard of the prosecuting attorney attempting to prove, or being required to prove, that the pistol with which the homicidal act was committed was discharged and that the bullet left said pistol by reason of the force of the gunpowder aforesaid, nor that the ball struck against the body of the deceased, and, by reason of the force of the gunpowder, and by reason of its being shot out of the pistol aforesaid, penetrated the body of the deceased. Neither is any prosecuting attorney ever required to prove that the grand jurors that returned the indictment were duly empaneled, charged and sworn, although the indictment must contain that allegation in two places; nor is he required to prove that the man whose name is attached to the indictment as prosecuting attorney was in truth and fact the duly qualified prosecuting attorney, nor that the man who signs as foreman was in truth the foreman of the said grand jury. The only proof that is ever required in such a case is that the defendant fired his pistol at the deceased, and the further fact that the deceased died from the effects of the wound which he then received. Neither has any prosecutor ever been required to prove that the pistol was in fact loaded with gunpowder, nor that the balls were made of lead. I do not see any reason for such strict requirements of proof in one instance and for absolutely no requirements of proof in the other instances. Certainly our law-making body has wisely deemed it unimportant for the state to prove about the force of the gunpowder and unimportant to prove about the material out of which the bullet was made. If it is absolutely unnecessary for the state to prove those things, why is it necessary for the state to allege those things?"

"Again, our court records may show that the grand jurors were sworn in open court, and the beginning of the indictment may charge that the shooting and wounding of the deceased was done wilfully, deliberately, premeditatedly and of his malice aforethought, unless the concluding part of the indictment says, 'and the grand jurors aforesaid, upon their oath aforesaid,' said indictment only charges manslaughter. It is impossible for anyone to see how the words 'wilfully, deliberately, premeditatedly and of his malice aforethought' may be used, which words all of our law writers hold are descriptive of the crime of murder in the first degree, and yet the indictment simply charges manslaughter. At the beginning of the indictment there may be an allegation that the grand jurors were sworn, the

records of the court may show that they were sworn, but it is further necessary for the concluding portion of the indictment to reiterate the fact that the grand jurors were sworn in order for the indictment, which may otherwise be sufficient to charge murder in the first degree.

"Every defendant is entitled to the presumption of innocence until that presumption is overcome by legal proof by the state; and every defendant is entitled to a fair trial. But I do say that a defendant ought not to have the benefit of useless technicalities which do not result in any material benefit to him—a benefit which he has a right to claim. I agree with our forefathers that the conviction of an innocent man would be a calamity, and that 'better let ninety-nine guilty men escape than to have one innocent man to suffer.' But the guilty men who escape should escape because there is a reasonable doubt of their guilt, and not because the prosecuting attorney writes the words 'then and there' at the wrong place in the indictment, nor because he omits to write the word 'the' in its conclusion, nor because the circuit clerk omits to write the words 'formal arraignment waived.'"

"Again, our law is too strict in requiring petit jurors to return the verdict in legal form. Where there are several degrees of the offense, I admit that the jury should state the degree of which they intend to convict the defendant. But where there is only one degree, only one count in the indictment, and the jury are not concerned with any other case against the defendant, it does seem to me that our law is too strict in the matter of requiring the verdict to be so technical. . . .

"Another serious defect in our criminal code is the abuse of the law on the subject of continuances, and on the subject of change of venue. It often happens, indeed in some counties it is the practice, for the defendant in a criminal case, who is out on bail and who is interested in dodging a trial, to procure as many continuances from the regular judge as possible, and when his last application for a continuance is overruled, to ask for a change of venue on account of the prejudice of the judge, and thereby secure another delay. After the new judge is called in another delay is asked for on the ground that the defendant has just then discovered that the inhabitants of the county are so prejudiced against him that he cannot have a fair and impartial trial."

Mr. Gentry then proceeds to give the details of a case in which there were five continuances, the defendant being still untried.

"Every defendant is entitled to know what is the charge pending against him. But it has been held by our courts of last resort that the record of the circuit court must show that the defendant has been arraigned, or must show that he has waived formal arraignment, and that the failure of the record to so show is error, and may be taken advantage of for the first time in the higher court.

"Our statutory requirement for the qualifications of jurors is unreasonable and is in conflict with the original theory upon which jurors are selected. Law writers tell us that originally twelve men of the county were selected to try a defendant because of their acquaintance with the defendant and all of the circumstances connected with his case. Now jurors must know nothing about the case, and our law is fast going in the direction of requiring jurors never to have read or heard of the case before.

"Finally, our law should be amended on the subject of the competency

of the jurors. A man should be permitted to serve on juries even though he has read the newspapers. It is a fact well known that our people read of so much crime, and read so many articles on other subjects, that the impression gathered from the newspaper accounts would not prevent them from trying the defendant's case just as judges try said case, although the judges have also read the newspaper articles about the case, but try it according to the law and the evidence." J. W. G.

Andrew D. White on Crime in the United States.—Ex-President Andrew D. White, in a recent letter to the New York Tribune replying to a statement published in that paper to the effect that the anarchists and criminals of England who are being driven out of that country will have no other refuge, but will become men "without a country," declares that they will find an admirable refuge in the United States and plenty of companions and sympathizers, to say nothing of effective helpers.

"America," says Dr. White, "affords them the happiest of happy hunting grounds where thugs, anarchists, yeggmen, safe-blowers, members of the Black Hand fraternity and the like already enjoy American hospitality.

"The pettifoggers, the sentimental philosophers and the 'cranks' who disbelieve in anything like prompt and effective punishment have already produced an atmosphere in which these criminals and many others thrive thoroughly well.

"The annual statistics of crime published in the Chicago Tribune of December 31, 1910, which were gathered with the greatest care and conscientiousness, and which I have verified by careful study in more than half the states of our Union during the last fifteen years, show that in the United States the number of homicides (by which term is meant, in all save a very few cases, murders) was during the year just closed 8,975, and that this is an increase of nearly 900 over the number during the year preceding. They also show that of the perpetrators of these homicides only 1 in 86 was capitally punished, as against about 1 in 74 during the year preceding. A recent comparison of the criminal statistics of the city of London with those of the city of New York, given by the New York Evening Post on December 24 last, shows that while the number of murders during the last year in London was 19, the number in New York was 185—and this in spite of the fact that London, according to the registrar general's estimates, has a population over two millions greater than that of New York.

"Recent careful studies made by acknowledged authorities in our own country and in others show that while Belgium, probably on account of its mining population and bitter political strifes, has a greater number of murders than has any other part of Europe, save, perhaps, Lower Italy and Sicily, the number of murders in the United States, compared with the number in Belgium, is as about 116 to 18; also that the number of murders in the United States is to the number in Great Britain as about 116 to 6. With this may be coupled the fact that the number of capital crimes in our country has for many years steadily increased, and, indeed, is now increasing at a greater rate than is our population. The Chicago Tribune adds that 'the most significant feature of these figures this year is the increase in murders committed by thugs, thieves, burglars and hold-up men, the num-

ber being an increase of 83 over that by the same classes of criminals in 1909.'

"A study of the dealings of the English authorities with the recent Crippen murder, or, indeed, with any other recent murder in the United Kingdom, and a comparison of it with similar cases in our own land, will display several reasons why this country is literally the happy hunting ground of the worst criminals. A glance into the exercise of the pardoning power in many of our states will reveal another; a visit to our criminal courts will easily discover yet other reasons. It is true that some of our courts of appeal, and especially that of our own state, have shown much less disposition than formerly to grant new trials on futile pretexts, but there is still room for great improvement in this respect in almost all our states.

"In sundry recent murder trials in New York and elsewhere the statement was frequently made, both abroad and at home, that our administration of criminal justice as regards murder has become a farce. These trials were by most of those who conducted them, and, indeed, by the public at large, evidently considered not as efforts to secure justice, but simply as games, and mostly between pettifoggers, the judges appearing much like umpires at games of football. Safeguards devised in the Middle Ages to protect the weak against the strong, or the serf against the feudal lord, are now used with us to protect the criminal, and, above all, the criminal who has money. The men whom we glorify in our courts are the men who can clear murderers in spite of undoubted evidences of their guilt.

"The prosecuting attorneys are very largely chosen from among those of least experience in the legal profession, and are in many ways absurdly handicapped. Naturally, then, the criminal class is becoming in many parts of our country a body somewhat favored by politicians.

"There is also another thing which seems to make against your belief that there will be presently no refuge for foreign criminals. This is the fact that our government really seems to make no serious effort to prevent their coming here. No examination of doubtful characters made in our own ports can be really effective. The examinations should be made at our consulates abroad, where the police records of the immigrants can be obtained and where testimony of value can be taken." J. W. G.

Coddling the Criminal.—Mistaken lenity to criminals is believed by many writers to be responsible for a large part of the crime now being committed in this country. Mr. Charles C. Nott, assistant district attorney of New York County, in a recent article in the Atlantic Monthly, entitled "Coddling the Criminal," dwells upon the numerous safeguards which an over-indulgent people have provided for the protection of criminals.

"The appalling amount of crime in the United States compared with other civilized countries," says Mr. Nott, "is due to the fact that it is generally known that the punishment for crime is uncertain and far from severe. The uncertainty is largely due to the extension in our criminal jurisprudence of two principles of our common law which were originally just and reasonable, but the present application of which is both unjust and unreasonable. These two principles are: that no man shall be twice put in jeopardy of

life or limb for the same offense, and that no man shall be compelled to give evidence against himself." On the first of these Mr. Nott says:

"Under the common law every felony was a capital offense, and every misdemeanor was punishable with branding, mutilation, or transportation. There were no prisons save for detention for trial, and after conviction the defendant was hanged, his ears cropped, or he was transported. He was not entitled to counsel during trial, he could not testify in his own behalf, and if he was convicted there was no appeal. All these conditions are now changed. An accused person can have counsel, can testify in his own behalf, mutilation and transportaton no longer exist, and he has the right of appeal, but the right of appeal is denied to the state.

"It is obvious that the rule was intended to prevent a defendant's being arbitrarily retried after an acquittal—a purpose with which no one can find fault; and it is no less obvious that the rule never contemplated that a retrial should be granted to a defendant after the reversal on appeal of a conviction, but should be denied to the state after a reversal of an acquittal on appeal. In other words, the common law said to the state: 'As neither side can appeal, a verdict either way shall settle the litigation, and you shall not continue trying a defendant over and over again until you obtain a favorable verdict.' It did not say: 'A retrial after a reversal of an acquittal is duly had in an appellate court constitutes the forbidden second jeopardy.'

"The fact that a defendant can appeal from a conviction, and can review on appeal all errors committed by the trial judge or any misconduct on the part of the district attorney, while the state can take no appeal from an acquittal, no matter how glaring may be the errors of the trial judge or the misconduct of the defendant's attorney, has an enormous practical effect on the conduct of the trial. . . . It is a safe assertion that, under our present system, fully 75 per cent of judgments of acquittal could be reversed on appeal for errors committed against the prosecution."

On the proposition that no man should be compelled to testify against himself Mr. Nott declares that the principle has been "warped and stretched out of all reason and justice. It was originally intended to prevent the use of the rack and thumbscrew to wring confession from a guilty man or a false confession from an innocent man. There is no reason why this rule should be stretched any farther than to prevent confessions by force. As it is now, the present law forbids all reference by the prosecution to the failure of the defendant to testify in his own behalf, besides which the defendant is entitled to have the jury charged that no inference can be drawn against him because of his refusal to testify. This is done on the theory that if the failure of a defendant to take the stand could be used against him he would be compelled to testify and give evidence against himself. The writer does not see why a defendant, immediately after his arrest, should not be asked by a magistrate what explanation he has to make; his refusal to make explanation precluding him from testifying when the trial is on.

"It cannot be too firmly kept in mind that the present practice is solely for the benefit of the guilty. The innocent man is always eager to give his explanation and does so at the first opportunity, and it is always to his interest to do so. But the guilty man is now enabled by the law to remain

mute, to learn the evidence against him, to concoct his defense pending trial, and to come into court fully acquainted with the case against him, while the district attorney only knows that the defendant has pronounced the two words 'not guilty,' under which he may prove an alibi, self-defense, insanity, or any other defense applicable to the case."

All of this could, in Mr. Nott's judgment, be changed by two alterations of the law: the first granting a right of appeal to the state to review all errors committed upon the trial, and the second providing for an examination of the accused by the committing magistrate and forbidding the defendant to take the stand upon his trial in case of his refusal to answer. Both sides would then come into court apprised, respectively, of the cause of action and the defense; the number of perjured defenses would decrease and the number of honest pleas would increase, and trials would be conducted with fairness to both sides and due regard to the law of evidence, as a result of which we should have a marked improvement both in the effectiveness of the criminal law and the moral tone of the bench and bar.

J. W. G.

Judge De Courcy on Problems of Crime.—Judge Charles A. De Courcy, of the superior court of Massachusetts, in an address at Boston February 24 discussed some phases of the criminal problem.

"The importance of the criminal problem from the economic standpoint," he said, "is evident when we realize that it is an annual expense to the taxpayers of more than $200,000,000 in the United States and yet no material decrease in crime is apparent. Locally, Massachusetts has expended fully $100,000,000 in the last twenty years for police courts and prisons, yet last year the number of arrests was 149,680—the largest in our history. It is the costliest curse of civilization.

"The problem ought to appeal to us still more on humanitarian grounds. The special census report of 1907 showed that on a selected date, namely, June 30, 1904, there were serving sentences in the prisons of this country 104,806 persons. These figures, with what they signify in blasted lives and ruined homes, need no comment.

"Yet this problem of crime and the criminal is strikingly neglected in this day of organized philanthropy. Some of this feeling is probably due to a survival of the old idea of vengeance, which comes down to us from the barbarous days of private retaliation for wrongs done—the days of the blood feud and the blood fine—and the days of sanguinary punishments. This feeling is largely yielding to the growth of philanthropy. But in its stead another cause of unfavorable and skeptical attitude of the public is the widespread conviction that the criminal is a class by himself, different from all other classes, with an innate tendency to crime, marked by certain peculiarities of the body, and whose acts are beyond the control of his will. This 'criminal type' theory, the born criminal of Lombroso, is not based on reliable scientific investigation. It is wholly in conflict with the experiences of probation and reformatories, and ought to be finally disposed of as a harmful superstition by the investigations recently made in England of 3,000 of the worst convicts.

"The result of that investigation, thoroughly scientific as it was, showed that both in regard to measurements and the presence of physical anom-

alies in criminals there is a startling conformity with similar statistics of the law-abiding classes. It is essential to approach the criminal problem with a belief in the individualization of punishment, and the realization that each man convicted of crime is to be regarded as an individual who by the application of proper influences and discipline may be capable of reinstatement in civic life.

"The remedial treatment of crime may be broadly divided into that before, during and after imprisonment.

"(1) Before imprisonment comes the system of probation, begun in Boston in 1878, extended to the municipal courts in 1891 and the superior court in 1898. In 1908 the system in Massachusetts was placed under the general supervision of a commission on probation appointed by the chief justice of the superior court. There are now 105 probation officers in the commonwealth, and during the last year there was collected by them more than $75,000 for restitution, fines under suspended sentences, non-support, etc.

"The Massachusetts system has been followed in thirty-four of our states, in Great Britain and its colonies, and at the recent international prison congress in Washington its principles were approved by the representatives of thirty-nine different governments.

"The commission has also awakened the interest of the judges and of the probation officers by frequent conferences with them. Gradually the judges are adopting something like uniformity that was long wanting in the application of the system. Probation should be granted where it can be done with due regard for the protection of society, and where the past history and present disposition of the offender give reasonable expectation of reformation on his part. The keystone of the probation system is the personality of the probation officers. As the departmental committee under the English probation law recently expressed it, 'The probation officer must be a picked man or woman, endowed not only with intelligence and zeal, but in a high degree with sympathy and tact and firmness.'

"Probation ought to be extended, also, to obviate the imprisonment for non-payment of fines, giving the person fined an opportunity to earn and pay the fine while remaining at home and supporting his family; and already it is doing much to do away with the objectionable short terms of imprisonment.

"(2) During imprisonment prisons ought to be adapted to improve their inmates. The prison system should be a comprehensive, articulated system, with centralized direction. This would admit treatment of the prisons of the entire state as a unit, permit proper classification of offenders and enable a suitable system of reformatory discipline, of intellectual and trade education. A large majority of the convicts are persons who never learned a trade. Indeed, the skilled workman is rarely found behind prison bars. To send a man back to the world after his imprisonment with no greater strength against temptation than before, and only weakened from the associations of the prison, by loss of self-respect, is almost to insure his return at a later day. While, as is the case of the probation system, Massachusetts probably has as well-administered a prison system as any in the country, I believe it is time for us to take up the problem of prisons in a

broad, comprehensive way, with a view to establishing what does not now anywhere exist—an ideal system of prisons for a state.

"One of the important considerations in the problem will be that of prison labor, which must be solved with due regard to the benefit of the prisoner and at the same time in a way to prevent unfair competition with the labor of honest workmen.

"Another element new to Massachusetts will require consideration, namely, the proposed payment to the prisoners as a means of aiding in the support of their families during imprisonment and providing them with some means to start in life when they return to freedom. I should like to see an able commission appointed to consider and report on this whole broad question of prisons, so that in this, as in other respects, Massachusetts might lead the way with plans for an ideal system which the future will develop.

"The treatment of drunks must be considered on a somewhat different basis from that of other crimes, and the plans now being carried out at Foxboro for the separation of the curable and incurable drunks, and the separation of criminal from non-criminal drunkards, is the most hopeful experiment on the subject yet undertaken in this country.

"(3) After imprisonment, it is important that some provision be made to see to it that when a convict is released there shall be work awaiting him and a proper home to go to. The first few days after his release are the most critical, for then he finds few friends awaiting him except those who were companions in his evil days, disinclination on the part of respectable people to welcome him or give him work, and oftentimes even the fairly hostile to him—and these extra temptations beset him at a time when his natural self-reliance has been weakened by prison association."

J. W. G.

Dr. Austin Flint on Methods of Dealing With the Criminal Insane.—In a paper read at the recent annual meeting of the American Medico-Psychological Association, Dr. Austin Flint, the noted alienist, discussed the defects of existing methods of dealing with the criminal insane and suggested the remedies.

"During the past fifty years," he said, "3,160 persons have been committed to the hospital for the criminal insane at Matteawan, N. Y. Of this number, 313 had been indicted for homicide and 598 for burglary, so that a large proportion of the total number committed or transferred to Matteawan were more or less dangerous to the public peace and safety, and it costs the people of the State of New York about $250,000 a year for protecting themselves against crimes by these insane.

"The average number of inmates of the Matteawan Hospital for the year 1908-09 was a fraction above 755, its normal capacity being 550. It is therefore seriously overcrowded. A large number of those sent to Matteawan, Dr. Flint thinks, might properly be returned to the courts for trial.

"Matteawan is used for the purpose of holding in custody and caring for such insane persons as may be committed to it by courts of criminal jurisdiction, persons transferred to it by the State Commission in Lunacy, such convicted persons as may be declared insane while undergoing sentence of one year or less, or for a misdemeanor at any of the various penal institutions of the state, and all female convicts who become insane while undergoing sentence.

"At the Dannemora Hospital, also for the custody and care of insane convicts, the conditions are simpler; inmates who recover are returned to prison to serve out their terms, and those whose sentences have expired are retained so long as they continue insane, or may be transferred, by order of the State Commission in Lunacy, to any of the so-called civil hospitals.

It is Dr. Flint's opinion that when an alleged lunatic is committed by a court there should accompany the order a complete medical history of the case, to be incorporated in the case book. He thinks also that when a person indicted for crime, but adjudged to be incapable of understanding the proceedings of a trial or making his defense, or when a person who has been acquitted on the ground of insanity, but it is deemed by the court that his immediate discharge would be dangerous to the public peace or safety, is committed to a state hospital, the court should direct that the medical record of such person be sent to the hospital, and that the superintendent of the hospital be required to report to the court upon the person's mental condition, within six months and at intervals not longer than six months thereafter.

In regard to the scandalous use of the writ of habeas corpus for the purpose of securing the release of criminals adjudged insane, Dr. Flint is of the opinion that after one proceeding, in which the relator has been held to be still insane, he should not be entitled to another writ within the period of one year, except for cause shown and in the discretion of the judge to whom the application is made.

He would also provide that when an indicted person has been committed to a lunatic asylum pending his return to sanity, the indictment shall not be dismissed during the person's retention in the asylum, but only in case he should have become sane, after he had been redelivered to the sheriff, either on a certificate by the superintendent of the asylum that he has become sane or under a writ of habeas corpus; but when the person is under indictment for an offense punishable by death, the indictment may be dismissed upon presentation to a court of competent jurisdiction, in the county in which the indictment was found, of a verified statement of the superintendent of the asylum that he is incurably insane and an affidavit by the district attorney of the said county that he believes the defendant could not be convicted of the crime charged in the indictment or of any degree of murder or manslaughter. J. W. G.

Criminal Insanity and the Law.—In the May (1910) number of the JOURNAL we reviewed the report of a special committee of the New York Bar Association recommending legislation looking toward the elimination of the scandal growing out of the abuse of the writ of habeas corpus in insanity cases. In its first report, the committee recommended that applications for the writ of habeas corpus by persons confined in public institutions be accompanied by a certificate of two medical examiners in lunacy, or other evidence showing probable cause to believe that the applicant had recovered his sanity. The recommendation was approved by the bar association, but the legislature refused to enact the legislation to carry it into effect. The committee also examined the question of abolishing the defense of insanity and dwelt upon the necessity of legislation to do away with the evil. In its second report, presented at the recent meeting of the bar association at Syracuse, it returns again to the subject, but declines to recommend so radical a step. The difficulty lies, of course, says the committee, in drawing the line so that society shall be

protected, without impairing the rights of unfortunate individuals who are not responsible in law for their actions. The most forcible objection to the abolition of the defense of insanity, assuming for the moment its constitutionality, is that it proceeds on the theory that the insane man is really responsible. Such a theory would require radical changes in our definitions of crime and phraseologies concerning intent. Illusory as is, no doubt, the legal test of insanity, knowledge of the difference between right and wrong, it is embedded in our criminal law.

Referring to the Washington statute of 1909, abolishing the insanity defense (recently declared unconstitutional), the committee declares that it does not approve such legislation and that it ought not to be permitted in a civilized community. The committee now recommends the following change in the penal code:

"If, upon the trial of any person accused of any offense, it appears to the jury upon the evidence that such person did the act charged, but was at the time insane, so as not to be responsible for his actions, the jury shall return a special verdict, "guilty, but. insane," and thereupon the court shall sentence such person to confinement in a state asylum for the criminal insane for such term as he would have had to serve in prison, but for the finding of insanity; and if upon the expiration of such term it shall appear to the court that such person is still insane, his confinement in such asylum shall continue during his insanity; and further, when such a verdict of 'guilty, but insane,' is returned in a case where the penalty for the verdict of guilty against a sane person is death, such sentence for the insane person thus found guilty shall be for life; and in all such cases the governor shall have the power of pardon after such inquiry, as he may see fit to institute, upon the question whether it will be safe to the public to allow such person to go at large.

"What we need in the administration of the criminal law," says the committee, "as in everything else, is common sense rather than refinement. A verdict of guilty but insane is, your committee respectfully submits, a common sense solution of a difficult problem. It protects society against the individual and the individual against society. Under such an act, the accused must choose, or his counsel must choose for him, whether to give evidence of insanity or not. It should be borne in mind that a plea of insanity is a plea in confession and avoidance. It is never resorted to where the killing cannot be proved or a *prima facie* case can be disproved. A man may not at one and the same time say, I did not kill my fellow being, *and* I was insane when I did kill him. So as to lesser crimes. He may not say, I did not forge my neighbor's name or steal his property, *and* I was insane when I did it. Thus, when he comes to trial for an undeniable act of killing or forgery, or theft, he must choose, or his counsel for him, whether he shall accept sentence as a convict or as a dangerous lunatic."

Mr. John Brooks Leavitt, chairman of the committee, speaking on the subject in a recent address in New York City, says:

"There are only two kinds of insanity: medical insanity, which seems to be the kind all of us have, and legal insanity, which permits a man to do any crime and get out of paying the penalty. Our struggle in this state is not to keep insane men from getting out of, so much as to keep sane men from getting into the asylums in order to escape the penalty of their crime. You all remember the disgraceful trial of only a few years ago, where there was no earthly

hope of escape for the criminal except by pleading insanity. Then followed a private consultation between lawyer and client, in which the client was asked to name all the queer things he ever did in his life. We've all done queer things.

"Whip these facts into a hypothetical question, pay a heavy medical fee for a specialist to frame it, let him swear the client into insanity and six months later swear him jauntily out, and the criminal escapes scot-free, except for the fees!

"To remedy this farce, let us by law change the customary verdict from 'acquitted because insane,' to 'guilty, but insane.' The crime has been done, and it makes no difference to society if it has been done by a lunatic or a sane man; and as a protection to society, the criminal, sane or insane, must be confined. Then let his lawyer, in that little private consultation after the murder, bid his client choose alternatives: 'If you want to be insane, you will be locked up for life! If you want to be sane, you will be hanged. Now choose!' Then there will be no large legal fees and no large medical fees, and no one will be the worse except you lawyers and doctors."

The Buffalo *Express,* in an editorial commending the report, remarks that it "offers a very simple method for dealing with the scandals caused by sham pleas of insanity, and without adding any hardships to those criminals who really are insane. Under this scheme, rich young men with fond but foolish parents could not keep the courts busy for years, at large cost to the state, in their efforts to escape punishment for their offending. Pleas of insanity, whether called 'brain storms' or by any other novel name which an ingenious lawyer could devise, would be followed by the imposition of exactly the punishment which would be imposed if the offender's mind were normal, except in the case of murder, but then the punishment would be for life. The attorneys would have to deal with the governor, just as they have to deal with him now in ordinary criminal cases when they are seeking pardons. If their client shammed insanity, he would deserve no sympathy whatever; if he really was insane, his punishment probably would not be permitted to last beyond the time when his mind returned to a normal condition." J. W. G.

Climate and Criminality.—Thomas Speed Mosby, Esq., of the Missouri bar, in an unpublished paper, writes of the influence of climatic conditions upon conduct.

Statistics, he says, show very clearly that crimes against the person are proportionately most numerous in warm climates, while in the cooler regions crimes against property are most frequent. In the warmer climates of Italy and Spain, we find the maximum of murders in Europe, while the cooler climes of England, Scotland and Holland supply the fewest murders in proportion to population.

He quotes Dr. G. Frank Lydston as saying, "The tonic effect of cold weather in maintaining the nervous and mental equilibrium of neuropaths, and thus inhibiting crimes of impulse, is obvious. The physiologic turmoil in the sexual system ushered in by spring is well known. Poets have sung of it, and rapists have been hanged for it. It bears a relation, not only to sexual crimes, but to all crimes of impulse, such as murder and suicide."

Again, he says, Prof. Enrico Ferri has demonstrated that in France the greatest number of crimes against the person are committed in the summer season, while the maximum of crimes against property is reached in winter.

We know that in the United States crimes against the person are unduly high in southern latitudes. It has been clearly proven that the maximum of suicide is always reached in early summer, during the hot and humid season, whereas the minimum is reached in January or December. Therefore it appears that Byron stated a scientific fact, since borne out by statistics, when, in "The Giaour," he said that

"The cold in clime are cold in blood."

Gibbon, in the sixty-fifth chapter of his history, has observed: "The arctic tribes, alone among the sons of men, are ignorant of war and unconscious of human blood; a happy ignorance, if reason and virtue were the guardians of their peace." Their pacific nature, however, is not due to reason and virtue, but rather to the arctic temperature; and the Laplander should no more be praised for his harmlessness than the Sicilian should be blamed for his aptitude in the use of the stiletto. Both are governed, in a great measure, by cosmic influences, and while the criminal anthropologist may attribute this homicidal or non-homicidal tendency to individual characteristics, we cannot doubt that the individual nature is affected by the climate. History records the fact that within three generations the Vandals who settled in northern Africa were transformed from a fierce and hardy soldiery into a race of luxurious weaklings.

Climatic conditions may operate through both the social and the individual factors of crime. Thus, a man may endure, in the mountains or upon the open plains, a temperature of 90 to 95, without serious danger to his nervous organism, whereas, if confined to the heat of the city of three or four millions, the effects of the same temperature upon the same nervous and physical organism may become serious. This is partially illustrated by the fact that, although the maximum number of suicides is reached in the summer season, yet the number is proportionately greater in the large centers of population than it is in the rural districts. For example, in New York City the suicides are about 150 to the million of population, while in the rural districts the number is less than one hundred to the million.

It is noticeable that our great "waves of crime" usually occur in seasons of extraordinary heat and humidity, and that the center of the "wave" is also the great center of population, where social and individual factors of crime converge with greatest intensity upon the given point. The nerve-tension is always more extreme in the large city and there, also, are the social vices most numerous. Precipitate upon these conditions a condition of unusual heat and you produce an ideal criminal diathesis. An epidemic of crimes of violence may then be expected.

The "mad-dog" season and the "crime wave" usually occur in reasonably close juxtaposition. But dogs will not go mad if given proper attention, nor will normal men commit crimes of violence in normal circumstances and while in normal condition.

"The natural relation of heat to crimes of violence is more easily comprehended than is the relation of cold to crimes against property. In the latter instance the climate operates as a secondary influence. A low temperature does not operate to dull the sense of ownership and the recognition of proprietary rights. However, the means of livelihood are more readibly obtainable in warm weather and in warm climates and the earning capacity is greatly curtailed, among the majority of men, in the colder regions of the globe. The overwhelming majority of thieves are men of unsettled pursuits and no established

occupation; and it is evident that those who, from any cause whatever, cannot produce for themselves, will most likely attempt to take the produce of others, just as the inhabitants of the barren highlands of Scotland for so many centuries lived by theft, because that method provided practically their only means of subsistence."

Payment of Prisoners.—The sentiment in favor of paying prisoners for their labor is spreading rapidly. It will be remembered that the International Prison Congress, at its eighth meeting, in Washington, in October last, approved the policy and it has already been introduced in a number of states. A recent writer in the New York *Times* is quoted as saying on the subject:

"I believe that one of the first steps to be taken is that of remunerating the prisoner for the work done while he remains in prison. This is forced work, but there is no reason why the distribution of it should not be intelligently organized, and properly remunerated, so as to give a chance to the man to improve himself mentally as well as physically, at the same time that he looks after the needs of his family, who are often starving outside the prison walls.

"Solitary confinement and picking of oakum send out from the prison a man more brutalized, more embittered against society, than came into it. We aim at sending out of the prison a man who shall in every respect be superior to the man he was when he came in. I believe we can do this, and that, instead of dismissing from the prison gates, after a term of several years, a man whose heart burns with rage against the whole world, we shall dismiss from those same gates a man who has received an education which shall serve for him as a passport into a new life."

Frederick Howard Wines of Springfield, Ill., editor of the Illinois *Institution Quarterly,* discussing the matter, says:

"It must not be forgotten that the 'earnings' of the prisoner, after meeting the cost of his incarceration for the crime committed by him, are often nil. In that event, it seems to be unpractical to demand, . . . that his earnings 'shall, if he is married, be given to his family; if unmarried, they shall be banked for him against the critical day of his return to society.' But it may be laid down as an ethical principle of general application, that no state has the right to enrich itself by the exploitation of convicts for pecuniary profit. If Minnesota expects in future to turn into her public treasury $300,000 a year, derived from the profits of prison labor, this expectation is not creditable to her. Its realization will be neither good morals, good politics, nor in accordance with the teachings of sociological and criminological science." J. W. G.

The Treatment of Crime.—In a recent address before the Kansas State Bar Association T. F. Garver, Esq., of the Topeka bar, dwelt upon the changing attitude of society toward the purposes of punitive justice.

"Formerly," he said, "penal codes have been written for crime rather than for criminals. Punishment has been inflicted with regard for the deed, but with little regard for the welfare of the individual. The courts too often fail to make any distinction between the incorrigible criminal—the one born or confirmed to crime—and the first or occasional offender. They fail to appreciate the fact that as to the first class the aim should be to protect society, while, as to the latter class, the primary aim should be reformation and the prevention of a repetition of offending.

"It is only in very recent years that there has been any systematic development of plans for the prevention of crime by operating directly upon the life of the individual. It has been the custom to wait until the moral nature has become thoroughly saturated with criminal desires and inclinations; then watch for the overt act and put penalties upon that. If under such treatment the moral malady did not become a chronic disease, it was not because the treatment was not conducive to such result. Society is to-day grasping the true principle. It would eradicate the causes of crime by throwing around the individual such an environment as would make of him a man instead of a criminal. It goes to the help of the friendless one, against whom the adverse storms beat so pitilessly, while there is still hope and honest resolve in his heart, to lend him a helping hand until he gains strength to stand alone, and to lead him into paths which lie in the sunlight beyond the shadow of prison walls.

"It is not the purpose of this reform to merely better penal codes, much as that may be needed. The chief aim is to avoid the necessity for the application of such codes. The belief is growing that the deterrent effect of mere punishment is not enough to protect society from criminal classes. Many who have made special study of these subjects are of the opinion that mere punishment as a prevention of crime is a failure. That it falls far short of its object in this respect all must admit. The psychological influences on the individual are too often so much stronger than the deterrent force of prospective punishment that the former prevail."

J. W. G.

Crime and Its Treatment in Italy.—In dealing with crime, the Italians pay particular regard to the criminal rather than the injured community. The dominant idea underlying their methods is that, first of all, exact justice shall be rendered the criminal, rather than that the community shall be protected. A writer in the London *Times,* speaking of the Italian attitude, says:

"Every possible circumstance is taken into consideration and measured with a scientific nicety which baffles description. In an ordinary murder trial, where the actual facts of murder are not disputed, at least half a dozen medical experts will be called to testify on the mental condition not only of the accused, but of all his near relations; innumerable witnesses will be called to prove his former character, and every conceivable plea of provocation will be admitted. Counsel for defense in Italy are accorded a fairly wide license, and they avail themselves of it with an extraordinary forensic ability which can hardly be equaled in any other country. With a jury which is naturally inclined to mercy and willing to admit extenuating circumstances, the result is almost inevitably in the prisoner's favor. In 1906, against an amount of violent crime which reached 2,612 murders and 85,593 cases of wounding, there can only be set 64 sentences to the *ergastolo* and 122 to terms of imprisonment exceeding 20 years. The *ergastolo* is said to be worse than death, though men have survived it. That may well be, but it is not so deterrent, and men will run the risk of perpetual imprisonment when they will shrink from the possibility of hanging.

"The general attitude is: 'The knife is the enemy: the man who uses it is the victim of opportunity. Remove the knife and there would be no crime.'

"The Italian government has hitherto put its faith in the removal of the temptation in the shape of the knife, and the reform of the individual culprits by terms of imprisonment and fines. It is now a penal offense to carry any knife of which the blade measures over four inches, or any steel instrument sharpened and suitable for stabbing purposes, or any firearms without a license, or to introduce any weapon of any kind into a public meeting. People using knives or found in the possession of knives when arrested are fined or sentenced to imprisonment, the punishment varying between a small fine for mere 'contraventions'—such as the *porto d'arma insidiosa* or the carrying of a weapon of any character—and terms of imprisonment for actually using them, which are seldom of great severity. The result has been simply nil. The statistics of the last twenty years prove the absolute inefficacy of the remedies hitherto adopted.

"The remedy attempted having failed, as it must, so long as the culprit himself is left almost scot-free, the chamber of deputies have recently passed on elementary education bill to remove the 'scourge of illiteracy' among the masses as a means of diminishing crimes of violence. From a comparison of the statistics of illiteracy as shown by the census and crimes of violence in the country for 1887 to 1909 as given in the *Statistica Gindiziaria Penale* of 1909, the writer finds that, while the rate of illiterates has diminished from 63 per cent of the whole population over 20 years of age in 1882 to 52 per cent in 1901, or nearly 20 years later, the great bulk of crimes of violence, excepting actual murders, which have diminished in number, has hardly been decreased at all. In 1906 the murders in Italy numbered 2,612 and the crimes of violence against the person ,the majority of which were knifing cases, was in the same year 85,593. The rate of murder has greatly decreased, as the yearly average between 1880 and 1886 was 4,620; but the rate of crimes of violence has hardly altered; the lowest rate was nearly twenty years ago and the highest rate only five years ago.

"Though the lines of illiteracy and crime are to some extent similar, it is more easy to trace the variations of crime in the varying regularity of justice in these provinces. The law, both in respect to the police and to the courts of justice, is far better enforced in some provinces than it is in others—for a variety of reasons, some purely natural, into which there is no need to enter—and the comparative absence or prevalence of crime follows the varying efficiency of the law very closely indeed. It is difficult to catch a murderer in Sicily and Calabria, and equally difficult to convict him when he is caught, whereas in Venice, Piedmont and Lombardy the wrongdoer has less chance of escape."

Increase of Crime and Methods of Combatting It.—In an address before the State Bar Association of North Dakota, at its last annual meeting, Judge A. G. Burr of Rugby dwelt upon the increase of crime throughout the world and the unsatisfactory methods of dealing with it. "Criminal statistics will show," he says, "that everywhere crime is on the increase and that our machinery for suppressing crime is breaking down.

"In such countries as Great Britain, France, Germany and the United States we have had fairly accurate census returns of their population for many decades—accurate enough to give us a fairly correct idea as to the population. Recently—that is, during the last fifty years—it has been prac-

tically possible to find out the proportion of crime to the population, particularly as to the graver offenses, and from an examination of this we find, in Germany, for instance, in 1882 all crimes and offenses averaged 1,040 for each of 100,000 people of punishable age in the population, whereas by 1905 the number had risen to 1,230. Now, Germany is popularly supposed to have a law for every act, so that even the throwing of a piece of waste paper upon the public street may be a crime or the looking cross-eyed at some sprig of the nobility lese majeste. But we find that in 1882, out of 1,040 crimes for every 100,000 people of punishable age, 338 crimes were against the person, and that in five years this number had increased to 539. During the same time crimes which caused bodily injury of a dangerous nature had increased 100 per cent and crimes against morality had increased 60 per cent. Some of this increase is, no doubt commensurate with the population, but the population in Germany did not increase in any such a proportion. Turning from Germany to France or England, Austria or Italy, we find the same state of facts—that is, that crime has increased more rapidly than the population. The criminal statistics of the United States are not very accurate, yet, so far as can be ascertained from the data, the increase here is no less, and possibly is much greater.

"Now, on the other hand, the punishment of crime has diminished. I do not mean to charge that it has diminished in rigor or method, for enlightened public opinion has changed its attitude toward the treatment of crime, but I mean that in all of these countries, with varying degrees and percentages, a smaller proportion of crimes have been detected or traced to their proper sources, and that a smaller percentage of convictions has been had. Either criminals are becoming more shrewd, protective machinery is losing its cunning, or the methods of escape are increasing. In the face of these facts, we are told that there is abroad in the country an extraordinary amount of maudlin, hysterical sentiment that insists upon coddling the criminal class and overlooking the right of society to be protected against crime."

Among the various suggestions which he makes for improving the efficiency of our machinery for the punishment of crime is the adoption of the Scottish rule with respect to verdicts. On this point he says:

"It is true that a man should not be placed twice in jeopardy for the same offense and that is a principle that our civilization cannot surrender. But if a jury has almost a moral certainty as to the commission of the crime by the defendant, yet not enough, in its opinion, to justify a verdict of guilty, what is to hinder them from finding a verdict of a crime committed but not proven against the defendant, and allowing this to operate as a sort of a suspension of the trial and leaving it optional with the state to continue the prosecution within a certain time thereafter upon leave of the court, upon a proper showing being made as to the additional evidence secured, but requiring additional evidence before retrying, proper provision being made for recognizance or other undertaking to meet the exigencies of the particular case?

"But, after all, these suggestions of reforms would only have a tendency to cure some manifestations of the evil. It seems to me before we can properly attack the question of crime we ought to have a better understanding of the question of crime, its prevalence and the conditions under

which it flourishes most. Certain schools of political economists will undertake to prove that poverty is the cause. Sociologists and political scientists will attribute it to our form of government. Certain philosophers will say that it does not exist and what we see is only a form of human development. Others, again, will say that crime is a disease and the criminal should be pitied and not punished ,etc. To a great extent we are utterly at sea. It is a question if we really know how prevalent it is or what are the principal causes. We have our parole and indeterminate-sentence laws, but what intelligent data have we upon which thinking officers, having this power, can really act? Intelligent criminologists in our country are clamoring for more accurate statistics so that we can get the proper information. To ascertain physical and biological facts we may try experiments but for moral or social facts, as Ferri says, we must depend upon observation. Now, if we are to attack this menace intelligently we can not have too much information upon this subject. Why should not our state establish in connection with the attorney general's office a bureau of criminal statistics, require every magistrate to ascertain certain required facts and to report them immediately with reference to every person brought before the courts whether convicted or acquitted? For instance in the case of a man accused of some crime, let notes be taken of his age, color, birthplace. antecedents, religious training, occupation, previous convictions, previous arrests, nature of the offense charged, results of the prosecution as well as a succinct statement of the crime alleged to have been committed, regardless as to the result of the accused. The criminologist Ferri well says that "statistical information is the first condition of success in opposing the armies of crime, for it discharges the same functions as are performed by the intelligence bureau of the war department.

"These conclusions may be reduced to three or four points. First, we should have as complete and accurate statistics with reference to crime as possible. Second, we should have our statutory definitions as precise, succinct and accurate as possible, with clear, well-defined, flexible, impartially and speedily executed rules of procedure. Third, we should wipe out all of the rules or so-called safeguards for the criminal which have become obsolete and should turn our attention to protecting the rights of the public as well as the rights of the accused. Fourth, we should make it easier to institute prosecutions for certain offenses, and under this head I would like to call attention to the fact that it is quite easy to maintain a prosecution for an offense which touches the person or property of another, such as murder, burglary or larceny, but much more difficult to prosecute and arouse sentiment against those crimes whose effect is general in their nature such as perjury, violation of the prohibition law, crimes against the electorate, the violation of moral laws, Sunday laws and similar legislation.

J. W. G.

Professional Training of Prison Officials.—The above is the title of an interesting article in a recent number of the *Survey,* by Prof. Roustem Vamberry of the University of Buda Pest and one of the delegates of the Hungarian government to the International Prison Congress at Washington last October.

"It is ridiculous to quarrel about prison systems," says Dr. Vambery, "and leave the carrying out of them to officers who do not understand their theories. It is labor lost to establish the strictest rules and to make the most elaborate

provisions, and then place these in the hands of officials who scarcely understand the letter, much less the spirit, of the act. It is foolish waste to spend millions on millions in the erection of magnificent establishments, and then leave the management to men who are not equal to the demands of the system of administration.

"There are two qualifications which are indispensable to the modern prison officer: tact and skill; in other words: soundness of character and professional knowledge. One might think that these are both self-evident. Yet, curiously enough, opinions agree only on the former point.

"Unfortunately our knowledge of criminology is not yet sufficiently advanced to enable us to classify crimes in causal groups, and to build up our penal methods in accordance with these. But in all civilized countries it is agreed that youthful offenders need other treatment than incorrigible adults; that professional criminals and the partially responsible must be treated in a way different from that taken with the offender who is acting from accident or passion. The practical outcome of individualization as the highest principle for the judicious administration of punishment in the progressive classification of criminals into groups, in order that the social function of punishment, that is, the restoration of the offender *to* society, or, where this is found to be impossible, his separation *from* society, may be successfully accomplished.

"All writers on the subject, such as Lombroso, Jagemann, Foinitsky and Lacointa agree in saying that there is a prison science which comprehends the investigation, prevention and repression of crime and that the interests of prison discipline demand that this science be taught at the universities. It was only Henry Joly, however, who, in his report, made it clear how important the acquirements of such knowledge was for the administrative staff of penitentiaries.

"There is not in England another branch of public administration in which at least a minimum amount of professional knowledge is not required from the official in his official capacity; but in the case of prison discipline even the most elementary knowledge of the work to be done is considered superfluous. As long as the idea of detention was all that prison discipline meant to the average unschooled mind, it probably sufficed that orders should be strictly obeyed.

"But now, with reformatories in America and a Borstal system in England, this standpoint has become untenable. Practical experience in the penitentiary cannot take the place of previous training. Since the German Association of Prison Officers entrusts the theoretical training of candidates for the prison service to the prison wardens, we naturally presume that these officers are thoroughly competent to perform this task. Stevens, the celebrated Belgian penologist, is quite right in saying that a good prison warden cannot be improvised, but must be educated for the fulfillment of his office. And the same holds good for all superior officers; but the education required in our days cannot be obtained except by special training.

"One may object that in the carrying out of punishments the decisive factor is not always reformation, for which the personal influence of the prison officer is so essential. Of course not. But punishment should be individual treatment at all events, if we are going to attain any special aims by its infliction at all. This much is certain, that the officer who understands the social and personal causes which provoked the crime will treat the offender otherwise than the officer who sees in him merely a representative of original sin, a lawbreaker acting

with the freedom of will, a bad and impious subject. So also the prison officer who has a critical knowledge of the history of punishment, of the organization of prisons in foreign states, of the scientific principles of prison labor, of discipline, of the moral education, of the instruction of prisoners, will perform his duties quite differently from the official automaton who mechanically and blindly obeys the rules.

"Now as regards the special training of the superior prison officers, there are only three states in which Institutes for this purpose have been established, namely, Japan, Spain and Hungary. In 1898, after some fruitless efforts, Japan organized an academy for the study of prison discipline, where officers in actual prison service had to attend a six months' course and candidates for the service a course of twelve months of six lectures per day. The former (the officers in actual employ) were commanded to go through this course of study and received, besides their traveling expenses, an additional monthly allowance of thirty-five yen. The subjects of the lectures included prison discipline, criminal psychology, penal law, prison, hygiene, pedagogics of juvenile criminals, anthropometry, statistics and the principles of public and civil legislation. Fifteen professors were appointed to give these lectures. With practical common sense, the Japanese realized that it availed little to build beautiful establishments without also improving the human material in charge of them. Ogawa, the inspector-general of prisons in Japan, spoke at the Brussels congress of the complete success of the institution.

"Of course the simplest solution of the difficulty would be for the universities to add to their program the sciences of penology, criminology and criminal psychology. This would give to judges in criminal courts and to prison officers, the chance of acquiring the knowledge so necessary to both. But I am sorry to say that in some of the universities of Europe the wind of conservatism still blows, which is anything but auspicious for the introduction of new knowledge."

J. W. G.

Heredity and Environment.—The question whether physical and mental traits are more influenced by heredity or environment is debated pro and con, with uncompromising enthusiasm on both sides. On the one hand, it is contended that mental and physical characteristics are inborn and very slightly influenced by surroundings, that the poet, the criminal and the common man alike are born and not made, and that the only way to improve the race is to prevent the mating of the unfit and to encourage the mating of the fit. This creed or belief has been formulated under the name of Eugenics. On the other hand, it is contended that environment is the main cause of healthy or diseased states, whether mental or physical, that crime, insanity and disease are the effects of lack of nutrition, bad housing, disease germs and other conditions affecting the bodily organism, and that man must be improved by improving his surroundings and to this view the name of euthenics has been given.

That there is some truth in both these positions seems evident and this is emphasized in an article, "Euthenics and Eugenics," by Dr. C. B. Davenport, in the *Popular Science Monthly* for January, 1911. He says: "The thoughtful mind must concede that, as is so often the case where doctrines are opposed, each view is partial, incomplete and really false. The truth does not exactly lie between the doctrines; it comprehends them both. What a child becomes is always the resultant of two sets of forces acting from the moment the fertilized egg begins its development—one is the set of internal tendencies, and the

other is the set of external influences." There is this advantage on the side of Eugenics that we know that we can improve conditions and that our improvements are beneficial; all the conscious efforts of the race toward advancement thus far have been of this nature. Of heredity, however, we know as yet so little, either of its essential nature, its laws, or its modes of operation, that any measures based on the Eugenics theory are quite as likely to prove detrimental as beneficial. The Eugenists base their views on Galton who formulated the so-called "law of ancestral heredity," and the work of the English biometrical school. This, however, is severely criticized by the advocates of the Mendelian theory. Says Bateson in his "Mendel's Principles of Heredity," speaking of Galton's theory, "to those who hereafter may study this episode in the history of biological science it will appear inexplicable that work so unsound in construction should have been respectfully received by the scientific world." But, in turn, it cannot be said that Mendelism has yet established its claim to be the correct formulation of the laws of heredity. In this state of ignorance it behooves us to take a conservative position with reference to attempted artificial regulations of human reproduction. Many radical proposals, such as sterilization of the unfit; encouraging the mating of the fit, and so on, are current. Such regulations as have gained currency, such as prohibition of incestuous and cousin marriages, rest on no foundations of biological science, however justified they may be as social measures. Consanguineous unions have obtained in some savage tribes of great physical vigor, and Bateson says that while such marriages give extra chances of the appearance of recessive characteristics among the offspring, these may be valuable as well as bad so far as we know. In the case of many human diseases and defects Bateson has suggested that the element transmitted is something apart from the normal organism, and that it is handed on by a process independent of the gametic cell-divisions and therefore probably obeys no law of inheritance. The facts of heredity are so complex and we are yet so far from any adequate theory of its nature that any measures alleged to be based on principles of heredity can only be regarded as arbitrary and empirical. E. L.

The New Penitentiary Law of Texas.—The recent investigation of the penitentiary system in Texas and the agitation following it, have led to the enactment of a new penitentiary law, which is a distinct step in advance. The most conspicuous abuse which the new law undertakes to abolish is the practice of leasing convicts to planters and to railways, to be worked outside the prison walls. The new law provides that all contracts now in existence, or which shall hereafter be made, shall terminate not later than January 1, 1914, and that thereafter all convicts in the state of Texas shall be worked either within the prison walls or upon lands owned and controlled by the State Penitentiary Commissioners.

Another important change in the law governing the penitentiary is the reorganization of the machinery of control. Heretofore there has been no head to the penitentiary system. Nine leading officers of the penitentiary system were appointed by the governor, and responsible to him alone. These officers were the three penitentiary commissioners, the superintendent, the two assistant superintendents in control of the penitentiaries at Huntsville and Rusk, the two prison inspectors whose business it was to visit the convict camps from time to time, and the financial agent. This cumbrous system has now been abolished,

and in its stead there has been substituted a commission of three men who are to have complete control of the entire penitentiary system, including the appointment of penitentiary officials. These commissioners are to devote all of their time to the control of the prisons and receive salaries of $3,600 a year. It is proposed to amend the constitution so as to allow them to hold office for a term of office of six years, one retiring every two years. This arrangement was advocated by Governor Colquitt during his recent campaign, and, it is believed that such an arrangement will pretty effectually remove the commission from the baleful influence of partisan politics.

In carrying out the provisions of the new law with regard to the termination of the lease contracts, the commissioners are authorized to buy all lands and to erect all buildings necessary for taking care of the prisoners as fast as they are released from the contract forces. The state already owns something like 30,000 acres of rich land in the Brazos Bottom and works more than two-thirds of the convicts on this land and within the walls of the penitentiaries. When it is remembered that about two-thirds of the present population of the state are negroes, for whom agricultural labor is best suited, this policy of developing state farms or plantations will be seen to be, perhaps, as good as the state can make for the care of this class of criminals.

Another feature of the law worthy of mention is the fact that a provision is made for the payment of the prisoner for his labor, at the rate of ten cents per day. This payment, however, is not to be made except to well-behaved criminals who are entitled to "good time." For bad conduct they lose their earnings at the rate of twenty-five cents per day for every day of disobedience. The earnings thus allowed are to be credited to the account of the prisoner, and if he has a wife or other dependent relatives, the money will be sent to them from time to time. If not, the money is kept until the end of his sentence, when it is to be turned over to the prisoner himself.

Still another provision relates to the classification of criminals. This is nothing new to students of penal legislation, but is new in the management of the Texas penitentiaries, as heretofore there has been no segregation of the various classes, other than that based on race. Hereafter, however, the criminals are to be classified in accordance with the classifications usually found in other penal systems, and are to be kept in separate prisons and worked on separate farms, where the discipline and privileges may be suited to the needs of each class.

It may be noted that the law does not provide for the indeterminate sentence, nor for an efficient administration of the parole law. This latter measure was passed by the legislature in 1905, but for some reason has been practically a dead letter, as only twenty-seven prisoners have been paroled during the five years since the law went into effect. This is due, in part, to the want of proper machinery for administering the law, and especially for keeping track of the prisoners while on parole, but more directly to the fact that Governor Campbell did not believe in the principle underlying the parole system. He maintained that if a prisoner deserved any consideration at the hands of the state he should be pardoned, and not released on parole.

Another defect of the new law is the fact that no adequate provision is made for the reformatory treatment of young offenders. The state has an institution for the training of juveniles, located at Gatesville, but heretofore

boys over sixteen years of age have been sent to the penitentiaries along with the older criminals.

A final defect in the new law is that no provision is made to secure the appointment of trained or experienced men to administer the penitentiary system. Heretofore the appointments have been made for political considerations, each incoming governor filling these places with his particular friends and supporters, and this practice has been followed by the present governor.[1]

Crime in Massachusetts.—The ninth annual report of the Board of Prison Commissioners of Massachusetts is full of interesting statistics concerning crime conditions in this state. The number of prisoners on the first of January, 1910, was reported as 7,038, the number being 500 less than were in prison a year ago. Eight hundred and twenty-two of these are in the state prison at Boston, the others being in the reformatories at Concord and Sherborn, the prison camp at Rutland and the state farm at Bridgewater. During the past year there were 45,483 committals, as against 46,498 during the previous year. Nine thousand eight hundred and fifteen of the prisoners were reported as being under thirty years of age, and 1,315 under twenty years. The "second offender" class is unusually large in Massachusetts. Of 32,228 commitals, 3,557 were committed for the second time, 2,328 for the third time, 1,604 for the fourth time, 1,175 for the fifth time, 4,557 for times ranging between six and fifteen, and so on. Forty-five prisoners had been convicted between 50 and 100 times, and two had been committed more than 100 times. The report reveals an astonishing number of arrests for drunkenness. The total number of arrests for drunkenness in the state during the past year aggregated 90,550. There were 88 life sentences in various prisons of the state, 77 of whom were convicted of murder and manslaughter. The prison commission in its reports dwells upon the great progress which has been made in the development of the finger print and Bertillon methods of identifications in the state. There were on hand 4,896 finger prints on November 30, 1909, and 7,344 Bertillon photographs. The value of the finger print system was demonstrated in two recent cases where criminals were identified by means of their finger prints where it had proved impossible to identify them through the use of the photograph because of their changed physical appearance since the photographs were made. The commissioners point out the advantages of the finger print method over all others and state that it should be used by all the police departments of the commonwealth. The prisoners whose finger print impressions have been taken and filed can be found at any time regardless of the name given, when arrested for the second time. A case was referred to in which the finger print impression of a prisoner was received three different times and under three different names, and identification each time was made by his finger prints. An ordinary individual can take finger print impressions and a knowledge of classifications is unnecessary, as the impressions when taken are sent to the central office where the work of classifying and filing is done. J. W. G.

Reformatories for Women.—Miss Isabel C, Barrows, in a recent number of the *Survey,* describes the progress that has been made in the reformatory treatment of female criminals. Reformatories for women in this country, she

[1]Furnished by Prof. C. S. Potts, University of Texas.

says, are very few, there being at present only four; two in New York, one in Massachusetts and one in Indiana.

"It would be useful, in trying to cure criminality among girls and women," she says, "to find out how many there are in each state of the union who are at present subjected to the old soulless and dull routine of dealing with criminals. New Jersey has taken such a census. The total number of women in the state prison, county penitentiaries and jails, including those over sixteen in the Trenton state home for girls, is 336. There are 210 under thirty and of these 79 are in county institutions. No wonder the public-spirited men and women of New Jersey demand a reformatory for women.

"No matter how humane the physical care they are now receiving, probably none of these younger women is in the least benefited morally by her term in a county institution. After their brief sentences they return to the community worse than they were before; no better fitted in any way for leading useful, decent lives, even were they minded so to do.

"If no way can be devised for preventing girls and young women from falling into vicious and criminal lives, at least the state alone should have control of them after they have broken the laws of the state. No county should have the responsibility of caring for criminal women. If they have committed acts that place them behind bars, the state alone should be the turnkey; and a separate institution should be provided, where suitable discipline, including physical training, simple schooling, and education in domestic industries should be compulsory for every inmate. This seems so self-evident that one wonders why it should take years to impress the necessity of such treatment on the minds of legislators. It is such miserable economy to shut up, guard, clothe, and feed the 336 women criminals of New Jersey for a given time, and then turn them out into the world worse than when they were arrested. Of course the process must be repeated over and over unless some wiser course is adopted.

J. W. G.

The Albany County Penitentiary Criticised.—A report has recently been made by two members of the New York State Prison Commission condemning the Albany County (N. Y.) penitentiary as an "unfit and degrading place for the confinement of prisoners."

The report says that "the present condition and management are out of harmony with modern penal methods, and reflect discredit on the county which maintains it. In each cell are two bunks, one above the other, each two feet wide and attached to iron frames, on which the prisoners sleep. The bunks are without bed clothing, and the sagging canvas bottom leaves a narrow depression in which the prisoners sleep between bars. The only ventilation in the cells is a four-inch hole in the rear, and most of the holes are stopped up, the prisoners explain, to keep out the vermin.

There is a general atmosphere of uncleanliness about the men's cell block, though the cells for women are in better condition. Their investigations showed that prisoners received blankets when they entered the penitentiary, and these blankets, unwashed, did service throughout the term. Some of the prisoners were in for from six to twelve months. The male prisoners must sleep naked or in the striped prison suits, it is alleged. They remain in their cells fifteen out of the twenty-four hours, and eat all their meals in their cells from tin plates and cups. The report says that where two prisoners occupy one cell the

condition is intolerable. The penitentiary officials say that the cots are washed out every day, but the inspectors say that the cells do not look it.

The idleness of the prisoners is declared to be deplorable. Most of them have nothing to do, and more than half of them sit idle in their cells or in the penitentiary workshop all day. No efforts are made to instruct them in any kind of work, and there are not enough baths to keep the prisoners clean.

The commissioners recommend that shower baths be put in and the vermin exterminated; that undergarments be given to the prisoners, and that teachers be employed to instruct them; that they be given another place to eat their meals, and that plain prison clothes be worn instead of the humiliating stripes.

J. W. G.

Criticism of Illinois Jails.—The state charities commission of Illinois has recently made a report to the governor severely condemning the treatment of prisoners in the jails of the state and declaring that no improvement has been made in the condition of the jails since 1870.

Only ten jails in the state are placed in the first class as to sanitation. The common jail is referred to as a relic of the dark ages, a disseminator of foul diseases and tuberculosis, a school for crime, a violator of the laws themselves, a place of detention where men are debased physically by unfit and insufficient food and morally by vicious environment.

"Waste, extravagance, inhumanity, inefficiency, neglect, indifference, petty partisan and factional politics, making gain of the unfortunates, the jails schools for crime, the almshouse, the refuge of conditions that shrink from the light of publicity—these were found in 1870 by the old board of charities; these were found in 1910 by the state charities commission," declares the report.

"The board of charities said in 1870: 'Insane inmates of jails are not separated from the sane; nor the guilty from the innocent; nor the suspected from the convicted; nor the hardened criminal from the child; nor the men from the women. The effect of this indiscriminate herding is to make the jail a school for crime.

" 'Hospital accommodation for the sick is a thing usually unknown. Prisoners are without employment for mind or body. No attempt at secular instruction and education has been found in any jail. Efforts at reformation are wanting.' "

The commission reports that practically the same conditions are found in the jails in 1910.

"Illinois has jails in which prisoners never see daylight; in which they never feel the rays of artificial heat in the winter or the fresh breath of air in summer; in which men and women sleep upon damp, vermin-infested floors; in which water stands during wet seasons; in which prisoners spread and contract tuberculosis; in which men, clean and unclean, bathe in the same tubs and use the same towels; in which three and four times as many prisoners are herded as the building was erected to accommodate."

Added to these evils are found those fostered by the law, such as the fee system of feeding prisoners, which " has fixed itself upon the jail system with such tenacity that it will be dislodged only by the most strenuous efforts."

Twenty-five children under 16 years of age were found among the 1,524 prisoners in the ninety-eight jails of the state inspected by the commission. In eleven of the fifteen jails in which these children were they occupied cages with

older men and women without a pretense of separation. Nine per cent of the total jail population were under 21 years of age.

Only four jails supply sheets and pillows. In nearly all jails the prisoner occupies the bed his predecessor left, no matter what his condition as to health may have been.

In all save ten counties the food is served in a repellant manner. In six counties the men sit on the floor to eat their meals.

The commission declares that idleness is the greatest curse of the Illinois jail system. It prevails in almost absolute perfection in all but twelve of the ninety-eight jails.

The commission recommends the abolishment of the fee system of feeding prisoners; the creation of some means by which men, women and children may have decent, humane surroundings, clean quarters, adequate nourishment, employment and instruction. J. W. G.

Investigation of the Prison Industries of Michigan.—The State Board of Prison Industries of Michigan has recently made a somewhat elaborate investigation into the prison methods of that state with the view to recommending a new system of Prison Industries. The board recommends that the contract system, in so far as it exists in Michigan, be abolished and that all prison labor be utilized by the state on its own account in such a way as to yield a substantial profit to the state and at the same time conduce to the reformation of the prisoners. The state prison at Stillwater is now extensively engaged in the manufacture of binder twine on state account, a business from which it made a net profit of about $175,000 last year. It is also engaged in the manufacture of shoes upon the contract system. But at an early date the shoe contract is to be terminated and the manufacture of farm machinery substituted. The commission recommends that the state prison industries at Jackson be developed and extended as rapidly as possible, and that the manufacture of furniture, which is now conducted on the contract system, be changed to state account. It further recommends that all products of prison labor in the state be sold in legitimate competition with similar products of outside labor, not at cut rates, but at rates which such products bring when manufactured by free labor. The employment of prisoners for work upon public roads is strongly condemned by the board for the reason that it takes away the advantages of prison discipline and education, and besides, during the winter months, it is practically impossible to employ prisoners at such labor. The board of control of each institution should, in the opinion of the committee, be allowed to determine what industries shall be carried on in each particular prison. Finally, it recommends that a farm of sufficient size to produce farm products needed by each institution be purchased, that the prisoners be paid a small allowance for their labor, and that all illiterate prisoners be given instruction in the common school branches.

J. W. G.

The Prison Population of Ohio.—The last annual report of the board of managers of the Ohio state penitentiary shows that the number of prisoners in the institution on October 31, 1910, was 1,565. The average prison population has increased only slightly during the past ten years. There were four executions during the year and 65 releases on parole. Among the somewhat exceptional conditions brought out in the report are: the unusually large number of life prisoners (224), the large number of prisoners classified as intemperate,

1,267 out of 1,565; the large number of recidivists, 491 having been once previously convicted of felonies and 119 others having been convicted from three to six times; and the large number of crimes against the person and especially against women. Five hundred and ninety-two of the prisoners were sentenced for crimes of violence, not less than 410 of these being manslaughter, murder or shooting with intent to kill. What is even more extraordinary was the large number of crimes against women, there being not less than 170 cases of rape or attempted rape. More than half of the 1,565 prisoners were under 30 years of age. The number of prisoners who had no education was 391, apparently a larger number than is found in any other northern state. On the other hand there were 24 convicts who had a college education, an unusually large number in comparison with other states. The number of paroles granted since 1885, when the parole act was passed, was 2,013; of these 321 violated the conditions of their release. The number out on parole October 31, 1910, and reporting regularly was 116. J. W. G.

Prison Statistics of Pennsylvania.—According to the last annual report of the inspectors of the Eastern Penitentiary of Pennsylvania there were 1,407 inmates in the institution on December 31, 1910. During the year 409 prisoners were received. Of these 182 had previously served sentences, the number of prior convictions ranging from 2 to 10. Two hundred and fifty-seven of the convicts received during the year were under 30 years of age. Three hundred and forty-two were reported as having no trades, and 149 were idle at the time of arrest. Fifty-nine were reported as illiterate and 34 were able to read and write only imperfectly. The offenses for which they were convicted are classified as follows: Crimes against person, 124; crimes against property, 251; crimes against person and property, 34. One hundred and thirty-six of the 409 convicts received during the year were classified as laborers. Of the 1,407 in the penitentiary December 31, 576 were serving indeterminate sentences. During the year about $6,000 in cash was paid to the convicts on discharge, and nearly $12,000 was due those still in the prison. According to the report of the Attorney-General the population of the several penitentiaries of the state increased from 1,009 in 1902 to 2,623 in 1908. J. W. G.

Crime in Virginia.—According to the last annual report of the directors of the Virginia State Penitentiary, the number of convicts in the penitentiary, on the state farm or on the public works in September, 1910, aggregated 2,086. About three-fourths of the prisoners were negroes. About 100 of the offenders were convicted of murder, manslaughter, or unlawful shooting; 78 for larceny in some form or other; and 20 for robbery. Two hundred and fifty-nine of the 674 prisoners received during the year were under 21 years of age, and 55 were under 16. Two hundred and ninety-four of the convicts came from the 16 cities of the state. There were 14 executions during the year, all of whom, except one, were under 38 years of age. There were 21 deaths among the convicts during the year, most of which were due to tuberculosis or syphilis. J. W. G.

Crime in Oregon.—According to the last biennial report of the superintendent of the Oregon penitentiary there were 407 convicts in the penitentiary at the time the report was made. Sixty-one of the prisoners had

been convicted of murder, manslaughter or assault to kill; 128 for larceny; and 45 for forgery. Twenty-six of the prisoners were reported as illiterate. One hundred and seventy-nine were under 30 years of age, and 38 were under 20 years of age. Two hundred and eighteen, or more than one-half of the entire number, were classified as intemperate. The number of prisoners paroled during the last two years was 37, of whom only 7 were reported as having violated their parole. The superintendent states that since the parole law went into effect in May, 1905, 1,041 convicts have been committed to the penitentiary who could have been given an indeterminate sentence, but of this number only 118 were so sentenced. Fifteen men have been executed at the penitentiary since 1903, and 3 others have been hanged in other parts of the state, making altogether 18 cases of capital punishment in the state during the last 7½ years, the largest number ever executed in any similar period in this state. The superintendent is of the opinion that the increased number of executions has not acted as a deterrent to the crime of homicide, and he states that he is fully convinced that capital punishment should be abolished and that life imprisonment should be substituted with restricted powers of pardon. This he thinks would prove equal if not more effective in protecting society against criminals, and would be more in accord with the enlightened sentiment of the times. The superintendent of the State Reform School reports that the number of inmates in that institution at the end of the fiscal year was 94. Since the school was established 978 boys have been sent to it, and of these 798 have been released on parole. The offenses for which committals were made are: Incorrigibility in 585 cases; larceny in some form or other in 301 cases; burglary in 24 cases; and homicide in 4 cases. Of the 978 offenders 395 were orphans, in whole or part, and 213 were the children of separated or divorced parents. J. W. G.

Prison Statistics of the State of Washington.—According to the last biennial report of the State Board of Control of the Washington State Penitentiary there were on the 30th of September, 1910, 901 convicts in the state penitentiary, the number having increased from 770 in 1905. In the years 1908-1909 the number was in excess of 1,000. The principal offenses for which the inmates were convicted were: Burglary in 214 cases; murder or manslaughter in 107 cases; and larceny in about 100 cases. Two hundred and fifty-two of the convicts were classified as laborers. Ninety-eight were reported as having no education, while 15 could read only. Only 47 were reported as having had a high school education, and only 8 as having attended college. Five hundred and seventy-five of the convicts were under 30 years of age, and 113 were under 20 years. A significant feature of the report was the statement that 736 of the 901 convicts were intemperate. Eighty-one were serving their second, third or fourth term. During the year there were 5 executions, all for murder. J. W. G.

Crime in Connecticut.—According to the last annual report of the directors of the Connecticut State Prison there were on Sept. 30, 1910, 605 convicts in the state penitentiary. Of these 214 were classified as laborers. Two hundred and fifty-six were of foreign birth, of whom 136 were Italians. Three hundred and twenty-four of the prisoners were under 20 years of

age. The report shows an astonishingly high percentage of homicide or attempted homicide, the number being 191. Sixty-seven of the convicts were serving their second, third or fourth term. About 20 per cent of the prisoners were unable to read or write, and about 80 per cent were classified as being users of alcoholic drinks. J. W. G.

Crime in Minnesota.—According to the last biennial report of the warden of the Minnesota State Prison at Stillwater, the number of convicts in the prison on June 31, 1910, was 706, or about 200 less than at the same time the previous year. During the year 369 convicts were received as against 231 in the year 1909. About 100 of these had previously been convicted and sentenced to prison, some as many as 6 times. Two hundred and twenty-one of the convicts were classified as laborers. Three hundred and twenty-eight were under 30 years of age, and 328 were described as intemperate. Seventy-nine were illiterate, 18 were able to read only, while only 8 had ever attended college. The principal offenses were: larceny in some form or other, for which 227 had been convicted, homicide, for which 137 had been sentenced, robbery and burglary. The number on parole July 31, 1910, was 67. During the year 120 prisoners were released on parole, of whom 24 violated the conditions of their release. The warden reports that since the parole law went into effect in 1894, 1,151 prisoners have been paroled. Of these 865 were committed on a definite sentence and 286 on the reformatory plan. Of these, 268 are reported as having violated their paroles. The warden calls attention to the fact that the recent act of the Legislature providing for the allowance of earnings to deserving prisoners to be used for the support of their families is working satisfactorily. Their present monthly earnings, he says, is about $1,800. An interesting feature of the report is the account of the large financial profit derived from the binder twine mills. The amount of the net profit during the past two years aggregated $323,289, an increase of $16,500 over the profits of the previous two years. The annual manufacturing capacity of the binder twine plant is now approximately 18,000,000 pounds. "I hope it will not be out of place," says the warden, "to call attention to the fact that we could now pay into the state treasury all the money the state ever appropriated for the purchase of twine machinery and still have left a clear net profit of more than a million and a half dollars." J. W. G.

Crime in Maryland.—The last annual report of the warden of the Maryland State Penitentiary gives the number of convicts in the state prison as 1,097, of whom 719 were colored. A deplorable fact brought out in the report is the large number of youthful criminals, particularly among the negroes. Four hundred and sixty-three colored convicts were under 30 years of age, and 321 under 20 years. Among the 1,097 prisoners in the penitentiary, 218 belong to the recidivist class; of these 45 were serving their third sentence, 17 the fourth sentence, and so on to the seventh. The report shows that a large per cent of the colored convicts were illiterate, 223 being unable to read or write. Among the principal crimes for which the prisoners were convicted were larceny, for which 323 convicts were serving sentence; assault in some form or other, for which 57 had been convicted; and burglary, for which 130 were in prison. The report

states that the contract system of labor prevails in the penitentiary, 970 prisoners oeing contracted out to four different companies. A few prisoners, however, 62 in number, were employed in the different departments of the state government. The income from prison labor during the year amounted to $159,469. A gratifying result in the opinion of the warden was the fact that the convicts earned for themselves by overwork during the year about $42,000, or an increase of $7,000 over their earnings for the past year. J. W. G.

Crime in California.—According to the biennial report of the State Board of Prison Directors of California for the two years ending June 30, 1910, there were in the state prison a total of 3,254 prisoners, the same being an increase of 375 over the preceding biennium. One thousand nine hundred and twenty-two prisoners are confined at San Quentin, 1,016 at Folsom and 316 were on parole. It is interesting to note that since 1900 the prison population of San Quentin has increased from 1,309 to 1,922. Of the 177 life prisoners, 145 were convicted of murder or manslaughter and 26 of them were recidivists. About 500 convicts were sentenced for burglary, 344 for murder, manslaughter or attempted murder, 463 for robbery, and 259 for larceny in some form or other. The occupations of the prisoners at San Quentin are classified as follows: Professions 42, mechanical trades 376, other trades and occupations 975, laborers 421. Nine hundred and twenty-three prisoners were reported as being under 30 years of age and 212 under 20 years of age. Since 1893, 682 prisoners have been released or paroled, of whom only 70 have violated the conditions of their release. About 1,500 of the prisoners were reported as having been addicted to the use of liquor and tobacco. Of the 1,922 prisoners at San Quentin, 173 were reported as illiterate. The various offenses for which they were convicted are classified as follows: Crimes against property 1,239, crimes against persons 527, crimes against both 4, crimes infamous 54, unclassified 98. Twenty-six per cent of the prisoners at San Quentin were reported as being of foreign birth. J. W. G.

Crime in Kansas.—According to the 16th biennial report of the warden of the Kansas State Penitentiary, recently published, there were 852 prisoners in the state prison. They were sentenced for 80 different kinds of crime, 57 being convicted for murder or manslaughter in some degree. Seventy-three and three-tenths per cent of the prisoners were reported as having been addicted to the use of liquor, while a considerable number had been in the habit of using drugs such as opium, morphine, cocaine, etc. Nearly 10 per cent were reported as illiterate. Fifty-six and one-half per cent had received a common school or grade school education, but less than 2 per cent had attended college. More than 36 per cent were orphans and only 27 per cent had both parents living. More than 20 per cent reported that either one or both parents were intemperate, while 42 per cent reported that their parents had been separated by divorce or otherwise. Two hundred and forty-seven, or more than 41 per cent of the total number of convicts, were reported as idle at the time their crime was committed. Of the 852 convicts in the penitentiary over 33 per cent have served prior terms in the penitentiary. Some of the offenders were serving

as high as their seventh term. Twenty-five of the 105 counties of the state have not sent a single prisoner to the penitentiary during the past two years, and there are 23 counties which are not represented in the penitentiary. The parole law has been in force in Kansas for the past 11 years, during which time 965 offenders have been released, of whom only 113, or less than 12 per cent, have violated their paroles. During the past two years 275 prisoners have been paroled, of whom only 33 have been reported as delinquent. Among the offenses for which prisoners are now serving larceny is in the lead, 196 prisoners having been convicted for this offense, 133 for burglary, 106 for murder or manslaughter and 20 for robbery. Five hundred and forty-four of the 852 convicts are under 30 years of age, and 133 are under 20 years of age. Three hundred and seven are employed in the coal mines, 50 or more in the brickyard, 100 in the binder twine plant, and the rest on the farm or about the institution. The contract system is no longer in force in this institution. The estimated value of the products of prison labor during the past year aggregated more than $237,000. The warden reports enthusiastically concerning the success of the finger print and Bertillon system of identification which have now been in operation at the penitentiary for about four years, during which time more identifications of criminals have been made than during all the preceding years when the photo system was used. During the two years prior to June 30, 1910, 202 crimes were identified by means of the finger print and Bertillon processes, as compared with 45 identifications made by the photo system in 1905-06. The warden recommends the enactment of a law authorizing sheriffs of the counties and other officers of the law to take the finger prints of suspicious characters and forward them to the State Bureau of Identification. The finger print system, he says, has the advantage of eliminating the humiliation attached to the photo system, since no one except those familiar with the system can identify a man by this method, and if he is not the person wanted he is not subjected to the indignity of having his picture published broadcast over the land.

J. W. G.

Minor Offenses in Michigan.—A commission appointed by the Governor of Michigan in pursuance of an act of the Legislature passed in 1909 has recently made an interesting report of the results of an investigation into the subject of drunkenness, vagrancy and other petty offenses. Referring to the large number of petty offenses annually committed, the report states that during the past year more than 30,000 persons in Michigan were prosecuted at county expense, and of these only 1,829 were for felonies. Drunkenness is declared to be the chief of the minor offenses, the number of cases throughout the state being nearly double that of all other misdemeanors, while in the largest cities the proportion is still greater. Of the 19,959 jail commitments in Michigan for the year 1909, more than 7,000 were for drunkenness and nearly 5,000 for kindred offenses. The Michigan law classifies drunkards as disorderly persons for whom punishment is provided by fine not exceeding $50.00 or by imprisonment in the county jail or house of correction not exceeding 65 days. For second and third offenses the punishment is heavier. The common practice toward those not released is to impose a fine or a sentence of imprisonment from 10 to 30 days. The commission criticises the present practice of dealing with

drunkards as being ineffective in every way. For those released no provision for their oversight is provided, so that the court never knows whether they are making good. Except for the worst offenders jail imprisonment is of little value and often positively harmful. If a fine is imposed the offender is rarely able to pay it. If it is paid by his family or friends the value of discipline is lost. The commission makes several recommendations for the improvement of the present method of dealing with this class of offenders. In the first place it suggests that the occasional drunkard who can give a good account of himself, and who has not been previously arrested, should be released without appearance in court upon signing a pledge, and being put under the oversight of a probation officer. Hospital treatment should be provided for the more advanced cases. They should never be sent to the county jail, but a house of correction or a state farm should be provided. It is also suggested that a carefully prepared record should be kept of each offender. Lastly, the importance of elevating and dignifying the police court is dwelt upon. The commission points out that the police court is really one of the most important in the judicial establishment, and it should be housed in a dignified building, and the salary of the judge should be equal to that paid to judges of other criminal courts.

The second petty offense which was made the subject of investigation was vagrancy, which the commission describes as a social disease always developing, difficult to attack and requiring continual repression. "Some of the causes which tend to promote vagrancy," says the commission, "are the sympathy of the public, the police practice of driving destitute strangers out of town, the ineffectiveness of the law against railway trespassing, and the associations which come from imprisonment in the local jails." To lessen the evil the commission recommends a more general use of the probation system, the abolition of jail imprisonment and the substitution of a house of correction, a state prison or a farm colony, the indeterminate sentence with parole, a more stringent railway trespassing act, the employment of a special mendicancy police, and the avoidance of duplication by requiring that there shall be only one place in the community where free lodging is furnished. The commission deals specially with probation, jail imprisonment and farm colonies. It thinks probation ought to be made use of in connection with petty offenders as it is in the case of more serious crimes. The conditions of the local jails are degrading and prisoners are not improved by being confined in them. Finally, it is recommended that a farm institution or colony should be established to which the habitual drunkard and depraved vagrant should be committed.

Report of New York State Prison Commission.—The 16th annual report of the State Commission of Prisoners of New York shows that the total prison population of the state on the first of October, 1910, was 13,281, as against 10,753 ten years ago. This number includes those in the state prison, in the reformatories, penitentiaries, and county jails and workhouses, in the latter of which are to be found approximately one-third of the total prison population. The number of women in the various prisons, reformatories and jails number 1,620. "The most marked condition of the state prison," says the commission, "is the congested condition owing to

the increase in the number of convicted criminals." Speaking of the prison at Sing Sing, the commission states that although the cell capacity is only 1,200, the average number of inmates during the year was 1,850, so that more than 500 had to be housed in chapels and work shops. Complaint is also made of the condition of cells, which are said to be deficient both in ventilation and light and are not provided with washing and other facilities. The value of the products of prison labor during the year was estimated at $893,244, the net earnings for the year being estimated at $170,000. The commission speaks of the deplorable condition of the penitentiaries of the state, particularly in regard to the idleness of the inmates. All penal institutions of the state, it maintains, should be owned and controlled by the state. Prisoners sentenced to them have been convicted for violating state laws, and the state is responsible for the punishment which it authorizes to be inflicted. Prisoners in the penitentiaries have to be supported by the tax payers, and it is not a matter of importance to them whether this burden is a part of the state or county budget. For these reasons, therefore, the penal institutions now under local control should be placed under state control. With regard to the subjects of probation and parole the commission reports that both need organization and management. They need some supervisory officer over them, as keepers in the prison need a warden over them. It is not a part of a judge's duty to exercise control over the keepers of convicts on probation outside of the prison. Both systems, however, have proved useful and they have come to stay. Since 1900, when the parole law went into force, 3,066 prisoners have been released, of whom only 515 were reported as delinquent. Of these latter, 291 were still at large at the close of the year. Speaking of public intoxication and other minor offenses, the commission calls attention to the great lack of uniformity among the magistrates of the state in dealing with such offenses. In the case of drunkenness some magistrates impose a small fine or a brief imprisonment long enough to allow the prisoner to sober up. Others commit for six months or for a year, or impose a heavy fine. During the year there were 27,786 males committed for public intoxication and kindred offenses, and 7,636 females. Many of these are reconvictions of the same person. "The present method of dealing with inebriates," says the commission, "leads nowhere, but occupies a large part of the time of police officials and magistrates, which should be devoted to other uses, and costs a great deal of money which does not cure even those who might be saved." Under the head of reformatories, the commission points out that during the year 16,200 boys between 21 and 30 years of age were committed to jails, penitentiaries or the New York City workhouse, and 6,540 boys between 16 and 21 years of age. The commission recommends, among other things, the establishment of a state reformatory for male misdemeanants, one or more labor colonies for tramps and vagrants, state workhouses to take the place of the present penitentiaries, the investment of the probation commission with power to supervise both probation and parole, increased compensation for the keepers and guards in the state prisons, and general improvement of the conditions in the existing state prisons. J. W. G.

GEORGIA BAPTISTS ON LAW REFORM

Georgia Baptists on Crime and Criminal Law Reform.—In a previous number of the Journal we summarized a report adopted by the state convention of Georgia Baptists, two years ago, on the prevalence of crime in the United States and the need for thoroughgoing reform in the administration of the criminal law. At its last annual meeting, in November, 1910, the convention again returned to the subject, and adopted a report suggesting various changes in the existing methods of procedure. Referring to the large amount of crime in this country as compared with that of other countries, the report says:

"In well-governed countries, like Switzerland, Sweden and England, or even Canada, they have very little crime as compared with what occurs in this country. For instance, in the year 1905 we find 10,000 homicides in the United States and only 325 in the British Islands—that is, England, Scotland, Ireland and Wales. Those of us who are contending for the amendment of our criminal administration as in the countries named are working in the interest of the truest humanity. The evils with which we are here dealing and the remedies needed are confined to no part of the United States, but crimes and lynchings have become so general and so frequent in nearly all parts of our common country as to form an appalling aggregate, enough to make any Christian shudder or sadden the heart of a patriot.

"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 trials. Give the state the right of appeal or to have a writ of error, just like 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.

"Repeal the law which forbids the judge from expressing or intimating any opinion as to what has been proven and allow him to sum up the evidence, as is done by the English judges. Emancipate the judge from the thralldom under which our state statutes now place him. Give the state the same number of challenges in the selection of jurors that the accused has, the right to obtain a change of venue and the right to except at every stage of the trial.

"We firmly believe that this antiquated and illogical doctrine that no person charged with crime shall be twice 'put in jeopardy' has had more to do with the menacing evils that have grown up to endanger the public peace and safety than any other one matter or thing. A guilty person ought never to succeed in cheating justice or get out of jeopardy until he is punished. And the contrary rule ought to be eradicated absolutely and completely. Put the prisoner and the innocent victim upon a perfect equality. Do away with technicalities, as far as possible, touching either side. But so far as they do exist let them apply to the guilty or the accused as well as the state, both equally and alike."

In conclusion, the committee recommends that the convention set itself

squarely in favor of reforms in the criminal law; that pastors be urged to preach at stated intervals against the sinfulness of crime in every form; that the churches in their own good time and way agitate for the same good purpose, and that good men everywhere fervently pray to deliver our land from blood-guiltiness. J. W. G.

Increase of Crime in England.—Mr. Simpson's introduction to the newly published volume of criminal statistics, says the London Law Journal, is an admirable piece of work which fully deserves the wide attention it has received. It is certainly not a pleasing tale he has to tell. "During last century the proportion of crime to population tended to fall," he writes; "during this century it has risen." It is a disquieting fact. During the five years ending 1899 there was an annual average of 163 persons tried for indictable offenses for every 100,000 of the population; in the succeeding quenquennial period the number rose to 172; during the five years ending 1909—the year with which the new volume of statistics deals—the number increased to 181. Mr. Simpson does not take too pessimistic a view of these figures, but some of the more sensational journals have perceived in them a significance calculated to unnecessarily disturb their law-abiding readers. The increase recorded in the latest volume of criminal statistics does not justify the alarming view, expressed in some quarters, that England is more criminal than it used to be. Forty years ago 277 persons were tried for indictable crimes out of every 100,000 of the population. Notwithstanding, then, the regrettable increase of the past ten years, it remains true that, in proportion to the population, the amount of serious crime is one-third less than it was before the Education Act was passed. It is true that during the same period the proportion of non-indictable offenses to the population has grown. During the five years ending 1869 the average number of persons tried for non-indictable offenses was 1,969 for every 100,000 of the population, while during the five years ending 1909 the average number of such persons was 1,982. Even here, however, there is no real occasion for despondency. In 1875-1879 the annual average was 2,385; in 1885-1899 it was 2,152; in 1885-1899 it was 2,248. So that, while the proportion of indictable crimes has increased during the past ten years, the proportion of non-indictable offenses has decreased during the same period. And it is always to be remembered, in connection with the non-indictable offenses, that many of them are breaches of new municipal laws. For instance, there were 38,951 offenses against the Education Acts in 1909, while there were, of course, none in 1869. The vast growth of vehicular traffic has a considerable influence upon the volume of non-indictable crime. Offenses against the Highway Acts, which numbered but 15,066 forty years ago, have now increased to 61,556, and breaches of police regulations have risen from 44,494 to 103,628. There is, on the whole, no substantial ground for the belief that the world, as reflected in these statistics of crime, is growing worse.

What are the reasons for this increase of crime during the past ten years? Mr. Simpson has some interesting theories on the matter, some of which deserve to be carefully considered by those desirous of reforming our penal system. The growth of an unwise passion for officialism among sentimental persons; the glorification of the more daring and ingenious

criminal, in certain quarters of the press; the romantic touch lent to dishonesty by the creation of such popular heroes of fiction as Raffles and Arsene Lupin; the loss in prison life of some of its terrors for the evildoer —these are the suggestions put forward by Mr. Simpson by way of explanation of the recent increase in criminality. The first and last of these suggestions, which are not unconnected, demand the most attention. It is a remarkable fact that the proportion of persons who go to prison in default of payment of fines has grown rapidly during the past ten years. In 1899, when 563,378 persons were sentenced to pay fines, 83,855 were imprisoned in default; in 1909, when 160,015 were sentenced to pay fines, 92,699 went to prison. In other words, the percentage of persons imprisoned to persons fined grew from fifteen to twenty. These figures would certainly seem to indicate that imprisonment, as Mr. Simpson puts it, "is coming to be regarded more as a misfortune than a disgrace." It will obviously be a disastrous thing for the community if, by reason of a sentimental feeling toward criminality, or by unwise changes in our penal system, the terror of prison life is diminished, and it behooves both sentimentalists and reformers to bear in mind the lesson of the figures we have referred to. Not, of course, that the scientific and more humane treatment of crime is to be deprecated. On the contrary, the sociological and psychological study of crime is to be encouraged, and the more humane methods of punishment, such as those instituted by the Probation of Offenders Act and the Borstal system, cannot fail, in the long run, to have a beneficial effect. But the good which will be done in this direction will certainly be impaired if mere sentimentality is allowed to play a prominent part in the punishment of crime.

Progress of Probation During 1910.—Nine of the fifteen states which held regular legislative sessions during 1910 enacted laws concerning probation. Virginia provided for the use of both juvenile and adult probation for the first time, and Congress authorized the placing of adults on probation for the first time in the Distirct of Columbia. A state commission on probation, consisting of two superior court judges and a secretary, was created in Vermont. This makes the third state probation commission to be created in the United States. The duties of the commission are largely supervisory.

New York State enacted eight important probation laws. Amendments to the Code of Criminal Procedure prescribed more specifically and adequately than hitherto the duties of probation officers and the conditions of probation which may be imposed by courts, and provided also for the transfer of probationers from one jurisdiction to another, and for continuing probation in the cases of probationers who abscond. Police officers were made ineligible to act as probation officers in the lower courts of New York City, and provision was made for the appointment of twenty-eight additional civilian probation officers, including three chief probation officers, to replace the policemen serving as probation officers in these courts.

Following is a citation of the probation and kindred laws passed during 1910. (A list of all previous laws on this subject was published in the third annual report of the New York State Probation Commission.)

District of Columbia, United States.—1910, No. 315, June 25: Adult probation; salaried probation officers in supreme and police courts.

Kentucky.—1910, Chapter 76, March 23: Adult contributory delinquency; probation; repeals 1908, Chapter 60, Section 6. 1910, Chapter 77, March 23: Juvenile probation; volunteers; salaried officers in counties having first and second class cities.

Louisiana.—1910, No. 48, June 29: Suspends operations of 1908, No. 83, except in parish of New Orleans and in cities of over 7,000 population; other parishes may use 1908, No. 83, upon securing consent of Governor. 1910, No. 135, July 5: Proposal for amendment to constitution to ratify and carry into effect provisions of 1910, No. 48.

Maryland.—1910, Chapter 41, April 1: Baltimore juvenile court; detention place for minors; repeals and re-enacts 1904, Chapter 521.

Massachusetts.—1910, Chapter 275, March 21: Temporary probation officers to be paid; amends Revised Laws, Chapter 217, Section 82. 1910, Chapter 332, March 30: Appointment of additional assistant probation officers in Boston municipal court; amends Revised Laws, Chapter 217, Section 81. 1910, Chapter 485, May 5: Notification of appointment or renewal of probation officers; amends Revised Laws, Chapter 217, Section 91.

New Jersey.—1910, Chapter 99, April 6: Counties may build schools of detention; amends 1909, Chapter 205. 1910, Chapter 182, April 9: Juvenile offenders to be arraigned only in county juvenile court and detained only in houses of detention; supplements 1903, Chapter 221.

New York.—1910, Chapter 346, May 21: Probation; fine; restitution; reparation; amends Criminal Code, Section 483. 1910, Chapter 609, June 23: Probation; fine disorderly persons; parole; amends Penal Law, Sections 718, 903, 910. 1910, Chapter 610, June 23: Probation officers; appointment; duties; powers; procedure; transfers; amends Criminal Code, Section 11-a. 1910, Chapter 611, June 23: Monroe County children's court; chancery procedure; detention home; probation. 1910, Chapter 613, June 23: State probation commission; amends 1909, Chapter 56, Section 30. 1910, Chapter 659, June 25: New York City inferior courts; children's courts; probation. 1910, Chapter 676, June 25: Syracuse court of special sessions; children's court; probation. 1910, Chapter 699, June 25: Adult contributory delinquency; repeals Penal Law, Section 483, Subsection 3, and adds Section 494.

Rhode Island—1910, Chapter 550, April 20: Adult contributory delinquency; amends General Laws, Chapter 139.

Vermont.—1910, No. 237, December 15: Commission on probation. 1910, No. 238, December 10: Discharge from probation; modification of conditions and period; amends Public Statutes, Section 6133.

Virginia.—1910, Chapter 289, March 16: Juvenile probation. 1910, Chapter 347, March 17: Adult contributory delinquency. 1910, Chapter 354, March 17: Adult probation in cities of 40,000 population for vagrants, drunkards and disorderly persons; salaried probation officers.

The first probation law was enacted in Massachusetts in 1878. No other state enacted similar legislation until 1899, when probation statutes were passed in Illinois, Minnesota and Rhode Island. The following year New Jersey and Vermont passed probation laws, making six states having probation laws in 1900. In 1910 thirty-nine states and the District of Columbia had such laws.

A. W. T.

STERILIZATION

A Swiss Authority on Sterilization.—Dr. A. Good, in a recent number of the Schweiszerische Zeitschieft für Strafrecht, urges the adoption of a sterilization provision in the Swiss Criminal Code. He reinforces his 1905 program of sterilization of certain mentally defective persons with an account of seven instances presenting the problem. He quotes the reasons why the Governor of Pennsylvania, a few years ago, refused to sign practically the same law concerning the prevention of idiocy which has been in operation in Indiana since 1907, and refers to the evasiveness of legal authorities consulted in St. Gall and Berne concerning the legality of such action. The legally sanctioned domain of the physician is briefly discussed, including the sacrifice of the fœtus to save the life of the mother, transfusions, transplantation, and scientific experiments. Sterilization (preferably by the application of the X-ray) is in the interest of the social body and is designed to make unnecessary more objectionable measures of prevention of conception and artificial abortion. The definition of legal justification of operations and medical duty should include the interest of the commonwealth, as well as that of the individual, wherever medical science recognizes the indications as justified in principle. The mediæval church doctrine and popular prejudice naturally demand some precaution to prevent the animosity aroused by vaccination and the prophylactic measures. In an institution like the Münsingen asylum, with 800 patients, he foresees about twelve cases per year presenting the indications, and of these probably six would prove to actually require sterilization. Paragraph 97 of the Swiss Civil Code, dealing with the restriction of marriageability, should be so handled that where there is any evidence of mental disorder, etc., in any official record of a person, a medical testimonial should be required to the effect that an obstacle to marriage does not exist any longer.

Dr. Good's conditions for the sterilizing operation are formulated as follows: 1. An indication for sterilization in certain forms of mental disorder and inebriety, now generally accepted by medico-psychiatric science, can be applied only in married persons during the period of fertility, when they are being discharged from an institution, with opportunities for legal sexual intercourse. 2. The motives of the indications for sterilizing shall be stated in writing by three experienced physicians (two alienists or neurologists and one surgeon). 3. For the performance of the operation it is obligatory to obtain the written consent of the responsible representative or guardian of the patient, and, wherever possible, also the consent of the patient. A. M.