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Notes on Current and Recent Events

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Death of General R. B. Brinkerhoff.—General R. B. Brinkerhoff, well known as a prison reformer, died at Mansfield, Ohio, June 5, at the age of eighty-four years. He was a member of the Ohio State Board of Charities from 1878 until his death, and for several years past was its chairman. In 1880 he was president of the National Conference of Charities and Corrections; in 1884 he succeeded General R. B. Hayes as president of the American Prison Association; and in 1895 he was vice-president of the International Prison Congress at Paris. J. W. G.

Norman Wait Harris Political Science Prizes.—The prizes offered by Mr. N. W. Harris of Chicago for the best essays on "The Prevalence of Crime in the United States, as Compared with that of Europe, the Causes and the Remedies," announcement of which was made in a recent number of this JOURNAL, were awarded the following persons:

First prize: Miss Marion E. Robbins, Hamline College, $250.

Second prize: Julius Goebel, Jr., University of Illinois, $150.

Third prize: Miss Anna E. Kjellgren, Milwaukee-Downer College, $100.

Seven essays were submitted, six of which were of unusual merit. We hope to publish in an early number of the JOURNAL the papers of Miss Robbins and Mr. Goebel. The prizes hereafter will be awarded as follows:

First prize, $250; second prize, $150, and third prize, $100. For the year 1911-12 the competition will be confined, as usual, to undergraduates of the universities and colleges in the following states: Indiana, Illinois, Michigan, Minnesota, Wisconsin and Iowa. The essays must not exceed 10,000 words, must be typewritten on letterheads 8½xII inches, and mailed to Professor N. D. Harris, Evanston, Ill., on or before May 1, 1912.

The subjects for 1911-1912 are:

1. The Short Ballot.
2. Corrupt Practices Acts.
3. Employer's Liability and Workmen's Compensation. J. W. G.

Cardinal Gibbons on the Law's Delay.—Cardinal Gibbons, in a recent public statement, dwelt upon the delays of the law and the miscarriages of justice in the courts as one of the five great evils with which our country is afflicted. He said, in part:

"A crying evil that brings reproach upon the administration of justice is the wide interval that so frequently interposes between a criminal's conviction and the execution of the sentence, and the frequent defeat of justice by the delay. Human life is, indeed, sacred, but the most laudable effort to guard it has gone beyond bounds. It seems as though there is a great difficulty to convict, in murder trials especially. Even when a conviction has been reached innumerable delays generally stay the execution. The many grounds of exception allowed to counsel, the appeals from one court to another, with final application to the governor, and the facility with which signatures for pardon are

obtained, have combined to throw around culprits an extravagant protective system, and gone far to rob jury trial of its substance and efficacy. A prompt execution of the law's sentence after a fair trial is had is that which strikes terror into evil-doers and satisfies the public conscience." J. W. G.

Public Defenders Demanded in Cleveland.—"The Legal Aid Society of Cleveland," says the *Review of the Prisoners' Aid Association,* "is reviving a plan for the appointment of assistants to the county prosecutor, whose work shall be the defense in common pleas court of persons unable to employ counsel. Under the present system, the judges of the common pleas court appoint counsel for impecunious defendants in criminal cases. The appointment of special public defenders is urged on the ground that better talent will be thus secured, and the interests of accused persons better safeguarded.

"A plan for the appointment of such public defenders for impecunious persons tried in the police courts was recently rejected in Cleveland. The ground taken was that the so-called prosecutor is theoretically charged, not with prosecuting the accused, but with bringing out all the facts in his case, both those favorable and unfavorable. The 'prosecutor' was, therefore, held to be both prosecutor and defender." J. W. G.

The Public Defender; the Complement of the District Attorney.—Mr. Robert Ferrari, in an article published in the New York *Call,* on Sunday, June 18, and 25, makes a strong plea for the employment of a public defender in criminal trials. "The profession of the criminal lawyer," he says, "especially in England, from which we draw our basic laws and our fundamental institutions, has always been an honored one. It has been respectable in itself, and respected and venerated by the people. The profession has always stood between the tyranny of the sovereign and the liberty of the masses. The most burning words, most flaming wrath, the most lambent indignation, have been hurled against tyrants by the members of this noble profession. And yet these protectors of the innocent, these guardians of the freedom of mankind, have fallen so low that few honorable men now venture to enter into the defense of accused persons, because of the stain attached to the association."

Why is the defense of persons accused of crime a dishonorable, a despicable action? It must be in the administration of the law; it must be in the means adopted, and in the end proposed that fault is found.

The objections to the present system of administration of criminal laws, he says, are: "First, the flagrant miscarriages of justice often witnessed. These miscarriages are usually caused by unscrupulous proceedings on the part of the lawyers for the prisoner and those associated with them. Secondly, the disparity between the justice measured out to the rich man and that measured out to the poor man. This disparity is due to the fact that poor men are ill represented. Thirdly, the delay entailed in the bringing of a case to trial. Bail cases, that is, cases in which the prisoner is out on bail, are tried many months, and sometimes even years after they first come to the attention of the authorities. Prison cases, that is, cases in which the prisoner, being too poor, or ill connected, or having no moneyed friends, remains in prison awaiting trial, are brought into court from six to twelve weeks after imprisonment. Fourthly, the delay during the trial of a case. Fifthly, the shame of frequent and unmeritorious appeals. Sixthly, the injustice of the deprivation

of appeal in worthy cases by reason of the impecuniousness of the prisoner. Seventhly, the cruelty of private lawyers in not giving advice, in proper cases, to plead guilty. Judges are lenient to self-confessed offenders in sentencing them because they save the time of the court and the necessary expenses entailed in the production of evidence. Eight, the frightful expense to the country flowing from the conditions mentioned."

Each of these objections may be very largely obviated by having a public defender. Such an officer would prevent many flagrant miscarriages of justice, because there would be no incentive to unscrupulous proceedings on his part, and his advice would be wholesome and sound, which is too often not true where the fee of the appointed defender, or even the one duly hired, is largely dependent on the good showing he can make at a trial, when, perhaps, it had been better for the defendant to have pleaded guilty. There can, moreover, be no doubt but that he would, in a very large measure, equalize the disparity which at present too often exists between the justice measured out to the rich and that measured out to the poor. The great delays, often so fatal before coming to trial, and the unnecessary dilatory practices at the trial, would both be corrected. The most salutary result of this officer would be seen in the matter of appeal. He would be a quasi-judicial officer in respect to the prosecution of an appeal just as the public prosecutor is in the matter of bringing a suit in the first instance. Everyone would be relieved to know that only meritorious appeals would be prosecuted. Parenthetically, the writer favors an appeal by the state, and, indeed, it seems a senseless rule that errors of the trial court cannot be corrected on appeal by the state as well as by the defendant. It is an irresistible conclusion that a public defender would save the state the expense of prosecuting many cases by securing proper pleas, and by not uselessly going to trial, as is too often the rule under present conditions.

The Seventeenth Century Indictment in the Light of Modern Conditions.—In an article reprinted in the *Criminal Law Journal of India* for February and March, Mr. Charles A. Willard discusses the propriety of continuing the present use of the indictment. It is impossible, he contends, to have a complete reform in our criminal procedure without radical changes in the law respecting indictments, which changes will not affect the *essential* rights of the accused.

The following objects of the indictment are deduced from the opinion of the United States Supreme Court in the case of the United States vs. Cruikshank, 92 U. S. 452: "First, to enable the accused to prepare his defense; second, to enable him, in case he is again prosecuted for the same crime, to plead as a defense his former conviction or acquittal; third, to give the court an opportunity to decide the case on the indictment without hearing the evidence, and the accused an opportunity to elect as to how he shall present his defense." He then proceeds, by a process of elimination, to show that all of these three objects may be dispensed with without injuring the essential rights of the defendant.

"What real difference," he continues, speaking of the third object, "can it make to him whether he present a defense which he has by a plea of not

guilty or by a demurrer? If he is allowed to present the particular matter which he wishes to allege by a plea of not guilty, he is deprived of no substantial right by a law which abolishes motions to quash. If the right to demur is taken away it cannot be said that any constitutional privilege has been infringed. Nor can it be said that any right of the defendant is violated if the court is prohibited from deciding the case on the pleadings, and is required to decide it upon the facts. There needs no argument to show that demurrers and motions to quash delay the progress of the case. That they can be abolished without impairing the essential rights of the defendant, clearly appears."

The second object, viz., that the accused may, if again prosecuted for the same offense, plead his former conviction or acquittal, is responsible for all those ultra technical rulings requiring absolute precision in the indictment in matters of description. This object may likewise be eliminated without prejudice to the essential rights of the defendant, and all such rights may be preserved, "by providing simply that in case of a second indictment the entire proceedings of the first trial may be examined for the purpose of knowing what was decided. With this elimination there would go one of the reasons for saying that the indictment must contain all of the ingredients of the offense."

Lastly, concerning the first object, to enable the defendant to prepare his defense, the opinion of Mr. Willard is that the indictment should be sufficient if it informs the defendant of the nature and cause of the accusation with sufficient definiteness to enable him to prepare for trial, and it should not be necessary that it state every ingredient of the offense. Certainly, every ingredient should be proven at the trial, but not necessarily set out in the indictment. Moreover, if demurs to indictment be permitted, then they should also be allowed to be amended.

These reforms could be had in some states without constitutional amendments, but in Federal Courts because of the fifth amendment to the constitution and holdings thereunder an amendment would be a prerequisite.[1]

The Shyster in the New York Criminal Courts.—A recently published contribution to the New York *Herald* (June. 11), by Frank Marshall White, contains a bitter arraignment of the horde of cheap criminal lawyers who infest the police courts and "fleece" unsuspecting prisoners of whatever sums they can secure in return for defending them. A former clerk in the District Attorney's office in New York City declares that at least 150 such lawyers are at present doing business in the criminal courts of that city. Their methods are described as follows:

"The police court shyster's method of separating a prisoner from his money begins with first aid from a policeman in many instances, the lawyer and their 'runners' taking the bulk of the plunder, and after them coming in the predal procession prison turnkeys, interpreters, fake missionaries, and even court clerks, it is said by those who ought to know. About every police court in the five boroughs there are offices facing the temples of justice, in which sharp-faced lawyers are awaiting their victims like so many spiders in their webs. From ten to twenty members of the profession haunt the environs of each

[1]Furnished by Mr. H. W. Vanneman.

court, keen with their fellow conspirators for the fleecing of their dupes. * * * In the corridors of the police courts are the runners for the contiguous lawyers, each runner being aware just which policemen are in the employ of his master, the members of the force being pretty evenly divided up, and not interfering with one another. When, therefore, the policeman and his prey reach the magisterial portal, a runner scuttles across the street to a law office and the prisoner is scarcely within the confines of the court before the lawyer has arrived."

The first questions of the lawyer are usually directed toward finding out how much money the prisoner has at his disposal, and fees are charged in proportion to all available supplies. These men have been known to go to the extent of searching the person of the criminal and taking possession of whatever they could find which had the slightest value. Nor do they stop here, for friends and relatives are solicited, and the character of the defense which the lawyer sets up for his client is made to depend largely upon the amount of money which they can wring from him.

But the police court lawyers, we are told, are only "amateurs in extortion by comparison with the experts who infest the Tombs and the Criminal Courts Building. An understanding exists whereby the police court shysters relinquish their victims to the others on their being committed to the City Prison. A prisoner often pays a lawyer a big fee in a police court, with an understanding that the recipient will see him legally through whatever trouble he may be in, but when the client reaches the Tombs he finds that his counsel has deserted him, and that he must pay more money to another lawyer."

Judge Warren W. Foster, of the Court of General Sessions of New York, speaking of the practices of these shysters, has the following to say:

"I have in mind one practitioner who appears daily at the bar of this court, who, it is reported, and I believe will undertake a defense solely for what he can get out of it; who, if his fee is not paid, will seek delay and adjournment on one pretext or another, keeping his client in the Tombs until the fee is paid, when a plea of guilty will be offered. If money is not paid, this lawyer, after he has secured all the adjournments possible, will abandon his client and fail to appear at the trial. He is a member of the Bar, and we cannot refuse him the right to appear, and we certainly cannot give a client a more severe sentence because he has a knave for a lawyer, so that we are powerless to prevent his activity. And the lawyer I have in mind is only one of many as corrupt, who are practicing in New York to-day."[1]

The Denial of Justice.—*The Outlook,* in a recent editorial, maintains that our methods of administering criminal justice are defective in four particulars; two of the defects being due to the courts themselves, the other two to the places of detention.

"First," it says, "American courts are, as a rule, slow in operation. Justice delayed is often justice denied. *The Outlook* has treated this fault in our courts, particularly as applied to criminal cases. The guards that have been placed about the accused have become, in many cases, barriers impeding society in its pursuit of known and proved criminals. This week *The Outlook* publishes

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

an article which shows how the law's delay works injustice in civil cases. No one, we believe, can read what Mr. Scoville has to say about "The Denial of Justice" without being convinced that questions of court procedure have become no longer merely technical questions for the lawyer, but vital matters of public concern.

"The second direction in which our courts need correction is in the methods with which they deal with prisoners convicted of offenses against the law. In these methods there is little uniformity; and behind them there is not apparent any sound and consistent principle. In Chicago recently there was a hot debate, in which judges themselves engaged, over the proper treatment of delinquents. The hazard of circumstance and the pleasure or displeasure of the magistrate or judge, rather than any well-conceived public policy, too often determines the fate of the lawbreaker.

"The third point where American administration of justice is weak is in the jails where the accused are held awaiting trial. Concerning these places the general public has little knowledge; and yet it is in them that men and women and children, legally innocent, some of them held merely as witnesses, are forced to spend days and weeks, and sometimes months.

"The fourth point where American administration of justice is weak is in the methods of punishment. Society is still in the stage of transition from one point of view regarding punishment to another. When society conceived of punishment as retaliation, it regarded its duty in that respect well performed by the rack and the fagot and the cross. Yet, though society has repudiated instruments of torture, it has not altogether repudiated the idea of which torture was the logical result. Gradually, in place of vengeance, society is putting protection to itself and reclamation of the guilty as the end of punishment. So long, however, as our prisons are constructed and managed according to the outworn idea, so long society is missing the end of government—justice."

J. W. G.

Discharge of the Jury.—A recent decision of the New York Court of Appeals furnishes a classic example of technical rules of practice which prevent the decision of a case on its merits. The defendant, in the case of People vs. Vincent L. Stabile, was on trial for killing one of a crowd of boys into which he shot at random because he was being teased. The jury had been considering the case several hours when the court, of its own motion, called them and on asking if they had arrived at a verdict received the reply, "not as yet," whereupon they were discharged. The defendant's release was sought under *habeas corpus* proceedings based on the constitutional provision against being twice put in jeopardy for the same offense. The court sustained the writ and based its decision upon Section 428 of the Code, which states "that after a jury has retired it can be discharged before a verdict has been agreed upon only in case of an injury or casualty of one of the members, the defendant, or the court; when after a lapse of time that seems reasonable, the jury declares that it has been unable to agree, and when, with the permission of the court, the public prosecutor and counsel for the defendant consent to such discharge." The court said: "The discharge of the jury was precipitate and arbitrary, and it would appear to have been a surprise, not only to the jury, but to the counsel engaged in the trial of the case." The

conclusion was that the defendant had been put in jeopardy within the constitutional provision, there being nothing to call for this use of judicial discretion.[1]

Investigation of the Inferior Courts of Boston.—The importance of the inferior courts, especially in the larger cities, is coming to be more generally appreciated. In previous numbers of this JOURNAL we have referred to the improvements that have been made recently in the municipal judiciaries of Chicago, New York and other large cities. Boston has now taken steps in this direction. The General Court of Massachusetts, at its recent session, provided for the appointment of a commission of five persons to inquire into the condition of the civil and criminal courts of Suffolk County, the amount of business done by each, and the results of their work. The commission was also authorized to consider the expediency of revising the judicial system of the inferior courts in said county, with a view to securing greater uniformity, dispatch, efficiency and economy in the administration of justice, and to recommend such legislation as in their opinion would secure these ends.

J. W. G.

Proposed Federal Criminological Laboratory.—Mr. Arthur MacDonald's bill to establish a laboratory in the District of Columbia for the study of the criminal, pauper and defective classes has been introduced into the Senate by Senator Dillingham of Vermont, and in the House by Representative Graham of Illinois. The general purpose of the bill, described with more detail in a previous number of this JOURNAL (May, 1910), is to provide laboratory facilities for determining more definitely the causes of crime, with a view to lessening or preventing it. The Washington (D. C.) *Herald,* in commenting on the bill says:

"As no private institution can have any jurisdiction over the study of criminals, such a laboratory must necessarily be under government control, whether federal, state, or municipal. Unfortunately, there is abundant material for all forms of government to study, which is as true for paupers and defectives as for criminals.

"The work of such a laboratory has no necessary connection with police systems or with criminal law, though the knowledge and facts made known will serve as a foundation for them to build upon. It will also furnish the basis for methods of reform, and in addition, seek through knowledge gained by scientific study, to protect the weak, especially the young, before they have gone wrong, and not after they have fallen and become tainted, which is the great defect of most schemes of reform.

"As the District expends yearly large sums for the detection and prevention of crime, such a laboratory for investigating the causes of crime would seem worthy of trial."

J. W. G.

Problem of Juvenile Criminality.—Judge O. A. Rosalsky, of the New York Court of General Sessions, in a recent public address, declared that nearly 40 per cent of the criminals of that city were under 20 years of age. Judge Newcomer of Chicago has stated that the proportion of juvenile criminals in

[1]Furnished by Mr. H. W. Vanneman.

that city is even larger. Speaking on the subject in Brooklyn recently, Judge Rosalsky says:

"The percentage of those who commit crime because of want and destitution can be put down one-eighth of 1 per cent. You will find many who commit crime because they want to live beyond their means, and when they steal you will find that instead of the money going to the support of the wife and children, it goes to evil living and gambling.

"Dr. Travis, the American authority, found 95 per cent of youthful wrongdoers to be normal mentally. I agree with Dr. Travis. In dealing with the subject of the improvement of the wrongdoer we must take the child in his early years—in his formative age. As the potter fashions the clay, so can we mold the child. The tenements are missionaries for our penal institutions. From stealing an apple, the child will steal a pocketbook; and the child will then be brought to court, admonished by the judge, put on probation. The foreigners' contribution to crime is far less than that of the native born. In the year 1910, 1,699 were convicted of felonies who were born in the United States, and only 1,100 who were born outside of the United States.

"Less than 5 per cent of those who are placed on probation come back to our courts, while from the reformatories 25 per cent, and from state prisons from 40 to 45 per cent become second offenders. Few of the judges feel that the prison really solves the question. With each case that comes before them they are baffled anew by the question of what is best to do, best for the man, his family, and for society." J. W. G.

Criminals and Defectives in Massachusetts.—The Massachusetts commission to investigate the increase of criminals, mental defectives, epileptics and degenerates has presented a report to the governor containing a tabulation of the records of the state institutions from 1890 to 1909, inclusive, which show many interesting facts. Table A contains the number of arrests from 1890 to 1909 by five-year periods, classified under crimes against person, crimes against property, crimes against public order, total arrests for all crimes, number of arrests for drunkenness (which is not classified as a crime), and the number of arrests for all other causes, also the ratio of arrests to one thousand of population. This shows that the ratio of arrests for crimes against the person in 1890 was 3.44; for crimes against property, 3.57, while in 1909 the ratio of crimes against the person was 2.92, and crimes against property, 3.71. The total number of arrests for all crimes in 1890 was 40.28 per thousand, and in 1909, 4.43, the relative number of crimes against the person having diminished, while crimes against property and crimes against public order have increased. The number of commitments per thousand for crimes against the person has diminished from .832 to .499 in 1909. The number of commitments for crimes against property have diminished from 1.21 in 1890 to 1.05 in 1909. The commitments for crimes against public order have diminished from 1.63 in 1890 to 1.25 in 1909, while the total number of commitments for all crimes has diminished from 10.47 per thousand in 1890 to 9.25 per thousand in 1909. From this tabulation it would appear that although the number of arrests has increased in the past twenty years the number of commitments has been reduced. As the commission suggests, this does not prove a corresponding decrease in crime, but rather shows increasing reluctance

on the part of the judges to send a man to prison, and a tendency to substitute fines, suspended sentences, or probation for imprisonment. A separate tabulation gives the number of prosecutions and commitments for the more serious crimes of felonious assault, rape, robbery, manslaughter and murder, showing that the number of prosecutions in one of the lower courts for these five crimes was, in 1890, 3.81 per thousand, and in 1905, 3.07 per thousand, while the number of commitments for these crimes during the same periods was .0192 per thousand in 1890 and .0282 in 1909. A tabulation of the nativity of 257 persons arrested in Massachusetts for murder during the twenty years covered by the investigation shows that out of a total of 257, 118 were native born, 40 were born in Italy, 19 in Ireland, 14 in Canada, 8 in England, 10 in China, 4 in Germany, 10 in Russia or Poland, and 34 in other countries, giving a total percentage of 57.1 native born and 42.9 foreign born in 1890, and 34.6 native born and 65.4 foreign born in 1909. Juvenile crime is discussed, but few figures are given, owing to lack of data, the juvenile court having been established in Massachusetts in 1906, and the laws regarding juvenile offenders having been changed so often as to make it impossible for the commission to collect comparable figures. A careful analysis of the records of the insane asylums has been made, showing that in 1890 the number of admissions to public and private insane institutions was .824 per thousand, and in 1909, .972 per thousand, while the number of registered insane patients has increased from 2.168 per thousand in 1890 to 3.379 per thousand in 1909. There has been an average annual increase of 66 new cases of insanity. Study of the nativity of insane persons shows that in 1904 55 per cent of all first admissions were native born and 45 foreign born. In 1909, 57 per cent of all first admissions were native born and 43 per cent were foreign born. The commission says during the last twenty years the average length of life in the community has appreciably increased, giving more time in which persons may become insane. A greater confidence in institutions tends toward more frequent commitments. State care has been an inducement for town officials to shift the burden of support to the hospitals. These last two causes are in considerable degree responsible for increasing admissions of the senile. The shifting of the population from rural to urban conditions has doubtless contributed to an increase in mental disease. In 1850 only a little over one-third of the population of this state lived under urban conditions, while in 1880 almost two-thirds so lived. In 1905, over three-fourths of our population lived in communities of 8,000 or over. This ratio is practically that of the present time. In New York the greatest percentage of insanity is found in the smaller cities. Aside from the opportunities for dissipation, urban conditions make it less easy to retain and care for the insane in private homes. The public has grown intolerant of eccentric conduct, and has a clearer appreciation of the dangers of the insane to the community. Tabulation of the records of the institutions for feeble-minded and epileptic shows an increase in the toal number of inmates from 700 in 1890 to 2,073 in 1909, a relative increase from .295 per thousand in 1890 to .651 per thousand in 1905. The large increase in this class of inmates is accounted for by the fact that feeble-mindedness and epilepsy are much better understood by parents, teachers, physicians, judges and others than it was twenty-five years ago, and that many persons now adjudged feeble-minded would not have been so considered twenty-five years

ago. The growing public sentiment in favor of training and education for feeble-minded children, so far as possible, is also responsible for increased admissions to these institutions. As the commission says, the modern community demands protection from the newly understood menace of irresponsible feeble-minded persons at large. A study of the record of pauperism shows an increase from 62,948 cases of relief in 1890 to 80,526 in 1909. This, however, is a relative decrease, as the number of persons receiving partial or full support from the town or state in 1890 was 26.56 per thousand, while in 1909 there was only 25.28 per thousand. Here, again, however, the results are vitiated by the fact that many persons previously classed as paupers are now adjudged insane or feeble-minded, and are confined in appropriate institutions. The commission summarizes its findings regarding crimes as indicating a diminishing ratio of crime to population, the classes of crimes in which there has been an increase being of less serious class. In insanity, the increase in the ratio of insane patients to population has been marked. The commission concludes its report with twenty recommendations, among which are the following: Prevention of the birth of defectives and degenerates by extending custodial care to the feeble-minded, epileptic and insane, especially in the case of women of child-bearing age; prohibition of the marriage of mental defectives, confirmed drunkards and habitual criminals; further observation of the results of surgical sterilization of defectives and criminals; examination into the mental condition of all prisoners at the expiration of their sentence, and the commitment of those found to be insane or defective to proper institutions; cooperation of physicians in the staffs of insane hospitals, institutions for feeble-minded, etc., with the staffs of penal and reformatory institutions; provision for the legal recognition of the dangerous class of defective delinquents and of their commitment to permanent care and custody, with proper provision for separate care; an extension of the system of probation and parole as a substitute for imprisonment, more discrimination in the treatment of the first offender and habitual criminal; more attention to the prevention of juvenile crimes, and more rigid laws regarding the carrying and sale of fire-arms.

F. G.

Criminals in the Making.—The *Psychological Clinic* for January 15 contains an interesting article by the editor, Prof. Lightner Witmer, on "Criminals in the Making," in which is given in detail the history of a boy of twelve who was a pupil in the summer school of the Psychological Clinic of the University of Pennsylvania. The boy was one of seven children of a family of meager income. From an early age the boy showed a tendency to run away, to steal and to invent sensational stories. Dr. Witmer gives the details of his examination of the boy, who, he said, "was really making an effort in his own poor way to escape from the terrible conditions which surrounded him. Underfed, under-exercised, under-stimulated mentally, he endeavored to cut his way out from the boredom of his existence." One month after leaving the Psychological Clinic he ran away from home and while stealing a ride on a freight train fell under the wheels and was killed. As Dr. Witmer says, "Of such material as he are made the tramp, the hobo, and the habitual criminal. From such as he, under slightly different circumstances, are developed the finest specimens of manhood the human race affords." With this and other cases as a basis, Dr. Witmer discusses the question of the relative responsibility

of the child with criminal tendencies. Regarding criminology he says, "The study of criminology in this country is still in its infancy. Indeed it has not advanced very far in Europe, where several journals are devoted to its study. For the present the only safe attitude for the community to assume is one of appreciation of its own ignorance. If it is only recognized that in the majority of cases we do not know what causes criminal actions we shall at least be in a position to learn something. This is certainly the attitude of the Psychological Clinic with reference to this and many another boy's offenses. No one ought to decide why a boy steals from a mere recital of his actions and history, nor yet from a brief mental and physical examination. In a difficult and doubtful case it may take months of careful study before he can be at all certain of his charactertistics and of their effect in determining his behavior." F. G.

Crime and Criminals in England.—The British *Medical Journal* for March 5 contains an excellent review of a recent book on "Crime and Criminals," by Dr. R. F. Quinton, late Governor of H. M. Prison, Holloway. Dr. Quinton discusses the question of criminals from the standpoint of one with thirty-four years' experience as a medical officer and a governor of prisons. Such experience has given him ample opportunity to become intimately acquainted with the working of the English prison system as well as with the personnel of the inmates. When Dr. Quinton was appointed assistant surgeon to the prison in 1876, local prisons in England were under the control of the local authorities, with the result that crime was most frequent in those districts where the prison officials were most lenient. In 1878 all of the English prisons were transferred to the control of the Home Office, with the result in the past thirty years the total number of prisons in England has been reduced, while the actual and relative number of criminals has been steadily decreasing. In 1880 an English population of 25,708,605 furnished a daily average of 10,299 persons confined in convict prisons. In 1909, although the population had increased to 35,848,780, the daily average number of convicts was only 3,106. Prison methods have also greatly changed during Dr. Quinton's service. In 1876 the treadwheel, hemp picking and other unproductive forms of labor were in general use in prisons and the work done by convicts was utterly useless and profitless. To-day the English convict is given all kinds of useful work consistent with fair play to outside free labor. The reviewer in the British *Medical Journal* sums up the case by stating that twenty-five years ago the root idea of prison management was punishment, while to-day the idea is reformation. Dr. Quinton devotes special attention to the youthful offender, in which connection he has much to say about the Borstal system. Dr. Quinton's book abounds in stories of prisons and criminal life and is of interest to all students of penal institutions. F. G.

Finger Print Identification as Sole Evidence.—In May of the present year in New York, before Judge Otto A. Rosalsky, in the Court of General Sessions, the head of the Identification Bureau of the New York Police Department, Capt. Jos. A. Faurot, testified that in the five years he had given the subject of finger print identification his attention he had not yet found a single case where two prints closely resembled each other, and the fact that the marks upon the pane of glass and the reproduction of the defendant Crispi's finger prints taken before he served two years in Sing Sing in 1907 for burglary

were alike in thirty-four points, was conclusive evidence of the identity of the defendant.

He was asked if a person's fingers changed as they grew older. Faurot replied that there was absolutely no change in the pattern of a person's fingers between birth and death. He added that the fingers grew larger, but that no change, excepting through accident, could occur. Faurot was then asked by Crispi's lawyers if identification would be impossible in the case of a healthy man who had contracted tuberculosis and wasted away. "Certainly not," was his answer. "I have had cases where persons have been identified by finger prints even after death." The case was that of People vs. Charles Crispi, charged with breaking and entering a manufacturer's loft on the morning of February 23 last.

When the police were called in to examine the premises they found that entrance had been effected, in spite of burglar alarms, by removing from the door a large panel of glass. When this glass was examined, greasy finger prints, somewhat blurred, were found on it. This glass was turned over to Captain Faurot, the expert of the Identification Bureau of the Police Department. Captain Faurot photographed, on a large scale, the finger prints, and then began a systematic search of his file of the finger prints of a hundred thousand different individuals, with the result that within a comparatively short time he decided that Charles Crispi, who had already been convicted four times for breaking and entering, was the original of the finger prints. With no other evidence Crispi was arrested, indicted and put on trial. The sole evidence offered at the trial was that of Capt. Faurot and two other finger-print experts, Mr. Abel Brown, of the Jersey City Police, and Mr. William M. Haley, Police Headquarters, New York, and the record of the previous convictions of the defendant.

As the defendant had been convicted four times, a fifth conviction would have meant a life sentence under the Habitual Criminal Act. The defendant took the stand and denied all knowledge of the crime. And both he and his relatives endeavored to establish an alibi. On the third day of the trial the defendant pleaded guilty and admitted that the finger prints were his. Assistant District Attorney Wasservogel, who tried the case for the people, stated that his friends had advised him not to prosecute Crispi on such slender evidence as finger prints alone, as that would be foolish.

This case marks a new era in the criminal courts of the United States, as this is the first conviction of this nature ever obtained on finger prints. And so far as the police authorities in New York know, there is only one other such conviction, and that was in Dublin about five years ago. After the defendant's plea of guilty had been recorded the jury was polled to determine how certain they felt in regard to the finger print evidence, and it was discovered that seven were for conviction, while five would have acquitted the defendant. During the progress of the trial Capt. Faurot in his testimony stated that finger prints had been demonstrated to be more accurate than the Bertillon system of measurements. He gave as example the case of the twin brothers, Charles and Frank Perry, who cannot be identified by means of portrait photographs and whose Bertillon measurements differ so silgthly as to fall within the difference allowed for the errors of operators in making such measurements. Yet the finger prints of these two brothers were as separate and distinct as would be those of a white man and a black man.

FEEBLE-MINDEDNESS AND CRIMINALITY—MATTOIDS

An international and national system of recording and exchanging finger prints and Bertillon measurements as the means of identifying criminals would be of great service to the administration of criminal law. A national bureau of identification maintained in New York or Washington, with trained, scientific men at its head, could be made the central distributing point, sending out to all parts of the United States finger prints duplicated by means of photography, portrait photographs, Bertillon measurements, etc. This central bureau would also, of course, receive from all outlying cities and towns of this country and from all leading countries of the world similar data for its files. By this system of exchanging such positive means of identification it would be impossible for criminals to move from country to country or city to city and continue their operations. Such a bureau could also be used to collect data and specimens of work of leading forgers and thus prevent the criminal penmen from plying their avocation in one town after another as they do now.

A few thousand dollars would equip such a bureau and it could be probably maintained for a few thousand dollars a year. Its saving to the banks alone would mean each year a hundred times its annual cost. A small fraction of the money now annually spent by the American Bankers' Association, if diverted to this central bureau idea, would result in breaking up the operations of many of the gangs of forgers that have defrauded banks of hundreds of thousands of dollars a year.[1]

Feeble-Mindedness and Criminality.—The Training School, a monthly journal issued by the New Jersey Training School at Vineland, N. J., contains in its issue for March, 1911, an article on "Feeble-Mindedness and Criminality," by Henry H. Goddard and Helen F. Hill, giving the results of the examination of ten inmates of the New Jersey hospital for the insane made by one of the writers at the request of the court, because, while these persons were convicted of crime, the court was in doubt as to their entire responsibility. Their ages varied from eleven to fifty. The tests used were those comprising the Binet measuring scale for intelligence. The results showed that out of twelve persons tested ten were feeble-minded, with a scale of intelligence ranging from eight to ten (that is, the intellect and responsibility of normal children of eight to ten years of age), while the other two were cases of insanity. The history, details and examination of each of these cases are given. F. G.

Mattoids.—In an article published in the *Medical Fortnightly* for April 25, 1911, Arthur MacDonald describes the distinction between mattoids and criminals. A mattoid or crank is an abnormal person, characterized by want of balance, eccentricity or egotism. They are distinguished from criminals by an almost complete integrity of the moral sense and frequently by an extreme abstemiousness. They differ from insane persons by less impulsiveness, general preservation of the affections and greater calmness. Mattoids also seem to have fewer degenerative characteristics and less morbid heredity than either the insane or the criminal. They are frequently afflicted with egomania, fond of photographs of themselves and often have peculiar fads. "There are two general kinds of eccentrics, those who reveal themselves by ideas and those by acts. The first class are obsessed with delirium of doubt or fear of touching things; they are suspicious, anxious or cannot help attaching importance to the

[1]Furnished by Mr. William J. Kinsley of New York City.

simplest things of life, as symbols or events. They think much but act little, on account of fear, which characterizes their mental state.

"In the second class the ideas are not so much at fault, but the acts are exaggerated, disordered and sometimes incoherent. There is instability of impressions and sentiments, but the intelligence and rational powers are preserved. This instability may be manifested by a desire to be on the go, to travel or make adventures. It is the restless or migratory spirit." One type of mattoid is the extravagant, another is the hysterical, the latter generally being women. They are often possessed of a mania for persecuting others and are frequently mystics and fanatics.

"The danger from mattoids comes when the delirium or disequilibrium in them is increased by hunger, alcoholism or by seeing their illusions destroyed; that is, when the admiration upon which they counted at any price is changed into mockery, then their calm which distinguishes them from the insane gives place to impulsions, violence and revolutionary attempts, which sometimes succeed.

"They defend their convictions, and often the more absurd they are, the more tenaciously they hold to them. Sometimes they have a ray of truth, without being able to follow it far enough, so that the crowd lose sight of it, and interest ceases.

"Some mattoids turn their homicidal thought toward the chief rulers, and often succeed because they find the favorable moment to form conspiracies, and become most dangerous and, lacking moderation, are impelled on and cannot stop. They agitate the masses and may succeed in causing them blindly to follow them. Although incapable of themselves, they can work on a soil which is predisposed, abandoning themselves to violence in times of strife, especially during political troubles, when the masses are more easily excited."

J. W. G.

Scientific Study of the Criminal.—Mr. Arthur MacDonald of Washington, D. C., is the author of a recently published pamphlet in which a plea is made for a more scientific study of the criminal classes. "The study of criminology," he says, "like the study of medicine, should be carried on by scientific methods—that is to say, all the conditions, occasions and causes of crime must be investigated first, if the treatment is to be a rational one." By the "scientific method" the author means that method in which "all facts form the basis of investigation." The object of such a study is ultimately to benefit the state by lessening the amount of crime, which in itself is sufficient justification for the humane use of criminals for this purpose. The writer points out that investigations may be carried on with imprisoned criminals with practical advantages that do not obtain elsewhere. With them conditions such as diet, manner of living, etc., are substantially uniform, while questions could be asked and would probably be answered with greater freedom than any place else. Moreover, the facts derived from such a study could well be applied to knowledge of man in general, since the great majority of criminals do not differ, physically or mentally, from the normal man. Laboratories for such investigations have already been established in many universities; but there is a great need for other laboratories whose ends are "not pedagogical, but sociological and practical, and of more utility to society directly." Their purpose should be to "collect sociological, pathological, and abnormal data as found especially in

children and in the criminal, pauper and defective classes, and in hospitals; to gather more special data with instruments of precision, and also to collect and publish the results of similiar work in this country and Europe."

A complete study of a criminal, we are told, must include not only his history, his ancestry and his previous environment, but also exhaustive studies of his psychophysical self, including, for instance, measurement of thought, time, sight, hearing, touch, taste, smell, pressure, heat, cold, etc., together with a postmortem examination of his physical organs.

Discussing the urgent need for more accurate information concerning the criminal, the author has the following to say:

"At present our jurists study law books much more than they do criminals; and yet perhaps one-half of the time of our courts is confined to criminals. Criminals are considered by many jurists, prison employes and the public as normal men, who are unlucky and unfortunate. The individual study of the criminal and crime is a necessity if we are to be protected from ex-convicts, the most costly and the most dangerous class we have. But the criminal cannot be studied without being seen and examined. For the love of science and humanity we permit the examination of the sick, of pregnant women by young men, manipulation in surgical clinics of fractured members; the visiting, examination and individual study of the insane, although these are sometimes injurious to the insane. But the criminal may not receive visits, may not submit to a scientific examination. Why should criminals be so privileged a class? An accused innocent person may have his name and life, with photograph, published in the newspapers; and yet objections are raised to the study of habitual criminals for scientific purposes." [1]

Criminal Identification.—The *New England Magazine* for March contains an article by Mr. Joseph M. Sullivan, of the Boston bar, on the subject of criminal identification, or a day at police headquarters. The purpose of the paper is to "lead the reader through the intricate labyrinth of technical criminal procedure" in securing facts by police officers and detectives against the criminal. It also contains a condemnation of some of the accompanying abuses. The use of the rogues' gallery, the various advertising schemes and other means used in detecting crime are explained, but a most scathing criticism is directed against the "sweat box" or "third degree" practice, so called. He shows how overzealous officers often make this an instrument of torture, and some instances of its abuse are given which are revolting in the extreme. An officer, be he detective or not, has not the right to confine a suspect and harass him with questions until from sheer exhaustion he admits that he committeed the crime. "We are aware," he says, "of the difficulties of convictions in many cases; also, of the necessity of confessions, sometimes. But the bribed witness is no witness and the tortured witness is worse than a bribed witness. Whatever the alternative, it is a return to savagery to convict any man on testimony which is the product of "sweat box" methods. It is a growing evil. Every vestige of it should be abolished by law. Use of it should be a sufficient cause for removal from office. It involves the possibility for the greatest miscarriage of justice. It educates its victims, innocent or guilty, to hatred of society. It breeds the crime it seeks to prevent. It has no place or function in the economy of

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

civilized society. It should be retired to the museum along with racks and thumbscrews."[1]

New Law Against Carrying Concealed Weapons in New York.—Within the past year widespread complaint against the carrying of concealed weapons has been made in many parts of the country. The chief of police of Chicago has declared that the practice is responsible for a large part of the crime in that city and he has produced the evidence in substantiation of the charge. He recommended that the offense be made a felony, but the recommendation was not adopted by the legislature. In New York, also, the agitation has been widespread and the legislature at its recent session enacted a stringent law which contains the following provision:

"Any person over the age of 16 years who shall have or carry concealed upon his person in any city, village or town of this state, any pistol, revolver or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony."

In our judgment, this law is none too drastic and if it could be enforced it would result in a material diminution of crime in the state.

Wireless Telegraphy in the Detection of Crime.—An editorial in the London *Times*, commenting on the speedy arrest and conviction of Crippen, says that one reason for the world-wide interest in this was the unprecedentedly large part played in the capture of Crippen by wireless telegraphy, which the *Times* says "has thus given a very striking proof of its utility for the ends of justice." Wireless telegraphy has abolished the vast spaces in which a fugitive could previously lose himself while the police were perhaps vainly looking for him at home. It keeps him under observation even when he thinks he has baffled observation and confronts him at the end of his futile journey with the dreaded machinery of the law he had hoped, and at one time could have hoped not unreasonably, to evade. We must not exaggerate. We ought not to forget that this is a triumph for science in general and not for wireless telegraphy alone. A highly developed press and highly developed marine engineering have played their parts. Wireless telegraphy has come, as all such things do come, into a world prepared for its advent by the labors of many men and many minds. For the purposes of justice it has put the coping-stone upon an edifice of scientific achievement which is none the less wonderful because we have learned to take it as a matter of course. F. G.

Blood Stains as Medico-Legal Evidence.—The Indian Medical Gazette for March, 1911, contains an editorial on the Medico-Legal Value of the Bio-Chemical Test for Blood-Stains, reviewing the work done along this line since 1900, in which year the problem of the identification of human blood was solved by Uhlenhuth and independently by Wasserman and Schultze, by means of the precipitin test. This method is based on the bio-chemical fact that if the blood of one animal (A) is repeatedly injected into another animal (B), then the highly diluted blood secum of B will form a white cloudy precipitate on being

[1]Furnished by Mr. H. W. Vanneman.

added to a minute amount of blood serum of A, but not when added to that of any other animal. In practical use, a suitable animal such as a rabbit or a fowl is repeatedly injected with human blood serum until its own serum is found to produce a precipitate within twenty minutes with at least a thousand-fold dilution of the blood to be examined. Within these limits only the extract of a human blood stain will give a precipitate, while the blood of no other animal, not even of anthropoid apes, will do so. Such a reaction is consequently positive proof that the blood stain in question is of human origin. This remains true even although the blood stain may be many years old. Lieut-Col. W. D. Sutherland of the Indian Medical Service has recently devoted much time to the study of this question with a view to adapting it to work in the tropics. He has recently published an account of his researches in the Scientific Memoirs of the Medical and Sanitary Departments of India, No. 39. By the use of a freezing chamber for preserving solutions, Colonel Sutherland has been able to carry on a large number of experiments. His report includes a table of 51 tests carried out with blood stains supplied by various medical men, the nature of which he was unacquainted with at the time of making the test. In every case he was able to state correctly whether the blood stain was of human origin or not, while in many cases he was able to tell from what class of animal the blood stain was derived. The value of this work along medico-legal lines is evident. F. G.

Increase of Crime in France.—According to the French press, a crime wave has struck France, and in Paris, as well as some of the smaller cities, there has been an outbreak of criminality unprecedented since the Revolution. A scientific study of the question, says the *Literary Digest,* has been made by the *Economiste Francais* from the official reports of crime conditions. "The increase of crime," it observes, "is one of the most urgent questions now occupying public attention. Juvenile crime has reached a pitch which rouses the greatest apprehension. The evil has become so crying that the official reports on criminal procedure have never been less optimistic. In the district of Paris the number of murders is steadily on the increase." From 1899 to 1909, we are told, the number of murders in Paris increased from 20 to 94. Various causes for this increase are assigned, such as the prohibition of religious teaching in the public schools, the weakness of the government, the inefficiency of the police and the like. Concerning conditions in Paris, a writer in the *Revue de Paris* is quoted as saying:

"The recrudescence of murders, thefts and robberies, and the increasing audacity of the Apaches in the cities and bandits in the country, the crimes and offenses of all kinds which fill all the pages of the newspapers, while the perpetrators themselves often remain untouched, have raised serious doubts about the efficiency of the means being taken to insure public security. People are asking if society finds itself sufficiently protected and if some steps should not be taken to remedy this evil. The statistics and reports are being investigated and the facts they reveal furnish adequate ground for alarm. The number of complaints and indictments has increased by more than 100,000 in ten years. Each year nearly 100,000 crimes remain unpunished and 15,000 accused are arrested without evidence to commit them. There are 400,000 highway robbers in France,

and the vagabonds, deserters and tramps equal in number an army corps of 70,000 men!"

Speaking of the deterioration of the police, he goes on to say:

"In former times our police enjoyed a high prestige and a reputation for high morales, and their reputation was unstained. Because of the social respect in which the force was held, because of its spirit of discipline and self-abnegation, and its deep sense of duty, its service was performed with unrivaled excellence. Let us plainly tell the truth. Their reputation is fast disappearing. This cannot escape the observation of the clear-sighted. But so long as the profession of the gendarme becomes no longer a position, but a makeshift, all reforms in the service will be built upon the sand. So long as the treasury refuses to make grants sufficient to give the gendarme enough for his support and that of his family, we can expect no efficient police service." J. W. G.

Crime in Boston.—The oft-repeated statement that Boston is one of the principal centers of vice and crime in America has, in fact, little foundation, according to a recent report of Mr. Kellogg Durland, published in the Boston *Transcript* of April 29. Mr. Durland conducted an exhaustive investigation into the police administration of the city, and his conclusions are stated as follows:

"Boston is not a wicked city and the various phases of vice which are commonplace in most other large cities are here rare, if not absolutely nonexisting. There are certain phases of the police situation which seem almost incredible to a New Yorker. For example, the question of the so-called social evil, which is so frequently referred to by critics of the city, is to so large an extent dormant, or perhaps one should say 'behind the shutters,' that outwardly it does not present the features of a problem. The question of gambling, which is so serious in many of the other large cities of the country, is practically nonexistent in this city. The liquor question, which is a real question in New York and Chicago, in Boston is but the suggestion of a problem. The system of protection, whereby houses, halls and other centers of iniquity and vice obtain police immunity in New York and most of the large cities, is scarcely worthy of consideration in Boston. Police blackmail, organized and systematized in so many other cities, absolutely does not exist here. Yeggmen, pickpockets, burglars and other denizens of the underworld, professional crooks, serious criminals, in the main do not include Boston in the itinerary of their operations. They know that Boston is not an open town; that the police are efficient and that danger lurks here for all who are engaged in the nefarious business of crime."

In Boston, he says, few, if any, gambling houses such as are very common in most large cities, are to be found; and such gambling as does exist is of such a character that it cannot be attributed to the negligence of the police. The saloons and saloon business are placed under strict regulation and the laws are, as a rule, very effectively enforced. Very little liquor is sold after closing hours or on Sunday.

With regard to the social evil, the writer says:

"Street soliciting has nothing like the same proportions in this city that it has in most other cities of similar size. Prostitutes do not assault men on the streets of Boston as they do on Broadway. Houses of ill-fame there undoubtedly are in this city, but they are not run openly, and men are not

enticed to them with the brazenness and openness characteristic of most other cities. . . . Prostitution is not segregated in the city; it is not recognized officially or unofficially as an institution, and it has been pursued and prosecuted under the law throughout the present administration (of the police), and such prosecutions are limited only by the limitations of the law."

Mr. Durland attributes the excellent showing of Boston not only to the efficiency of the present police commissioner, but to the rather unique police organization as well. There is a single commissioner at the head of the police department, who is appointed by the governor of the state for a term of five years. Having thus no direct connection with the city administration, the entire police department is entirely removed from the field of local politics.[1]

The Punishment of Crime.—The New York *Nation*, commenting on the papers read at the recent New York conference on the reform of criminal law and procedure, observes that there are two different, and in some respects, sharply contrasting tendencies in this great field of human interest. "Hardly a paper was read, hardly an address made," says the *Nation*, "that did not reflect the feeling that an urgent necessity exists for far-reaching improvement in our methods of dealing with crime; but whereas most of the speakers dealt with specific—though perhaps very comprehensive—defects, and with concrete projects of practical improvement, there were some also whose utterances were directed rather to a general arraignment of the whole existing system of criminal law and administration. According to this view, the methods of dealing with crime thus far prevalent throughout the world have been worse than useless; they have been simply means of manufacturing criminals and producing hopeless degradation among the unfortunate.

"Now, although this attitude toward the problems of the criminal law was represented in only a very minor part of the proceedings of the conference, it has been exercising a great deal of influence on general thought for a number of years past. If its only fault lay in wrong emphasis, it might be passed by; for there might be no harm in encouraging such humane movements as the juvenile courts, the probation system, and genuine reformatory methods, even though such encouragement were drawn from exaggeration. But the effects of such a view cannot be so limited. Take away, or undermine, the feeling that the institutions of penal justice, whatever their defects, are fundamentally sound, and you cannot fail to make their administration less energetic and more uncertain; and, as a matter of fact, it is the opinion of many sober students of the subject, both in this country and in England, that a considerable part of the crime of recent years is to be attributed to this sentimental enfeeblement of the criminal administration.

"It is worth while to point out, therefore, that this view of the futility of the criminal systems of the world is vitiated by two cardinal fallacies. In the first place, it ignores what would have happened if the system had not existed. It is idle to decry a human institution of any kind on the mere ground that it is attended with evils, without attempting to show further that in its absence there would have been available a better system. Upon this plan there is no institution of mankind that could escape—and there is none that does escape—at the hands of irresponsible critics. The institution of marriage and the institution of private property can, without the slightest difficulty, be held up for their

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

association with evils, and atrocities, and even horrors; yet sober men are not ready to cast them into the abyss until it has been proved that mankind would be better, or happier, without them. But in addition to this fundamental defect, there is another almost as vital. By a remarkable oversight—all the more remarkable because so generally made, even by those who are not addicted to any dogma on the subject—attention is centred exclusively on those who fall under the ban of the criminal law, while nothing is said of those whom the existence of that law keeps altogether from straying. Yet until we consider the millions who, because of the traditions as well as the actual operation of the criminal law, are kept from even contemplating such an act as forgery or embezzlement or murder, is it not absurd to attempt to pass judgment on what the law has done or failed to do?

"In striking contrast with such easy-going and irresponsible excursions into universal space were the papers that dealt with the specific improvements. Mr. Heney pointed out the contrast most vividly in his comparison between law and medicine. It was a magnificent thing to discover and eradicate the source of yellow fever, but it would have been a monstrous thing for physicians to do nothing with the particular cases of yellow fever that presented themselves, because the ideal thing is to remove causes and not to cure 'symptoms.' The task of so regenerating society that it will produce no criminals is likely to occupy us for some time to come, and in the meanwhile such sagacious advice as that of President Taft, such exhortations—and such performances—as those of Mr. Heney, such carefully thought-out recommendations for the strengthening of the law and the expediting of criminal justice as were summarized in the paper read by Mr. McChesney, will be of measurable value in making the world as it is a better place to live in—a place with fewer criminals, more safety for the non-criminal, and more thorough satisfaction for that sense of justice which, from the dawn of history to the present time, has been one of the indispensable supports of human society and of individual character." J. W. G.

Ten Years of the Central Howard Association.—The Central Howard Association of Chicago has recently rounded out the first ten years of its existence. It was organized in 1900, principally for the purpose of rendering first aid to discharged prisoners, and the results of the first decade of its activity, recently summarized by its superintendent, Dr. F. Emory Lyon, constitute a splendid testimonial to the usefulness of the society. During this period 6,000 released prisoners have received aid from the society; 868 men have been paroled to it, of whom 80 per cent are complying with the conditions of their release; 4,537 addresses have been made to and in behalf of prisoners; and 6,386 letters have been written to and in their behalf. Notice is regularly sent to all persons about to be discharged from prisons and reformatories in Illinois and neighboring states that they will be welcomed at the rooms of the association and helped to find employment or otherwise assisted. Each year more than 1,000 discharged prisoners avail themselves of the invitation and receive assistance in some form or other. No conditions are exacted except a promise of willingness to work and to lead a better life. J. W. G.

Treatment of Discharged Prisoners.—Mr. E. A. Fredenhagen, General Superintendent of the Society for the Friendless, of Kansas City, in a recent address, discussed the needs of the released prisoner and how to meet them. He

said: "The first and greatest need of the discharged prisoner is proper preparation for release. . . . As proper preparation we say first of all, physical development. The men who come into our prisons are as a rule physically degenerated. They have been leading vicious lives. They come in weak physically, emaciated, often more the subject for the neurologist than the taskmaster. One of the most pitiful and hopeful sights I ever saw was a group of new men in the gymnasium of the Elmira Reformatory. Here in the gymnasium, in the massage room, in the drill, in the shops, as well as in the moral training in the chaplain's department, that great institution at Elmira is building up its men, physically and morally. So the first thing we should say is to build up your men physically, and even the older prisons are doing that to a iarge exten.

"Industrial habits have to be studied. Many prisoners have no line of occupation. Whatever we may say about this or that or the other method of prison industry, we must recognize the fact that the largest contribution of prison labor toward the success of the man in after life, is the habit of industry, which occupation teaches him. Work day by day, week by week, month by month, and year by year, until the habit of industry is more firmly fixed than it was before prison treatment. This is especially true of the class having no skilled trade and no means of making a livelihood except by the 'hobo' route.

"Then, of course, the character of the industry it vital, and we feel, with all courtesy to the operators of prisons who ought to know better than we, that that is the best type of prison industry which fits the prisoner for occupation in the average community on the outside. Any occupation or any industry which the one who learns has no opportunity to enter on the outside is not, in our opinion, wise, or in the long run economical. For the ex-prisoner is apt to spend twenty of thirty years on the outside as against three inside, and we think far more vital the training for the longer period than the shorter period. So our plea is to the operators of institutions to so vary your industries that the men you give to us can follow any ordinary occupation in wood, leather, iron, clay or anything else that we can find for him or he can find for himself on the outside, and at which he can make a living wage more easily than he can live in the old manner.

"The men we get have before their imprisonment been morally at sea. A careful study of them by thousands on the part of our society shows that they have not been properly homed. Even though they seem to be well-to-do they have had little or no school or church training. There are exceptions, of course. The great mass of men who go into prison get there because the institution, the home, the school, the church, the neighborhood, have not developed them above the crime line. In making a study of the boys in the reformatory of the average age of nineteen years, we found in reading and writing 88 per cent were below the line of efficiency, leaving us only 12 per cent who ar really above that line and capable of taking care of affairs. I believe this will be duplicated in every reformatory and in the prisons to a large extent. This shows it is the failure of the home, of the school and of the church, which have lost these individuals and caused them to drop below the crime line. Therefore, it must be attended to in the institution. That makes the work of the schoolmaster a vital one.

"In the outside community, where we have the good people, we need, in addition to the civil government, the church and the school, the teacher and the schoolmaster. If we outside cannot get along without these aids, how can we

get along with less inside? If we who are supposed to be good citizens need all these influences of school, education and religion to make us what we are, how can we expect these weak men in prison to become what we want them to be, like ourselves, with less? Therefore, the prison which trains its men to do the best will see that its school is efficient and, with the moral training, higher ideals will take root and the prison will become a school for morals as well as a school for industry. This does not mean less discipline, for the men are trained to work in harmony with the system. We therefore plead for these three things on the part of the institutional men—train the men for us physically, industrially and morally, and we will have a much better chance to do them real service." J. W. G.

Georgia Prison Association.—A prison association has been organized in Georgia with headquarters at Atlanta. Its general purpose is to secure the general adoption and perfection of such methods as may reduce the criminal population of the state and bring the wisest and most humane treatment into all our dealings with the criminal classes.

Among the specific objects which it will seek to accomplish are:

1. To aid in establishing and maintaining a modern Juvenile Court system in the several cities of the state.

2. To secure the building and equipping of modern state reformatories for boys and girls. Further, to advocate the building and equipping of proper industrial institutions for all classes of criminals who must be confined.

3. To promote the adoption of a state system for securing good homes, mainly in the country, for those children of both races who have either no homes or positively bad homes. Further, to promote the adoption of a system that will take certain classes of offenders from the cities and place them with the best farmers in the country districts, while holding them under the guardianship of the Court with its Probation officer or of the institution with its Parole Officer.

4. To secure statutory provision for holding parents and guardians more strictly accountable for the dependency and delinquency of their children.

5. To secure provision for the appointment of county Probation Officers who may receive under their care probationers from any court of criminal jurisdiction in the county.

6. To obtain for the judge larger discretion in making disposition of cases after the accused is found guilty, and to secure the adoption of the indeterminate sentence instead of the sentence fixed as to time.

7. To aid in the extension and perfection of the parole system, to the end that no prisoner shall be discharged from the prison without being placed for a year or more under the supervision and friendly oversight of a competent Parole Officer. Further, to aid in perfecting such a system of probation and parole as may employ effectively the services of competent volunteer officers in connection with and under the supervision of the regular paid officers.

8. To advocate a more thorough system of collecting data and keeping statistics of crime and criminals.

9. To create a public opinion that will demand the most competent and kindly men for the management of the prison and the prisoner.

10. To secure legislation providing for regular and adequate inspection of all jails and places where prisoners are detained.

11. To promote an effective public sentiment in favor of a sure, speedy and adequate enforcement of the law. J. W. G.

Prison Labor Proposals.—"Of the forty-two governors who sent messages to state Legislatures this year," says the St. Paul *Pioneer Press,* "twenty-eight gave more or less consideration to the subject of prison labor, according to a report just issued by the national committee on prison labor.

"In all these gubernatorial messages there is agreement on one point—namely, that idleness must not be tolerated and that all the prisoners must be provided with appropriate and rational employment, in order that they may be taught useful occupations, that they may earn some money for themselves or their families and that the prisons may be made practically self-supporting instead of a heavy burden on the state. Three of the governors, Johnson of California, Marshall of Indiana, and Harmon of Ohio, think that whatever is made in prison should be used by the states, counties and cities in their various institutions; and Hawley of Idaho and Carroll of Iowa agree with Johnson that reformation should be through industrial education. Three others, Spry of Utah, Gilchrist of Florida and Donaghey of Arkansas, argue strongly in favor of state farms, the last named pointing out that on his own state farm of twenty-seven hundred acres, cultivated with three hundred convicts, there was raised last year a cotton crop which paid all running expenses, $30,000 of the farm debt and turned back $50,000 into the general fund.

"The governors of Iowa, Kansas, South Dakota, Washington and Wyoming recommend that the earnings of prisoners above cost of food and clothing be turned over to their families. Twelve of the governors, all from Southern or Western States, strongly advocate the working of convicts on state roads—a plan which Colorado has in perhaps the best working order. Three camps are established with twenty-five to fifty convicts in each. There is no armed guard during the day and only one guardsman at night. All who are allowed to work first take oath that they will not attempt to escape, and the prisoners are commuted ten days out of every thirty for working. Every man is eager to get on the farm or on the roads, and the work is, of course, very beneficial to them.

"In Minnesota nothing has been undertaken of late in the way of change of prison administration, as the state has long followed the program of keeping the inmates of penal institutions employed. The Minnesota trouble has all been over reformatory institutions. The disclosures have not reflected any credit on the management of at least two of these institutions, but probably will prove of benefit in bringing about desired reforms and betterments. Prison reform is making progress everywhere. Minnesota has taken her part in it, but cannot afford to drop behind in the general movement for betterment." J. W. G.

The Constitutionality of the Federal Parole Law.—Mr. A. K. McNamara expresses the opinion in an article on this subject in a recent number of the *American Law Review,* that the new federal parole law is constitutional. He points out that in several jurisdictions similar laws have been attacked on the ground that they infringe upon the judicial power to fix sentences, but that this argument is uniformally disregarded.

A more serious objection, however, is that it is an infringement on the

pardoning power of the executive. Two questions are discussed: "(1) Is a parole a conditional pardon? (2) Is the pardoning power exclusively in the executive?"

There are two lines of authority on the first question, one, including Michigan, Vermont and Utah, holding that a parole is simply a conditional pardon, whereas the other holds to the view that it is merely a part of prison discipline, and accordingly within the legislative authority. The states holding the latter view are Ohio and Kentucky.

After showing that the pardoning power is given to the executive in all the states, excepting only Connecticut, and to the President of the United States, and because of such grant of power the question whether such grant is a natural or necessarily an executive function is largely an academic one, he says: "The general trend of decisions has been to grant the President the fullest possible exercise of the pardoning power, but not to arrogate to the President everything which can conceivably be thought of as a pardon, or, in other words, not to interfere with legislative acts on the ground that they infringe on the pardoning power unless such acts are quite clearly pardons and nothing else. This trend of decisions indicates that a federal parole law will not be held to infringe on the pardoning power."[1]

[1]Furnished by Mr. H. W. Vanneman.

Probation and Parole Legislation.—Illinois' penal and reformatory laws have been strengthened by the passage of an Adult Probation law by the General Assembly at the regular session just closed. The purpose of this measure is to permit the reform of first offenders under natural and favorable conditions, instead of incarcerating them with hardened criminals.

The measure provides that first offenders upon pleading guilty or being found guilty by a court or jury of certain offenses, may ask to be released upon probation, and shall be so released if the trial judge believes that the reformation of the prisoner may be accomplished and the welfare of the community conserved. The offenses included in the scope of the measure are limited to the following:

"1. All violations of municipal ordinances where the offense is also a violation, in whole or in part, of a statute.

"2. All misdemeanors, except as hereinafter limited.

"3. The obtaining of money or property by false pretenses, where the value thereof does not exceed two hundred dollars ($200).

"4. Larceny, embezzlement and malicious michief, where the property taken or converted, or the injury done does not exceed two hundred dollars ($200) in value.

"5. Burglary, where the amount feloniously taken does not exceed two hundred dollars ($200) in value and the place burglarized was a place other than a business house, dwelling or other habitation.

"6. Attempt to commit burglary when the place attempted to be burglarized was a place other than a business house, dwelling or other habitation.

"7. Burglary, when the burglar is found in a building other than a business house, dwelling or other habitation."

The maximum period of probation is six months in cases where the offense charged was a violation of a municipal ordinance, and one year in other cases. If the conduct of the probationer makes necessary the termination of the pro-

bation period and the imposition of sentence under the original conviction or pleading, the time during which the probationer was at liberty under probation is to be considered no part of the sentence period.

Conditions which the court may impose upon the probationer are carefully limited. (a) Probationers shall not violate any criminal law of the State or any municipal ordinance. (b) If convicted of felony or misdemeanor, they shall not leave the State without the consent of the court. (c) Probationers shall make monthly reports of their whereabouts, conduct, employment, etc., to the probation officer in charge, and shall appear before the court as the court may direct. (d) They shall enter into such bond or recognizance as the court may direct, with or without sureties.

The court also may require one or more of the following conditions: (a) The probationer shall make restitution in whole or in part to the person or persons injured or defrauded. (b) He shall contribute from his earnings to the support of those dependent upon him. (c) He shall pay court costs not exceeding one dollar per month. No other conditions may be imposed.

Proper provisions are made for returning probationers who violate the terms of their probation and for discharge of the probationer from custody upon the expiration of the probation period, or upon its earlier termination by order of the court, such discharge to be entered in the court records and the probationer entitled to a certified copy thereof. Probation officers may be appointed by judges of the circuit and municipal courts, and in the larger counties the chief probation officer is to be appointed by the judges of the circuit and municipal courts jointly.

The probationer is given right of review of orders changing the terminating of probation period, and appellate courts are given final jurisdiction over all such appeals and writs of error, and may affirm, reverse or modify such orders so that the same shall conform to the provisions of this Act.

In addition to securing the passage of the Adult Probation law, the Chicago Civic Federation also secured the passage of a bill increasing the number of parole officers at the two State penitentiaries, from a total of two (which has proved grossly inadequate) to a total of seven, in the ratio of one parole officer for every fifty paroled prisoners. Five of these ocers are to be appointed at Joliet and two at Chester.[1]

Prison Discipline.— In the April number of the *International Police Service Magazine* Mr. John E. Hoyle, in an article entitled "Prison Discipline," expresses his ideas concerning the best methods of securing proper discipline in prisons. As warden of the State prison at San Quentin, California, his words have a special value. The exact methods to be employed, he says, must, of course, vary with the conditions, but the principle underlying all methods should remain constant, and that principle may be expressed in a single word—justice. In the first place, the warden must be a man of character and thoroughly in sympathy with the aims of the institution. He must also exercise the greatest care in selecting his subordinates, for upon them devolve the duty of carrying out the details of the disciplinary work of the institution. Without the proper kind of officials, satisfactory results are impossible. It is essential that both

[1]Furnished by Mr. Douglas Sutherland, secretary of the Chicago Civic Federation.

officers and prisoners should realize that all grievances are settled with strict justice and with thorough impartiality.

The writer's experience has led him to encourage various forms of entertainment and diversion among the prisoners. Brass bands and orchestras have been organized, dramatic clubs formed, and plays and farces presented by the prisoners themselves upon various occasions. Upon these occasions the warden himself furnished costumes and made the necesary arrangements, and he asserts that nothing but good has ever come out of his attempts along these lines. Occasionally men of prominence are asked to address the prisoners at the institution. In short, his entire policy is that of imbuing the prisoners with the idea that the State is trying not to punish but to help, and this can best be done by kindness and firmness rather than by harshness and cruelty. Warden Hoyle emphatically opposes the employment of spies and "stool-pigeon systems," whereby some prisoners are used to spy upon the actions of their companions and report to the officials. Little is ever accomplished by these devices, and they invariably tend to produce discord and endanger proper discipline.

A word of praise is given the California parole law. Speaking of it, the writer says:

"I have been largely assisted in my work by the effects which have flowed from the administration of that law. I have endeavored to impress upon the minds of those under my care that there was an opportunity for them in the outside world and that by proper conduct while confined in the institution, and by an earnest resolve to reform and to lead an exemplary life, that that opportunity would be presented to them. Impress upon the prisoners the idea that the world at large is willing to give them an opportunity, provided that it feels that they are earnest in their endeavor to live upright lives and to refrain from transgressions of the law. In other words, inspire them with hope, inculcate into their minds a firm belief that notwithstanding the crime which they have committed, and notwithstanding the punishment or confinement to which they have been consigned, that still there is an opportunity for them in the work-a-day world if they will only take advantage of it."[1]

Prison Schools in Massachusetts and New York.—Warren F. Spalding, in a recent contribution to the Boston *Evening Transcript* (May 4), gives an interesting description of the work being done in prison schools in Massachusetts and New York. The prison at Charleston, Mass., was the pioneer in this field of work. There prisoners are at present taught to read and write, or, if they are not illiterate, they are given an opportunity to pursue advanced study along some definite line in which they are interested. The object of this schooling is to prepare the prisoners for good citizenship after their release, and, with this end in view, definite studies pertaining to some trade are prescribed for each prisoner. The prison library is supplemented by the Boston Public Library in furnishing the necessary books.

In 1905 a similar plan was devised for the establishment of prison schools in New York which were to be placed under the control of the State Board of Education. Here, however, the primary purpose has been to "banish illiteracy from the prisons," hence very little advanced work is attempted. "First the school in each prison was put in charge of a head teacher, a civilian with a

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

college or normal school education. They were not selected from political favorites, but by competitive examination, from men who had taught successfully elsewhere. This was of great importance, for the teachers of the prisoners were to be prisoners, and they must be trained by the principal." The equipment of the school is very much the same as that of the ordinary class-room. School work is made a part of the regular work of the prison, and is compulsory upon prisoners. Sessions are held every day of the year except Sundays and holidays. It is stated that nearly four hundred men were in school in Sing Sing every day last year.

At present a bill is pending in the Massachusetts legislature to give the State Prison Commissioners authority to establish similar schools in five county prisons, the State to pay half the expense of maintaing them.[1]

Medical Evidence in the Crippen Trial.—The British *Medical Journal* for October 29, 1910, contains a special report on the medical evidence introduced at the Crippen trial. As the main medical issues of the case centered around the identification of the remains, the testimony on this point is given in full. The trial commenced on Tuesday, October 18, and ended on Saturday, October 22, an enviable record characteristic of the dispatch which distinguishes the procedure of British courts of justice. In this country such a trial would probably have occupied from three to five weeks. The crime was committed in January of 1910, and no suspicion was aroused until the early part of July, so that the human remains found had presumably been buried for nearly six months. The evidence showed that Crippen was born at Coldwater, Mich., in 1862, that he received the degree of M. D. from the Homeopathic College of Cleveland, that he went to England in 1883, but returned to the United States, and in 1893 met and married Belle Elmore, at that time known as Cora Turner. She was about seventeen years of age and Crippen was thirty. Shortly after marrying he became connected with the Munyon Company (a "patent medicine" enterprise) and in 1900 was sent to London to take charge of their business in England.

The chief witness for the prosecution was Mr. A. J. Pepper, Consulting Surgeon to St. Mary's Hospital. He testified that on July 14 he went with the Chief Inspector of Police to the house, 39 Hilldrop Crescent, where he met Dr. Marshall, and examined what appeared to be animal remains. They included beside some tufts of hair, a large piece of flesh composed of skin, fat and muscle, from the thigh of a human being, and one other small piece. The next day several other pieces of skin were found, on one of which, 6 in. by 7 in., was found a scar four inches long. Mr. Pepper testified that in his opinion this scar was locattd in life in the anterior median line extending just above the pubes, that it was an old scar and was in a position which corresponded with the incision for an abdominal operation. He was of the opinion that the remains had been buried for from four to eight months, that they were buried shortly after death and that they could not have been buried there before the 21st of September, 1905, (the date at which Crippen took possession of the house). Microscopical examination of the scar confirmed his previous opinion. On cross-examination, Mr. Pepper testified that the lime and clay in which the human remains had been buried had converted them into a kind of soap, the chemical name

[1]Furnished by Mr. C. O. Gardner, Fellow in the University of Pennsylvania.

of which was adipocere. Severe cross-examination with the intention of shaking his identification of the skin containing the scar as a piece of the anterior abdominal wall failed to impair his testimony. He was unable to identify any part of the scar as due to needle punctures or stitches. He was unable to show any trace of the linea alba or the peritoneum, but identified the skin as being a portion of the lower anterior abdominal wall by the presence of the aponeurosis of the rectus muscle. Questions put to the witness by the Lord Chief Justice confirmed his position as to the location of the scar. Dr. Bernard Edward Spilsbury, expert witness for the prosecution, corroborated Mr. Pepper's testimony and added that microscopical examination of the skin showed no glands in the scar, but glands in the skin on each side of the scar. On close examination he testified that the presence of a sebaceous gland or hair follicle in the alleged scar would be conclusive evidence that it was not a scar. Dr. Thomas Marshall, Police Surgeon, corroborated the testimony of the other witnesses. Dr. W. H. Wilcox, a chemical expert, testified to receiving the remains and of testing for all common alkaloids. Examination showed the presence of a mydriatic alkaloid of vegetable derivation, which on further examination proved to be hyoscine. This result was confirmed by miscroscopical examination which showed the characteristic spheres of hyoscine. He estimated that the stomach contained one-third of a grain and the kidney one-fourth of a grain, traces being found in other organs, two-sevenths of a grain in all being found. He estimated that the amount in the entire body would be more than one-half a grain, which would constitute a fatal dose, and that following the administration of one-half a grain of more of hyoscine hydrobromide there would be delirium, unconsciousness and death in a few hours, probably under twelve. He further testified that hyoscine hydrobromide was not a commonly used drug, that it was used hypodermically in doses of from one-two hundredth to one-one hundredth of a grain, but that it could be given internally without the knowledge of the patient in beer, spirits, sweetened tea or coffee. He was of the opinion that poisoning by hyoscine was the cause of death in this case. On cross-examination, he testified that this was the first case where the question of murder by hyoscine had arisen. He had tested for hyoscine before, but had never found it in extracts from dead bodies. The most important differential test was the microscopic examination of the vegetable mydriatic alkaloid extracted from the remains. This examination showed a gummy, round, crystalline structure which identified the alkaloid as hyoscine, the other two vegetable mydriatic alkaloids being crystalline. Cross-examination on the chemistry of vegetable alkaloids failed to shake his evidence. In reply to questions from the Lord Chief Justice, he repeated the positive opinion that sufficient hyoscine was found in the body to have caused death. Dr. A. P. Luff, former Scientific Analyst to the Home Office, corroborated Dr. Wilcox's testimony.

In defense, Dr. G. M. Turbull, Director of the Pathological Institute at London Hospital, testified that in his opinion the mark on the piece of skin was not a scar, but was due to folding over and pressure. He agreed with the witnesses for the prosecution that the skin came from the lower anterior abdominal wall. The counsel for the prosecution produced Turnbull's original report in which he gave the opinion that the skin came from the upper part of the thigh. Dr. Turnbull testified that he had changed his opinion on this point. He also testified, on re-examination, that in his opinion, ovariotomy scars were not wider at the bottom than at the top. Dr. Reginald Cecil Wall, qualified as an

expert, testified that in his opinion the mark was not a scar. On cross-examination he stated that he had first given the opinion that the piece of skin in question came from the upper part of the thigh, but that he was now willing to concede that it might have come from the abdominal wall. On further questioning he admitted that it probably did come from the abdominal wall. Dr. Alexander Blyth, expert chemical witness for the defense, testified that the presence of impurities prevented vegetable alkaloids from crystallizing. He also testified that he had been unable to isolate the small spheres from the alkaloid which Dr. Wilcox testified were characteristic of hyoscine. He also testified that it was impossible to distinguish positively between animal and vegetable mydriatic alkaloids. On the production of a copy of the 1895 edition of his book containing a statement that no ptomaines so closely resembled vegetable poison as to be liable to cause confusion, he stated that he had altered his opinion on the subject since he wrote the book, but that he had not yet published his altered opinion. Questioned regarding Vitali's test, which Dr. Luff had testified made it possible to distinguish animal from vegetable alkaloids, Dr. Blyth disagreed as to the value of this test, but could not refer to any other authority which said that animal alkaloid would give a purple color under Vitali's test.

In his speech for the defense, Mr. Tobin said that one thing needed for such a murder was a dexterous hand well versed in anatomical operations. Dr. Crippen had never conducted a post mortem examination in his life. The prosecution had not been able to prove that he had any dexterity in anatomy. Positive proof was also lacking that the remains in question had been buried since February 1 and that the remains were those of a woman. The prosecution had proven that Belle Elmore underwent an operation and endeavored to prove that the mark on the piece of skin found with the remains was a scar, but the evidence on this point was not conclusive. As to the hyoscine, the traces of the alkaloid may have been those of an animal alkaloid produced after death as the result of putrefaction. Is scientific knowledge of these questions complete? Eight years ago the chemical formula for the three vegetable alkaloids was the same. No one knows what the results of future research may be. Mr. Muir, in his speech for the prosecution, admitted that no medical man could say with certainty on anatomical grounds that the remains found were those of a woman. He summarized the evidence regarding the identity of the remains by saying that Mr. Pepper, a surgeon of the greatest experience, Dr. Wilcox and Dr. Marshall, who saw the remains when they were first disinterred, all agreed that the mark in question was a scar and that Dr. Turnbull and Dr. Wall, who were at first of the opinion that the piece of skin came from another part of the body, were obliged to admit on the witness stand that they were mistaken. The stretching of the lower part of he scar would indicate that the skin came from the body of a woman rather than that of a man. These facts being admitted, the question arose, from whose body did it come. Regarding the hyoscine, Mr. Muir claimed that the evidence of the prosecution was conclusive that the alkaloid found was a vegetable mydriatic alkaloid and that hyoscine was the only one which met the conditions.

The Lord Chief Justice, in summing up the evidence for the jury, said that it was not now seriously disputed that the remains were those of a woman. He reviewed the testimony of the experts regarding the scar and said that it was for the jury to judge between the witnesses as to which was right, as well as

for the jury to determine whether the evidence of hyoscine poisoning was conclusive.

As is well known, the jury rendered a verdict of guilty and Crippen was duly executed. The medicolegal interest in the case lies in the fact that this was the first time that the question of death by poisoning from hyoscine hydrobromide had ever been presented in court, also that a successful effort was made to identify the remains largely by means of a scar following an abdominal operation. The possibility of an animal alkaloid produced by putrefaction giving the same chemical and microscopical findings as hyoscine is evidently a point on which further investigation would be of value. The question whether a scar in the median line following an abdominal operation would, several years after the operation, be wider at the bottom in a female than in a male, is also one on which further investigation might be well spent. Like the celebrated Leutgert case in Chicago in 1896, in which the identification of sesamoid bones was an important point in the determination of the human character of the remains, the essential points raised in the Crippen case involved scientific matters to which heretofore little attention had been paid. F. G.

Judge Foster on Hereditary Criminality.—Hereditary Criminality and its Certain Cure was discussed by Hon. Warren W. Foster, Senior Judge of the Court of General Sessions of the County of New, in *Pearson's Magazine* for November, 1909. Judge Foster is the presiding judge of the oldest criminal court in America, its origin antedating the Revolutionary War. The enormous criminal law administration of this court has given Judge Foster an experience on the subject of criminality probably unequalled by that of any other judge in America. His article contains the results of his years of broad experience and is consequently deserving of careful consideration by all students of criminology.

Judge Foster agrees with Oliver Wendell Holmes that the "best way to train a child is to begin with his grandfather." He says that atavism has come to be recognized generally by scientists as one of the important factors in the production of criminals and that the fact that heredity is an etiological factor in criminality can be determined by scientific statistical research. The advancement of scientific knowledge has furnished the foundation for a new system of penology. It is now believed that the purpose of our criminal law should be to cure the criminal of his criminal tendencies and to restore him to righteous living. Previous to 1789 insanity was apparently unknown to the French law, and responsibility was not considered in determining punishment. Today criminologists endeavor to determine not only whether a crime was committed, but also whether he who committed it was of such an understanding as to be properly punishable therefor. One of the first attempts to minister to the criminal as to one of a diseased mind was made in the creation of the New York State Reformatory at Elmira, where inmates are kept under the strictest of mental and physical discipline, where mental arithmetic and Turkish baths are applied to create a sane mind in a sound body and where the inmates are taught that honesty is the only policy that pays from the practical worldly point of view. The results obtained have been remarkable, only about twenty per cent of those committed to this institution having returned to criminal practice after their release. The present tendency of the administration of criminal law is to ascertain first what is wrong with the individual and then to apply a remedy to cure the wrong. Lacassagne summarized the present tendency of criminal

law when he said, "There are no crimes but only criminals." Criminality is on the increase, having risen several hundred per cent in France, as well as in many parts of Germany. In Spain the number of persons imprisoned nearly doubled from 1870 to 1883. In the United States the criminal population has increased one-third in thirty years. The records of the Elmira reformatory show that out of 4,000 criminals thirty-eight per cent gave a history of drunkenness of their parents. Out of 8,000 prisoners received there during the past eight years, 19.9 per cent were tuberculous; 43.7 per cent were afflicted with some kind of mental disease, and 37.4 were mentally defective. Statistics from the English Industrial Schools show that the parents of at least eighty per cent of the inmates were addicted to serious if not criminal habits. Aubry has traced a Brittany family of criminals through five generations and has ascertained the number of paupers, criminals and delinquents in the family. Dugdale's Study of "The Jukes" is well known. Poellmann, of Bonn, has investigated the record of the descendants of a confirmed female drunkard who died early in the nineteenth century. The fifth or sixth generation of her posterity number 834 persons. The records of 709 of these show that 107 were of illegitimate birth, 162 were professional beggars, 64 were inmates of almshouses, 181 were prostitutes, 76 were convicted of serious crimes, and 7 were condemned for murder. The total cost to the state of caring for this woman's pauper offspring and punishing her criminal progeny was estimated at $1,206,000. Stocker of Berlin has traced 834 descendants of two sisters who died in 1825, and has found among them 76 who had served an aggregate of 116 years in prison; 164 prostitutes, 106 illegitimate children, 142 beggars and 64 paupers. Judge Foster discusses the four most commonly suggested remedies, viz., emasculation, restriction of marriage, segregation and casectomy, and summarizes the professional testimony regarding the effectiveness of sterilization. Discussing the legal aspects of the question he says that the opponents of vasectomy may urge that it is cruel and unusual punishment and that the question of the attitude of public opinion on this method is still to be determined. F. G.

Medical Expert Evidence.—A collection of reprints by Dr. Charles G. Cumston, of Boston, includes monographs on "The Medico-legal Aspect and Criminal Procedure in Poison Cases of the Sixteenth Century," The Question of "Justifiable Homicide," "The Law and Medical Experts," "The Medico-legal Study of Pregnancy and Crime," and a monograph on "Hymen Intactus" and its significance in medical jurisprudence. These monographs and reprints of articles which appeared in various medical journals are well worth reading by those interested in the subjects discussed. The paper on "Law and Medical Experts" was read before the Massachusetts Medico-legal Society and discusses the vexing question of medical expert testimony. The French law on this subject is given in full and the Austrian, Belgian, German and Spanish laws are summarized. A reprint on Poison Cases of the Sixteenth Century discusses the crimes of Catherine de Medicis and her satellites, giving a report of a post mortem translated from the works of Ambroise Paré and Nicholas de Blégny, showing that the knowledge of the pathological effects of poison and methods for their detection was, in those times, decidedly limited. So little was known regarding the administration of poisonous drugs that poisons which modern toxicology would easily detect could then be used with impunity. The monograph on Pregnancy and Crime contains many interesting instances of criminal

tendencies during pregnancy and a discussion of the relatives responsibility of pregnant women. F. G.

Sterilization of Criminals.—A number of pamphlets, some of them published several years ago, bearing on various medico-legal questions, have been received by the editors and are noted for the information of the readers of the Journal.

Dr. Harry C. Sharp, formerly surgeon to the Indiana State Penitentiary, is the author of two pamphlets, one on "Vasectomy" and the other on "The Sterilization of Degenerates." In both of them the method of resection of the vas deferens as a means of controlling procreation is described. Dr Sharp inaugurated this method during his service as surgeon to the State Penitentiary, performing it on a considerable number of criminals who voluntarily submitted to it, and who were so pleased with the results that they urged others to undergo similar treatment. Dr. Sharp says that he began performing this operation in October of 1899, and that he had operated on 456 cases at the time of the publication of the pamphlet. Dr. Sharp's pamphlet on Sterilization of Degenerates is an earlier presentation of the same subject. F. G.

Alcoholic Inebriety.—A reprint from the Monthly Cyclopædia and Medical Bulletin contains an article on "The Etiology of Alcoholic Inebriety," by Dr. L. D. Mason, of Brooklyn. Dr. Mason defines the inebriate as one in whom volition is absent and who cannot control himself in the use of alcoholic liquors. He believes that the uncontrollable use of alcohol is symptomatic and is based on a latent pathological condition. After discussing the popular fallacies which lead to the use of alcoholic beverages, among which he includes the use of patent medicines containing alcohol, Dr. Mason considers four forms of inebriety, viz., the inherited or congenital, the pathologic form, the psychic for mand the dipsomania form, summing up the instances of alcohol inebriety as congenital or hereditary, acquired or developed under supposedly normal conditions; enviornment, social and economic conditions, etc.; pathologic; psychic, and dipsomania. He urges the placing of the treatment of inebriety on a scientific medical basis. F. G.

The Case of Andrew Toth.—The July number of the *Scrap Book* contains a short article by E. L. Bacon, setting forth a very formidable array of cases in which courts have convicted and punished innocent persons accused of crime. A few are taken from the criminal records of foreign countries, but most of them are from our own country, and emphasize the fact that, in spite of many constitutional guarantees for the protection of accused persons, grave injustice is sometimes done by the courts. One very recent case cited is that of Andrew Toth, the details of which are as follows:

"In 1891 Michael Quinn, an employe of the Edgar Thomson Steel Works in Pittsburgh, was murdered by a fellow workman, who struck him from behind with a crowbar. Toth, who could understand at that time scarcely a word of English, was lined up with five other employees of the mills in the coroner's dock, and a crowd of Austrians and Huns were summoned to identify the guilty man.

"One of the Austrian witnesses happened to stumble over a cuspidor, and Toth laughed at him. The Austrian's eyes blazed with anger, and a moment

later he pointed Toth out as the man who had committed the murder. Sheep-like, the other witnesses followed his example, scarcely realizing the importance of what they were doing, for they were a densely ignorant lot and none of them had more than a very slight knowledge of the English language.

"Toth, frightened and bewildered, was helpless against the fate that threatened him. Every man's hand seemed turned against him. He was only a 'hunkie,' with hardly a friend. He protested his innocence, but few could understand him, and those who could did not believe him.

"The case was hurried through the courts. It was of slight importance to the public. The prisoner was only an ignorant, unknown Austrian. The papers gave little or no attention to the trial. And when Toth was sent away to the Western Penitentiary for life, there was nobody to shed a tear for him except his wife and children."

The succeeding twenty years Toth spent in prison. In the meantime his wife returned to her former home in Austria, but his two sons remained in this country, and exhausted all their resources in efforts to secure a pardon for their father. Only a few months ago the man who had given the leading evidence against Toth confessed, on his death-bed, to having sworn falsely in the case, and explained the feeling of resentment which prompted him to accuse Toth. As a result Toth was pardoned, but found himself too old to make an adequate living, and ultimately returned to the prison for support during the remainder of his days. This comfort, however, was denied him, and the only return which was made Toth for the injustice done him was the payment, with compound interest, of two weeks' back wages which his former employers still owed him.[1]

A Texas Criticism of Our Criminal Procedure.—Judge G. A. McCall, of the Weatherford (Texas) bar, in a a letter to the Dallas *News*, declares that the present methods of procedure in that state operate to shield the accused from punishment rather than protect the innocent. He says in part:

"The bill of rights of this State and also a provision in the code of criminal practice provide that the accused shall not be compelled to give evidence against himself; and this has been the law among English-speaking people, so far as I know, from the beginning of the English government. While many other civilized nations compel the criminal to testify in such cases, yet so humane is the English law and so tender are the rights of the accused, that this provision is firmly embedded in the law, and no English-speaking people would for a moment object to it.

"So also the provision that the guilt of the accused must be established beyond a reasonable doubt. It would seem to the thoughtful person that these two provisions are ample safeguards for the person accused of crime. The accused is not compelled to say anything on the trial. The law does not compel him to make any explanation, and the burden is on the State to prove his guilt without calling for any admission on his part, and the State must prove it beyond a reasonable doubt. The most extreme care is taken under the law, in the selection of a jury, and in this matter the defendant has much of the advantage. He has, ordinarily, more peremptory challenges. He must be tried by jurors having no opinion in the case, etc.

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

"One of the most common forms of discovering the guilt of the accused is by confession. Somehow the guilty conscience opens the mouth of the accused. We are so constituted, or, if you please to put it, God has so made us, that the guilty can not keep the secret of their guilt. Murder will out. Now the common law, which is common sense, said that this confession must be voluntary; that is, it must not be exacted of the accused by threats or by promises of pardon. It must be voluntary in order to be admissible as evidence of guilt. Our statute for many years on this subject prescribed that a person under arrest, in order for his extra-judicial confession to be admissible, must be warned as to the effect of the confession, if same were made while under arrest, before same was admissible on the trial. Now in truth and in fact this was going further than the common law required, for the common law only required it to be voluntary. Yet, within the last few years, the Legislature passed a law by which the criminal's extra-judicial confession will not be received unless he is warned and the same is in writing and signed by the accused and properly witnessed; and in a recent case our highest criminal court by a majority opinion so construed this statute that it will now require a learned criminal lawyer to write such a confession in order that it may be admissible. This statute practically, and so far as effects are concerned, says that it is unsafe to trust the sheriffs, constables, marshals and their deputies in matters of this kind; that they are not to be trusted when they talk with persons arrested for crime; that the danger of these officers perjuring themselves in matters of this kind is so great that it is necessary to close their mouths and forbid them from testifying in the case. My readers, if they will reflect, will see how greatly the officers are hampered and hindered in their discovery of guilt by such statutes as this, when they reflect that no officer can be heard as to a word said by the accused, after he is arrested, and how much light would ordinarily be thrown on the point as to who committed the crime, if the officers were allowed to tell what the accused said when overtaken and arrested. By the common law, a party to a suit could not ordinarily testify because interested in the matter at issue. And so a person accused of a crime was disqualified to testify on the trial. This rule has been changed for a number of years in Texas, and the accused may testify fully if he desires. He may give evidence about the whole transaction, yet the officer to whom he may have fully confessed his guilt while under arrest can not tell what he said concerning the matter. I recall a case in which a yeggman came out here from the dens of iniquity of Fort Worth and burglarized a store in a village in Parker County. He broke open a safe and robbed the merchant of $100 or more. He was seen near the store on the evening prior to the robbery; his shoe track was identified with reasonable certainty at or near the store; he was convicted by the jury on the evidence as made. The higher court reversed the case on the ground of insufficient evidence, yet the accused had while in custody of the sheriff freely narrated to the sheriff and his deputies the whole circumstances and particulars of the robbery. The yeggman was fully informed, and really laughed at the weakness of the law. As said above, the Constitution provides that no one shall be compelled to incriminate himself. After the statute was passed allowing the accused to testify, the Legislature passed an act which provided in substance that if the defendant chose not to testify, that fact should not be taken against him as an evidence of guilt, nor should counsel in the argument comment on such fact.

"It used to be the law that after a verdict had been rendered the verdict of

the jury could not be impeached by showing the reasons entertained by the jury in reaching the verdict were wrong. But again the Legislature has provided that if any juror in the deliberations of the jury alludes to or speaks of the fact that the accused did not take the stand on trial, it shall be grounds for reversal. And the higher court has directed the District Court to charge the jury that they shall not take his failure to testify on the trial as a fact against him. Now everyone knows that any intelligent juror is bound to notice the fact that the defendant does not testify, and that fact is bound to influence jurors either consciously or unconsciously. Two young men walk into a church and go up behind a man sitting in a seat, and one of them draws a pistol and shoots the man dead, having fired several shots into his brain. They then turn and walk out; the slayer when outside quietly reloads his pistol and they walk off. The young man who did no shooting is put on trial; he knows whether he had knowledge that his comrade went there to kill deceased; he, above all others, could deny that he knew that his comrade was going to do the killing; he does not go on the stand, and says nothing; the judge, under the law as it now is, must tell the jury that the fact that he did not testify is not to be considered against him. How in the name of common sense is any sensible man to put that fact out of his mind? The mind of the juror, if he has any intelligence, is bound to take notice of it. The charge of the court requires of the jury a mental impossibility. My reader may just imagine himself on such a jury; he is forbidden by the charge to allude to the fact that the defendant failed to testify; he must and ought to discuss all of the evidence, except this one pregnant, overpowering, all-powerful fact that the defendant refused to tell whether he had knowledge of the crime and that it was to be committed. The truth is, that silent fact compels any sensible man to believe he is guilty.

"Such are the deplorable effects of legislation unreasonably in favor of criminals. I need hardly suggest the remedy. We have had far too much hasty, ill-advised legislation. Let us repeal these unwise acts and others that might be named, and go back to common sense, common law, which is the perfection of human reason, and which will enable us to enforce the law." J. W. G.

Dark Lines in Handwriting and Allied Phenomena.—In the April, 1911, number of the *Archiv fur Kriminal Anthropologie und Kriminalistik,* Mr. A. Delhougne, a German handwriting expert, discusses rhythm, emotional phenomena, as applied to handwriting expression and as a means of identifying the individual. What he refers to as the dark lines of handwriting, which in this country are known as the indentations of the pen nibs themselves, is used by the expert as an aid in identifying the writer of questioned documents. The article contains seventeen illustrations, but as these illustrations are drawings made with pen and brush and photo-engraved, they do not show actual writing in the cases under discussion.

Apparently Mr. Delhougne is endeavoring to determine from the pressure exerted on the pen and the consequent spreading apart of the nibs and from the indentations made by the pen nibs, that a certain writer did or did not produce a certain piece of writing. In addition to that, he takes into consideration the serrated line edge in the dark indented lines. Although mentioning this serration only incidentally, he must believe with the late Dr. Persifor Frazer of Philadelphia that handwriting might be identified, at least partially, by the indented edges of the pen strokes. All Dr. Frazer really claimed to do was to

indicate on which side, right or left of the stroke, the greater number of serrations occurred. Of course, this was not very helpful, because it divided the writers into two classes only, those with serrations on the right and those with serrations on the left. Dr. Frazer never in court work used this method with any definite results, and Mr. Delhougne evidently does not depend as much on serrations, but emphasizes the dependence to be placed upon the dark lines in general. He quotes Professor Sommer and others to support this theory "that the delicate, unconscious movements, that are usually made involuntarily as the expression of inner conditions, should be conceived graphically and separated into their elements: as up-and-down, sideways, and push and drawback movements." He describes the apparatus designed by Professor Sommer for registering the hand movements for clinical investigation in the different forms of mind-states, diseases, alcoholic neurosis, etc.

Mr. Delhougne says, "In order to understand the different grades of strength in the registering of the writing expression, one should note the similar differences in pitch of the human voice. * * * Should we find this any more surprising in the manual method of character expression—in handwriting?" So far as we know there have been no really scientific investigations along this line, and no doubt if carried out on a broad scale, so as to cover all classes and conditions of writers in sufficient number, they would be very helpful.

In this country handwriting experts have made studies of the quality of line as indicating whether the pen was held in the right or left hand, the position of the pen in the hand, the indentations of the pen nibs on the paper, the speed and movement used in producing the strokes, etc. But so far as I know no investigator has taken up the matter of emotional expression. The difficulty of making a practical use of handwriting opinions and testimony, based upon emotional and "soul expression" in handwriting, would be the doubt as to the identity of the particular emotion expressed in any particular expression, as well as the difficulty of getting standard specimens written under similar conditions.[1]

Zur Reform Unserer Kriminal Polizei.—Polizeipräsident Koettig of Dresden, in a paper on the reform of the criminal police in *Gross's Archiv fur Kriminal Anthropologie und Kriminalistik,* xl., No. 3, February, 1911, discusses in detail the urgent need for the establishment of a centralized detective force for the German Empire, similar to the brigades regeonales de police mobile, organized in France in 1908. These are centralized detective forces for the purpose of assisting the local prosecuting officers in the detection of serious criminals. They are under the jurisdiction of the Ministry of the Interior and are free from local control.

The present German system, which requires the smaller cities and the rural districts to solve their own criminal mysteries and allows them the assistance of the police forces of the larger cities only in cases of unusual difficulty or importance, is deemed by the writer inadequate. He specifies in detail ten reasons in support of his opinion. Since, however, the German Empire possesses only such powers as have been specially granted to it and since the control of the police has not been so granted, it is doubtful whether a police force for the whole empire can be established without a constitutional amendment.

[1]Furnished by Mr. William J. Kinsley, examiner of questioned documents, New York City.

In Saxony, on January 1, 1911, a centralized detective force was organized with headquarters at Dresden, and a corps of detectives, consisting of two or four members, stationed at Dresden, Leipzig, Chemnitz, Zwickau, Bautzzen, Plauen and Freiburg. They receive orders from and report directly to the headquarters at Dresden and the local prosecuting officers. They possess jurisdiction over the entire Kingdom of Saxony and can deal directly with the local officials. The detectives are selected from the Dresden force because of special ability and special training. If similar centralized detective forces are established in the other Kingdoms of the Empire, it may be possible, in the opinion of the writer, to provide for co-operation between these centralized forces and thus obtain by co-operation rather than by constitutional amendment a centralized detective force for the German Empire. The writer makes a plea for a German police congress for the discussion of this problem and ten other important police problems briefly enumerated by him.

This paper of von Koettig is worthy of careful study by American police officers and criminologists. The American police forces suffer from all of the defects pointed out by him. His suggestions for the improvement of the German detective forces are applicable as well to American detective forces. It is much to be desired that each of the American states establish a centralized state detective force, similar to those of Connecticut and Massachusetts, to aid the localities in the detection of serious criminals and that there be proper co-operation between these state detective forces for the detection and apprehension of criminals who flee from the state in which they have committed a crime.[1]

Course of Instruction in Police Photography.—Dr. Hans Schneickert of Berlin, a leading German official, scientist, investigator and writer along police and criminal lines, has written a brief review of the present status of criminal photography in Germany, in the February, 1911, issue of *Archiv fur Kriminal Anthropologie und Kriminalistik.*

The first school for the study of anthropometric methods was the German Messcentrale at Berlin. This Messcentrale was established in July, 1897, and has been the foundation of the uniform training of police officials in methods of measurement and finger prints. A four weeks' course in photography given regularly in the spring and autumn has been inaugurated and much interest has been developed on the part of German police officers on the subject of criminal photography. As an outgrowth of the original school there has been established the "Institute for Photography, Chemigraphy, Phototype and Gravure," which in March, 1910, held its first "course for court and police photography," under the leadership of the division director, W. Urban. The course was designed for the officials of the police and detective service. The police authorities of Munich and Berlin, the bureau of gendarmes in Munich, the police bureau in Bern, the city magistrates in Augsburg, Landshut, Nurnberg, Straubing, Weilheim, Wurzburg, as well as the police authorities in Stuttgart and Darmstadt, sent about twenty-one candidates for the course. The course, as outlined, included:

I. General elements of photography.

Principle of the camera. The sensitive plate and its exposure. The negative, its development and finishing. The positive.

[1]Furnished by Mr. Leonhard Felix Fuld, New York.

II. The apparatus.

Fixed and hand cameras. Apparatus for enlargement. Objectives. Artificial light. Working conditions, etc.

III. The practice of court photography.

(a) Registrative photography. Photographs of sudden actions and momentary episodes. Photographing tracks. Metric photographs. Signaletic photographs.

(b) Explorative photography. The indication of falsification of documents and detection of forgery. Geometric-morphologic identification. Criminal radiography.

(c) Technique of reproduction and copying.

Owing to the shortness of time this full schedule could not be carried out exactly, and explorative photography could only be touched on in a cursory way in a one-hour illustrative lecture. Dr. Schneickert recommends for the coming year that above all there must be a division of the students into two classes, one for beginners and one for the more expert. He recommends that some kind of a post-graduate course be planned for those who desire to take up explorative photography.

The police authorities in the various cities of the United States could, with great profit to their various departments, organize and support such schools as are being conducted by the Germans for the education of their detectives and other workers in the line of finger prints, anthropometric measurements, photography, etc. If the work in these lines in the United States were systematized and unified it would be very helpful to all the police departments and to the individual workers taking such courses. Such schools maintained for a few months each year in one of the centrally located larger cites would divide the matter of expense among quite a large number of students and make the cost of each one nearly nominal. It would place in the possession of these students the latest developments in the various lines of scientific police work the world over. If some such organization could be perfected, it would save many individual trips abroad and be more beneficial than these trips to the individuals taking them.[1]

Finger-Print Evidence in France.—In an article under the title of "La Preuve par les Empreintes Digitales" in the April number of *Archives D'Anthropologie Criminelle,* Edmond Locard reviews the use of finger prints as a means of identification in France and describes three recent cases at Lyons, in which finger-print evidence has been used in judicial proceedings. In the first case two parties were, from other evidence, suspected of having committed certain thefts; but the one suspected of being merely an accomplice was shown by the evidence of his finger prints left at the scene of the crime to have been in reality the principal. In the second case the identification of te finger prints of the accused simply corroborated other evidence showing him to be the guilty party. The third case, called "the affair of the Rue Ravat," is said by M. Locard to be the first case of a conviction in France based solely on finger-print evidence. On June 1, 1910, a house on the Rue Ravat at Lyons was broken into and robbed. The house had been ransacked by the thieves and a large number of finger prints were found on a pole used in effecting entrance, on a

[1]Furnished by Mr. William J. Kinsley.

flower vase, on two bottles of wine and on two jars. Two persons, F. and R., were arrested by the police, but proof of their guilt could not be obtained. A comparison of their finger prints, however, with those found in the house which was robbed showed a surprising number of correspondences. More than a hundred characteristic points of resemblance were found for F. and forty-eight for R.; and in the case of F. a scar on the right thumb rendered the comparison exceptionally conclusive. At the trial, which took place at the Assizes of the Rhone on November 10, 1910, many questions were asked of the finger-print expert after his deposition, both by the jury and the attorneys for the defendants. The latter in their plea to the jury argued eloquently the danger of the finger impressions, but the jury, after an hour's deliberation, returned a verdict of guilty and the defendants were sentenced. E. L.

Anthropometrical Studies of Degenerates.—Dr. Etienne Martin contributes to the April number of *Archives D'Anthropologie Criminelle* an article entitled "L'Anthropometrie des Degeneres," in which he compares the proportions between certain physical measurements found to be normal by Bertillon and others with the proportions between the same measurements found by himself in a study of a large number of degenerates. For example, a comparison between the measurement of the outspread arms and that of the body height shows normally that the arm-spread is greater than the height in about 80 per cent of the cases. There is a constant proportion also between the bust measurement and half the body height. Dr. Martin finds a type in which the arm-spread is less than the height and the bust greater than half the height. These individuals are of small stature, large chest and small limbs, who have retined in their development the same proportions between different parts of the body as in infancy. He finds another type in which the bust is smaller than half the height and the arm-spread is also small; an arrest of development of the trunk from some unknown cause. These and other examples cited by the author would seem to be cases of arrested development rather than of degeneracy. However, Dr. Martin rightly urges that systematic studies of the modifications in the proportions between different parts of the body found among the abnormal might yield valuable information as to the development of the individual in general. E. L.

Criminal Lawyers Form Association.—The County Association of the Criminal Bar in New York was incorporated on aMy 17, 1911. The avowed objects of the association are to raise the professional standard of the practice of the criminal law and those engaged therein, to see that those who accept assignments to defend impecunious persons charged with crime properly and faithfully perform their duty, and to weed out and disbar from practice in such courts all those who are faithless to their duty under such assignment, or who are guilty of unprofessional conduct, fraud or trickery in general. E. L.

The Crippen and Hyde Cases Compared.—Mr. John D. Lawson, editor of the *American Law Review,* in a recent number of that magazine, compares the Crippen and Hyde cases for the purpose of illustrating the difference between English and American methods of administering justice. After reciting the well-known facts in the Crippen case, he says: "The courts of Missouri present at this very time an American *cause celebre,* and an opoprtunity to com-

pare Missouri methods with English methods—the case of Dr. Hyde, charged likewise with murder by poison. Here the prisoner's victim died in October, 1909, the trial began in the Criminal Court of Kansas City on April 16, 1910, and the verdict of guilty was reached on May 16. On July 5 the trial judge overruled a motion for a new trial and sentenced the prisoner. On February 6, 1911, the argument before Supreme Court began and lasted several days. Let us note the different periods of time in the different stages of the proceedings in each case. Crippen was indicted three days before the trial—Hyde thirty days; Crippen was sentenced ten minutes after the verdict was rendered; but it was seven weeks after the verdict in the Hyde case before the judge sentenced the prisoner. Crippen's case was argued in th Court of Criminal Appal two weeks later; Hyde's case was not agrued in the Missouri Supreme Court until six months after the sentence of July 5. The arguments in the Crippen case lasted about three hours, and the judgment of the Court of Criminal Appeal was rendered immediately on its conclusion; the arguments in the Supreme Court of Missouri in the Hyde case lasted seven days and the Supreme Court has not yet rendered its decision.

"Upon whose shoulders rests the most of the blame for the long delays in our courts is a question frequently asked. Some of it is doubtless the fault of the lawyers, some of it arises from our written codes of procedure with their numerous details; but it would seem after all that the greatest offenders are our judges. How does it happen that the judge before whom a case is tried cannot make up his mind whether the proceedings which he witnessed and of which he was a part and had the power to control, had been properly conducted until seven weeks have gone by? The chief justice of England sentences Crippen immediately after the verdict is renedered; the Kansas City judge delays the sentenc of Hyde nearly two months. When the Crippen case is argued in the Criminal Court of Appeal the three judges of that court think themselves competent to deliver their opinion at the close of the argument; but the judges of the Supreme Court of Missouri require weeks and months to come to a conclusion. Is it that our judges are wanting in intellectual capacity and legal knowledge? The *Docket* does not believe that the standard of legal education is higher among the leaders of the bar of England than among the same class of lawyers in the United States, and he believes that our best judges are as learned in the law as any that England can boast; but it would seem that our judges are not so sure of themselves as the English judges are, else they would hardly feel it necessary before giving an opinion to have to ransack the law books to see what the law really is and whether it is or is not what it was said to be by the counsel on the argument.

"Regarding the second question propounded by our correspondent, it is true that all the evidence upon which Crippen was convicted was circumstantial, but here are the facts, as set out in an English law journal, upon which the conclusion was reached that the body found in the cellar of the house was that of Cora Crippen: 1. Buried beneath the floor of the house in which she was last seen is found the mangled flesh of a human body. The bones have been removed and the flesh is covered with quick lime, but, owing either to the dampness of the soil or to the fact that the air has been excluded by the pressure of the bricks above the body, the quick lime has preserved the remains instead of destroying them. 2. Expert evidence shows that the remains are those of a stout, middle-aged person, such as Cora Crippen admittedly was. 3. The sex is ascer-

tained to be female by the fact that hair curlers are found among the hair. 4. There is strong, though not unquestioned, expert evidence to show that the person whose remains have been discovered once underwent an operation in the abdomen. Now, Cora Crippen is proved to have undergone such an operation. 5. Although the exact date of the deposit of the remains cannot be exactly ascertained, the expert evidence shows that they cannot have been there more than eight or nine months before discovery. This is consistent with the fact that they are Cora Crippen's remains, since she disapeared February1, whereas they were found in July. 6. They are wrapped in a pajama jacket which is proved to have been bought by her for her husband in November, 1908. One or two items in this aggregate of positive facts may possibly be a mistaken inference. Science is by no means infallible, even in the ablest of hands. But it is not credible that all can be mistaken. Even if half of them alone be proved, the positive evidence points to the unmistakable fact that the mangled flesh buried in the cellar is that of Cora Crippen.

"The grounds of appeal on matters of law presented and argued by Crippen's counsel before the Court of Criminal Appeal were three, viz.: That the trial was invalidated by allowing a sick juror to separate from his fellows without putting him in charge of a sworn bailiff; that evidence in rebuttal had been wrongly admitted as to the history of a pajama suit, part of which had been found with the remains buried in the house of the accused, and that the Lord Chief Justice had misdirected, or had not sufficiently directed, the jury that the burden of proof as to the identity of the remains was upon the Crown. It was also contended that the evidence was not sufficient to warrant the finding of the jury that the remains were thoseo f Mrs. Crippen.

"On the first point, the Court of Criminal Appeals heard witness, who appeared before it, to ascertain exactly what had happened to the juror who fell ill. It was established that he left the court accompanied by an unsworn bailiff and by doctors, who attended him and asked him necessary questions as to his condition, but that nothing was said to him by them or anyone about the case. It was also stated that at the Central Criminal Court, and at assizes and sessions, it was not the practice to swear bailiffs who attended a juror temporarily leaving the court. And it appeared that the bailiff had been sworn at the beginning of the trial. After listening to the evidence of the bailiff, the Court of Criminal Appeal held that there had been nothing to show that anyone had any opportunity of tampering with the juror. They also held that the rule still in force against the separation of jurors in cases of treason, felony and murder did not require the jurors to be kept physically together throughout the trial; and further, that to constitute a mis-trial it must be shown that the jury could not be reassembled untampered with.

"The second ground of appeal was based on the suggested unfairness of springing on the accused without notice, by way of rebuttal, evidence which could have been called as part of the case for the prosecution. This contention was rejected, and it was laid down that the judge at the trial is entitled in his discretion, subject to review on appeal, to admit by way of rebuttal any evidence which is relevant and admissible, whether it could have beentendered as part of the chief evidence for the Crown; and that the Appellate Court will not be willing to override the discretion of the judge below unless satisfied that something unfair had been done by the prosecution in reserving the evidence tendered so late in the case. The court declined to limit the discretion of the judge

to admit rebutting evidence to cases where something which could not have been foreseen arose out of the conduct of the defense, or to admit that the lateness of the state at which the evidence was admitted was, in itself, a ground for reviewing the exercise of the judge's discretion.

"As to the question of fact, the Appellate Court said: 'We think there was evidence for the jury and a great deal of evidence which would justify the verdict at which they arrived.' and as to the charge of the Chief Justice, it said: 'The prisoner's counsel has said, in the course of his argument, that every point that had been made on behalf of the prisoner was put to the jury, and fully and fairly. But he has criticized a phrase used here and a phrase used there in the course of a long summing up. Sitting in this court we have often said in similar cases that we should not interfere where attention is called to phrases ambiguously used and not expressed quite so fully and clearly, or not expressed with the exactitude which, as counsel points out, might have been used. We must look and see whether, taking the summing up as a whole, the judge has put the issue fairly to the jury; whether all the evidence was before them, and whether the judge adequately directed the attention of the jury to where lay the burden of proof. * * * We think that, notwithstanding the criticism that has been leveled at the summing up, it did put adequately, fully and fairly the complete case for the prisoner, and that no injustice has been done by any term, phrase or sentence used in the summing up.'

"Just one year from the day that the trial of Dr. Hyde for murder by poisoning began in Kansas City, the Supreme Court of this state orders a new trial. In our last issue, the *Docket* made a comparison between this case and the case of poisoner Crippen in England and that comparison is emphasized by this latest turn in this celebrated case. Crippen has been dead and buried for more than half a year, but the Hyde case is just where it started twelve months ago, and after weeks and weeks of investigation and examination of witnesses, and speeches of numerous counsel on both sides, and days and weeks of deliberation by a jury of twelve men, and arguments of counsel in the Appellate courts and long consultation and deliberation by three appellate judges, everything has to be gone over again *de novo*. Could there be a more striking illustration of our stage-coach and tortoise-like procedure? The day after the decision was announced, the *Docket* was riding in a street car and observed two ladies reading the morning paper which contained under flaming headlines the announcement of the result. And he heard the remark of one of the two to her companion, 'What bad judges we must have. See how many mistakes the judge made in trying Dr. Hyde.' Now, the lady had no idea of imputing immorality or dishonesty to the judicial officer she was talking about, she was measuring him by the standard of the good housekeeper and she was amazed that the state should have in its employ an officer who could do no better than that. It was to her as though she had discovered that her cook or housemaid had committed ten or fifteen blunders in preparing the dinner or putting things to rights, and it was clear to her that such a bungling domestic servant would be speedily given her walking papers. But the good lady did not understand that the judicial servant she thought so negligent was just as well qualified and had exercised as much care and had given as much attention to the work he was doing as any other judge would or could who might have sat in the case. She did not know that our court procedure has become so intricate that no man can hope to master all its difficulties or to escape being tripped up by some cleverly de-

vised question to a witness or objection to a fact offered in evidence. The longer the trial lasts, the more skillful and numerous the counsel engaged in the case, and the more money there is behind the prosecution and defense the more difficult it becomes for the trial judge to send the Appellate Court a record free from technical errors and mistakes. Our appellate judges are no better lawyers, as a rule, than our trial judges. Our appellate bench is recruited from the trial bench and really a more exact knowledge of the law is required of the trial judge than of the appellate judge, for he is obliged to make his decision promptly and cannot always wait until he can find what the law is from the books. Therefore, it does not show any lack of legal knowledge or of judicial training in a trial judge that his rulings are reversed on appeal. It is simply the appellate judge that has the last word and it is quite probable that had it been Judge Ferris instead of Judge Latshaw who had tried the case and Judge Latshaw instead of Judge Ferris who was sitting on the Supreme Court bench, the result of the case would have been exactly the same, except that the decision of Ferris, J., would have been reversed by Latshaw, J., instead of *vice versa*."

The Crime Problem.—Chief Justice Norcross of the Supreme Court of Nevada contributes an article under the above title to the *Yale Law Journal* for June, in which he dissents from the view of President Taft that the administration of the criminal law in this country is a disgrace to our civilization.

Neither the law nor its administration, in my opinion," he says, "ought to be blamed too severely for the existence of a greater proportion of crime in this country than in European countries. Ours is a new country, comparatively, and new countries usually excel in crime because conditions have not reached that settled state which exists in older countries. Then, too, we are a cosmopolitan nation and our courts for many years have been open to all strata of European society and not a little of the criminal element of Europe has found a permanent abiding place in the United States. One needs but a glance at the records of our prisons to find that many foreign countries have had a measure of relief, at our expense, from the criminal class."

"Much as I respect the views of our distinguished President, I am unable to entirely agree with him that the main difficulty with our criminal problem lies in 'undue delay' in court procedure. None will deny the fact that there is room for improvement in the matter of procedure and that so much delay is unjustifiable. Many wise suggestions have been offered that will, when adopted, in a measure at least, eventually remedy the defects in our procedure. It is very generally agreed by criminologists that certainty and celerity of punishment is far more potent in the prevention of crime than severity. But, if we do nothing more than perfect our court machinery, I believe we will find that we have only made a slight impression upon what is one of the greatest social problems with which the law has to deal. If a city is being supplied with milk filled with the germs of typhoid, the most advanced medical treatment would doubtless help to allay the ravages of the disease, but a pure milk supply would do a great deal more good. So it is with the crime problem. We have greater need to look to the source of crime than to advanced methods of harvesting the ripened fruit, if we are to make any great headway in accomplishing practical results in reducing crime.

"With our present antiquated court procedure we manage to keep our jails and prisons fairly well filled to capacity in spite of the delays that work an unjust

hardship alike upon the people and the accused. I believe much good will be accomplished by the adoption of certain reforms in our procedure that have been suggested by eminent judges and lawyers. We ought to do away with the undue amount of protection that is afforded the person charged with crime, whereby he may not be required to testify relative to the offense for which he is charged, and which prohibits the prosecuting attorney from commenting upon his failure to testify in his own behalf. There was some reason for such a rule when it was engrafted upon the law, for then one charged with crime could not become a witness in his own behalf. The barbarous methods of criminal procedure of centuries ago, which afforded a basis for the rule, having long ago ceased to exist, the rule should cease also. The rule is a shield to the guilty only. Its abolition would not only be a powerful aid in arriving at the truth, which is the object of all trials, but it would be a means of protecting the prisoner from the unlawful, and sometimes barbarous inquisitions comprehended under the so-called 'third degree.'

"Three-fourths of a jury ought to be permitted to find a verdict and our appellate procedure should provide for reversals only in cases where it manifestly appears that the defendant has been denied a fair and impartial trial or where from the entire case it appears that there has been a miscarriage of justice. These and other reforms in our procedure will do something to avoid what is now a just cause of complaint, but those who are of the opinion that they will prove a solution of the vexed question, will, I believe, discover that they have greatly overestimated their importance.

"After having served for a number of years as a prosecuting officer, as a judge and as a member of the Board of Pardons and Parole of my state, I have come to the conclusion that the greatest weakness of our whole system of dealing with crime lies in the methods both before and after the courts have played their part in determining the question of the defendant's guilt. As long as we pay little heed to the causes which produce crime and add to this a prison and jail system that tends to make bad or unfortunate men worse, we will accomplish very little in finding a solution of the crime problem.

"If, as a Nation, we are annually spending as much or more money in fighting crime than it will cost to build the Panama Canal, it is time the Nation took steps to make a scientific investigation of the underlying causes that produce so much crime and for a study of the best methods of combating the evil.

"If environment and heredity play the parts in producing crime, which many criminologists assert, such fact should be demonstrated and the best methods of prevention agreed upon. Much of our crime is undoubtedy due to conditions surrounding the young during the formative period of their lives. This character of criminals will not be reduced in number or their reformation accomplished by means of excessive or cruel punishment.

"In addition to doing everything that can reasonably be done to remove the causes of crime, we must improve our system of dealing with the convicted criminal. If he is a confirmed criminal we may not be able to accomplish much for him in the way of reformation, and society has a right to protect itself from individuals of this class the same as it has from the insane. Society has no right to provide and cannot justify means and methods of punishment that are in themselves debasing. Such methods of punishment are not only a wrong to the prisoner but they are an absolute injury to society.

"If a man commits an offense for which a year's imprisonment would be a

just punishment and the court awards him five or ten years, is it not a miscarriage of justice? Our prisons are full of cases of this character, but because the prisoner has few, if any influential friends, the public rarely every knows or cares about the injustice that is done him. He himself realizes it fully, and he leaves the prison an enemy of society. The suspended sentence, the indeterminate sentence and the parole system, where adopted and intelligently administered, will do a great deal to remedy the evils of the old system. When we adopt methods of dealing with the law-breakers that will be reformatory in fact as well as in name, and will do away with a system that too frequently inflicts a greater wrong upon the prisoner than the wrong he committed against society, we can begin to look for good results from our penal system. The greatest need in our whole system is: elimination of the conditions mainly responsible for crime, and a more just treatment of the offender, so that he has a fair opportunity for reformation.

"Crime is about the greatest problem with which this country has to deal. The expense it entails is tremendous—an expense which adds nothing to the progress of the world. The Nation could find no better way to spend a small portion of its revenue than to provide for a commission composed of the most eminent criminologist, whose duty it would be to make a study of crime from all its aspects, with the view of reporting the best methods of dealing with the whole situation. This would doubtless require a number of years of study, but I am confident that it would result in the recommendation of methods which, when adopted, would not only result in decreasing crime, but would make a tremendous saving from the expense, which our antiquated methods now entail."

J. W. G.

Modern Exaggeration of Sexuality.—In the November number of the *Archiv für Kriminalanthropologie und Kriminalistik, Prof. P. Naecke,* the well-known physician, anthropologist and criminologist, issues a warning under the above title against going too far in estimating the influence of sexuality on the individual, in art, science, religion, etc., if it is not finally to absorb every individual and collective physiological and pathological activity. "Hunger and love are, indeed, mighty, but the latter in its sensual form by no means appears so heroic. We must not exaggerate in this direction and seek to find the effects of sexual instinct everywhere. It plays a big enough part as it is." This warning is, of course, directed first of all against the teachings of Prof. Freud and his many disciples which have recently at last been applied in the realm of criminology. Prof. Naecke attacks especially the three highly ingenious and original *"Abhandlungen zur Sexualtheoric"* of the Viennese psycho-therapeuist (*Leipzig and Vienna, Deuticke 1905*) and seeks to establish the fact "that we have to do with real sexual feeling if, with the physical signs of the greatest excitement and lust, emission of semen or at least—if seminal fluid is still lacking—erection takes place, that is if after the "Kontrektationstrieb" "Detumeszenz" follows, or is at least prepared. The two must be more or less united. 'Kontrektationstrich' alone I should not yet designate as sexuality; it is only the first step, and not always even that." (An assertion that Freud has certainly proved to be sometimes incorrect.—A.).

Prof. Naecke goes on to say: "Everyone knows that, at the age of puberty sexuality draws everything more or less into its sphere or influence: feelings, intellect, imagination, etc., while at the same time many physical proportions

change." This marked or slight, rapid or slow revolution of the feelings, etc., produces a new, more decisive ego and creates much that is good—also frequently much that is evil in brains that are not steady. "Apart from deviations in the direction of crime, nervous or mental attacks of different kinds, or perversions of the sexual instinct may also appear at the age of puberty. But in still another direction danger may arise to which especially Freud and his followers have called attention. According to them, if the disposition exists a so-called 'sexual experience' may later have disastrous results, forming the basis not only of neurathenia, hysteria and other neuroses, but also even of dementia praecox, mania of depression and paranoia. Thus, we see that the effect of these experiences is tremendous and it follows the line of suppression, conversion and 'Affektbesetzung.' All this Freud has discovered through his psycho-analytical method which, of course, is consequently the cure-all" (That Prof. Naecke doubts even the cures that have been effected by the method of Freud and his followers appears to us at least presumptuous. Everyone who is not a pronounced opponent of Freud's knows that the success has been phenominal.—A.) "As regards the 'sexual experiencee' in particular, there can scarcely be anyone who has not had such at one time or another and, perhaps, even a serious one. But it has little or no effect on normal persons; on abnormal ones, however, its influence may certainly be far-reaching. It is decidedly to the credit of Freud and his school to have pointed out this old fact anew and to have traced its interesting effects, so that psychology also might profit by it. But it was exaggerated to the extreme and thus the sound kernel of fact was discredited. If we read, for instance, Freud's 'Traumdeutung,' or his remarks about forgetting, slips of the tongue, etc., we find everywhere these tremendously subjective, often positively mad and groteque interpretations of the sexual. In dreams, for instance, there is scarcely a symbol that Freud does not declare to be sexual without bringing even the shadow of a proof to suport his assertion. A mere, generally even most remote, possibility he at once takes for absolute certainity! Hence he could not fail to make vehement opponents everywhere. Yet in spite of that he has a considerable following, though his doctrines will hardly penetrate all over the world and conquer it, eventually only the true kernel will remain" . . . "In its dialectics and interesting psychology Freud's doctrine has a dangerous effect on many minds, especially when they are not able accurately to distinguish between the true and the false, or half-true. This is the case, for instance, with *Wulffen* who, in his latest work (*'The Sexual Criminal'*) embraces this doctrine unreservedly without pausing to probe it critically. Thus, he has obviously injured an otherwise excellent work and undoubtedly repelled numbers of jurists who are already distrustful of the many modern ideas that he rightly advances and defends. That the direct reason for a sexual crime is generally—not always—sexuality, is known to everyone." (Compare Dr. Stekel's highly interesting article on "The Sexual Root of Kleptomania" in the July number of this Journal.) "One part of Wulffen's book is entitled, 'The Youthful Criminal, a Sexual Criminal.' According to him the juvenile thieves and liars are nearly always onanists, and lying and stealing spring from 'Sadistic,' hence sexual feelings. Pleasure in tormenting animals and cruelty are also grounded in 'Sadistic' impulses, as is incendiarism among juveniles, and even when homesickness is the cause there are still 'latent sexual impulses' underlying that. These are all extreme exaggerations! As onanism, for instance, is so widespread why should

it be partially the cause just with thieves and liars? And how can Sadistic instincts enter into lying and stealing? What proof of this can Wulffen advance? Incendiarism in youthful offenders, unless they are mere children, springs from Sadism only in abnormally few cases (except where mentally deficient persons are concerned); as a rule it is caused by the desire to get out of a hated situation or by homesickness, in which it is scarcely ever posssible to perceive a sexual root. No, the motives of the youthful offender are not usually very different from those of the adult unless it is a question of impulsive or otherwise pathologically conditioned actions. That they are especially numerous at the age of puberty is merely because the mental balance of weak minds is easily disturbed at that time. The connection is more direct in the case of actually sexual crimes which unfortunately also occur, and with increasing frequency. That much rowdyism and brutality is partially due to the love of combat strengthened by puberty, we gladly admit, repeating however *partially* due, for environment, training and bad associates are mainly resposible, as is strikingly exemplified in the Parisian 'apaches.' To call crimes of all sorts 'sexual' merely because puberty, birth, etc., are certain factors in them is contrary to common linguistic usage which understands under such a designation only crimes of which sexual instinct is the direct cause. Otherwise, we should have to call all nervous and physic afflictions that are in any way connected with sexual processes 'sexual,' and no one dreams of doing that. We have seen, however, that Wulffen calls many crimes 'sexual' because he believes them to be of 'Sadistic' origin; and for the bulk of them that is certainly wrong." A. A.

The Intelligence of the Criminal.—The renowned German criminal psychologist and our greatest authority on sexual crimes, Dr. Erich Wulffen, introduces his latest little volume, "Gauner und Verbrechertypen" (Berlin, Dr. P. Langenscheidt), with a few theoretical remarks on the intelligence of criminals that seem to us to strike home. He says in substance:

"Although all criminal psychologists are agreed that the criminal is characterized by a certain mental inferiority, an inferiority of feeling and of intellect, and, although his logic is nearly always wrecked on the billows of his stormy or at least restless desires, yet the intelligence of criminals has sometimes compelled us to a certain amazement, even occasionally admiration. But we are apt to forget that even in his early years the criminal 'begins small' and in all things it is practice that makes the master. The trend of his feelings and the impulses of his will are all toward crime; of course his imagination is also drawn into his sphere of feeling. Thus his thoughts are constantly occupied with the carrying out of crimes; he plays with criminal ideas and quietly trains and develops his criminal intelligence. Whereas in other useful spheres he lacks the moral impulse to develop and train his mind; in the region of crime he possesses this impulse of will. Moreover, it is especially active, because on nerves that are so disposed what is forbidden and criminal acts as a powerful, almost irresistible suggestion.

"A further incentive exists in the criminal fantasy of the individual which, a consequence of his unchecked life of instinct, conjures up before his vision bold plans, rich booty and longed-for pleasures. His moral sense and all formative images of what is useful and social being dormant, his thought processes are occupied with what is criminal alone and can excel in this province. This also explains why insane criminals exhibit greater cunning and

subtlety in carrying out a crime than we should expect of them. Their impulses of will and emotions are also easily directed toward what is criminal and develop their power of imagination in this one sphere to particular keenness. Just in the insane, so many of whose senses are dormant, is increased one-sidedness of mind possible.

"In general the criminal has little originality. He is far more given to simple imitation. He only repeats again and again what he has done from childhood up, what he has heard from kindred spirits and seen them do. Even in the region of great crimes the criminal never wears out his baby shoes. He rarely allows himself to deviate from the beaten path and then only if the situation directly requires it to a certain extent. He is not always equal to an altered, critical position. Presence of mind is not one of his prominent qualities; only in single instances are triumphs due to it reported. In innumerable cases success has hung on a single thin thread. Because the criminal has not a logical mind, but is far more a man of instincts and feelings, because lack of continuity, incoherency, superficiality and carelessness are natural to him, it is not difficult to understand that a complete plan, accurately thought out in every detail and carried out according to this systematic design, is not always his strong point. We all know that even for a logical mind it is not always easy to determine beforehand all the possibilities and details of an undertaking, or even to consider them. Human activity is universally subject to mistakes and errors, to false conclusions and the oversight of not unimportant facts. This is true of criminals' activity in a like or even greater degree. We must not believe that even the habitual criminal is free from every inward embarrassment directly before and during the time he commits a crime. The secrecy and haste with which in many cases such criminals make preparations for their deed and proceed to carry it out cannot fail to be disquieting in their effect even on natures that are already hardened and scarcely moved by moral feelings.

"The criminal, like every other mortal, is led by audacity and foolhardiness to neglect certain precautions that the prudent would advise. The consciousness of living constantly in danger lends him an assurance from which his carelessness springs. The actual carrying out of the deed has the psychological effect of distracting his attention from all matters of secondary importance. But trifles may easily betray him. This is the way in which an error in the unknown quantity may so easily enter into the calculation of even a wily criminal and it explains the numerous foolish things that criminals do. Of course, a highly intelligent man may still be a criminal character. Indeed, we even know that crime and unusual attainments may be so-called psychic equivalents that act alternately and vicariously. Poems, dramas, melodies, paintings, scientific themes and technical masterpieces may take the place of suppressed crimes in the soul of the man who produces them. In many such cases the mental attainment will be able to suppress the committal of crime. In a weak moment, when the subject is in an emotional state or owing to some external cause—temptation, a desperate situation, need—the criminal idea may suddenly break out as a deed. In fact, the carrying out of the crime may stand in close, even in the most intimate connection with the mental attainment, might possibly concur in it, thus, for instance, if, in the first case, a scientific scholar steals a rare work in a library, or, in the second case, if an author writes a meretricious book that comes under the penal law. Such a

highly intelligent criminal may indeed be able, in the preparation and carrying out of his crime, to provide against unwelcome possibilities to a great extent. His liberal education, his trained logic make it possible for him to weigh his plan much more carefully. At the same time criminals who employ such great intelligence in the carrying out of their crimes are rare, for obvious reasons. In the first place, as we have seen, high intelligence usually restrains a man from crime. If it does not he is led into crime by certain qualities of his character, emotions, instincts that, at the same time, prevent his using his intelligence. Finally, a high degree of intelligence, whether in the man of science, the artist, the technical expert, etc., is a *one-sided* development of the mind. The naturalist, the poet, the painter, may even stand below the ordinary criminal as regards practical, characteristically criminal intelligence. Their professional knowledge may be of advantage to the doctor, the jurist, the chemist in the perpetration of their crimes, just as it is to the many locksmiths who break open safes. The highly intelligent criminal does not like his inferior colleague, spend all his thought on criminal projects, for he has many other interests, and, therefore, lacks the practice and experience of the other. Hence, we see that the highly intelligent criminal, far from being more advantageously situated, in consequence of his greater intelligence. than the ordinary criminal, is frequently even at a disadvantage and is just as apt as the latter to fall a victim to errors, oversights, lack of caution and chance.

"But there is something that stands the criminal instead of intelligence and will power. That is a natural, instinctive capacity for crime. Thieves, swindlers and forgers, especially frequently possess this ability. As in other fields of human activity, so, too, in crime there is talent. In some cases we might even speak of criminal genius, if our notion of genius did not include a pronouncedly *useful* activity of mind. Nature has given this gift to some criminals in a wonderful degree. There is nothing to be learnt, to be studied. Intelligence is not the chief factor in criminal activity; common sense is naturally of value, but it, too, may come to grief. It is criminal instinct that gives a man that certainty and assurance in the carrying out of a crime that often amazes us. It has been psychologically proved that it is possible for a man to perform certain acts in a dazed condition of consciousness, but at the same time with complete assurance. Like a somnambulist walking on a roof the criminal of instinct performs his deed. In what we may simply call a trance-like condition he carries out his program, makes no mistake, overcomes all obstacles and conceals the little slips that are to be found even in his work. Thus his acts and his success are not, as we might at first believe, due to his intellect, but to his psychic condition which, it is true, can be traced back to a peculiar activity of the brain. Not till he wakes into soberness—which may be brought about by external causes, as, for instance, if he is disturbed at his work—do his capabilities decrease, for psychological reasons, does he become uncertain, incautious, foolish and even clumsy. Then he, too, is as liable to fall into criminal 'stupidity' and 'bad luck' as any other miscreant.

"That the criminal world progresses with culture is natural because it is obliged to adapt itself to every stage of culture, the accompaniment of which it is. With the greater precautions taken for safety crimes against the person decrease. With the increase of property and possessions crimes against

property become more frequent. The decrease in the use of physical power in the carrying out of crimes is balanced by a corresponding increase in deception and craftiness. Culture is constantly producing new legal rights which criminals at once choose to attack or to use as a means of crime because the novelty of the proceeding promises them success. But also in these 'new' crimes there is nearly always a combination of some long-practiced criminal tricks. In such cases the sequence of thought that must take place in the criminal's mind to connect the old method and the new immediately suggests itself and is often very simple. The progress of culture will continue to fertilize the fantasy and the intellect of the criminal. The criminal world takes into its service all technical, industrial and commercial inventions and discoveries. As long as there is cause for crime on earth it will keep step with culture. With the increasing development of intelligence in general criminal intelligence will also improve." A. A.