Journal of Criminal Law and Criminology

Volume 2 | Issue 5 Article 10

1912

Notes on Current and Recent Events

Follow this and additional works at: https://scholarlycommons.law.northwestern.edu/jclc

 Part of the Criminal Law Commons, Criminology Commons, and the Criminology and Criminal Justice Commons

Recommended Citation

Notes on Current and Recent Events, 2 J. Am. Inst. Crim. L. & Criminology 742 (May 1911 to March 1912)

This Comment is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

NOTES ON CURRENT AND RECENT EVENTS.

Massachusetts Branch Organized.—The Massachusetts branch of the American Institute of Criminal Law and Criminology has been formed, with Henry N. Sheldon, justice of the Supreme Court, as president, Edwin Mulready, deputy probation commissioner, as secretary-treasurer; and with the following as executive committee:—Dr. Morton Prince, Judge John D. McLaughlin, Arthur D. Hill, Prof. Roscoe Pound and H. H. Baker. Justice Charles A. DeCourcy of the Supreme Court presided at the meeting, and addresses were made by Chief Justice Bolster, Dr. Morton Prince, Lee Friedman, Judge Baker, Dr. Mitchell and others. The newly-formed branch will make a particular study of the methods and results of administration of punitive justice in Massachusetts.

E. A. G.

New York State Conference of Probation Officers.—One of the principal subjects debated at the fourth annual New York State Conference of Probation Officers, held under the auspices of the State Probation Commission at Watertown on October 17 and 18, was the probationary treatment of drunkards. The speakers on this topic were Miss Maude E. Miner, secretary of the New York Probation Association; David W. Morris, county probation officer of Oneida County; Thomas A. Fletcher, chief probation officer in the Utica City Court; Mrs. Rose D. Fitzgerald, probation officer in the Albany Police Court, and William J. Dempsey, county probation officer of Oswego County. It seemed to be the general belief that the use of a "pledge" in trying to overcome intemperance is seldom effective. Mr. Dempsey illustrated his remarks on this subject by referring to a case where a judge recommended that the defendant take a pledge. The prisoner replied by saying, "Now, Judge, never mind a new pledge. I have got a whole bureau drawer full of those pledges down home, and I will just go down and take one of the old ones." Opinion was divided among the speakers as to the wisdom of the "tapering-off" process. Mr. Fletcher thought that young men should usually be required to stop drinking at once, but that for older persons and especially for whiskey drinkers, too sudden stoppage might produce serious physical results. A number of speakers urged the importance of medical treatment in conjunction with the probation officer's care.

The conference was presided over by Vice-President Frank E. Wade of the State Probation Commission, who referred, among other things, to the growing use of probation as a means of requiring offenders to make restitution for property stolen and to support their families, and to the importance of having probation officers keep business-like accounts of moneys collected from persons on probation. Those in attendance at the conference, numbering about sixty, were welcomed to Watertown by Judge McConnell of the local city court. By conducting the discussions on the different subjects in a "round table" manner it was possible to hear from practically all present and to bring out a large number of points of view and experiences.

One of the topics on the program was the probationary treatment of boys and girls. Those who spoke on this subject were almost unanimous in the opin-

ion that girls should be placed only under women officers, and that boys fourteen years old or older could be handled as they should be only by men officers. Among the reasons assigned for this was that it is often the duty of a probation officer to instruct those under his or her care with reference to personal hygiene. Another point brought out was that a probation officer dealing with a boy probationer should acquaint himself with the "gang" to which the boy belongs, and should either wean him away from the gang if its influence is bad, or should endeavor to win the confidence and co-operation of the gang and to elevate its moral tone. One probation officer does this through the agency of a boys' club. It was regarded as very important that boys and girls on probation have wholesome evening recreation, and that at the same time they shall not be out late at night. Another suggestion was that probation officers should feel some responsibility for the nature of the employment in which juvenile probationers of working age are employed. Children should be dissuaded from entering occupations which offer no prospects for future advancement, or which are baneful in their effects either upon the health or morals. In other words, a probation officer should be somewhat of a vocational director.

The discussion on the collection of moneys from probationers was led by Alexander J. McKinny, chief probation officer in the Second Division Board of City Magistrates of New York City; Alfred J. Masters of the Monroe County Court, and Timothy J. Shea of the Syracuse Police Court. These and other speakers pointed out the benefits of using probation in cases of non-support of families, and in cases where the offense has caused the complainant financial loss. Mr. McKinny stated that during September over four thousand dollars was collected from husbands convicted in the Brooklyn Domestic Relations Court of not supporting their families. Mr. Masters sounded a note of caution that inexperienced probation officers should not over-emphasize the collecting of money from men guilty of neglecting their families. He felt that this class of offenders, if living with their families, should pay for the support of their families directly to the family rather than through the probation officer. Mr. Shea uttered a warning against letting criminal courts be used by boarding-house keepers and others as collection agencies for civil debts. He also set forth the advantages of permitting poor defendants to pay fines in instalments in order to save them from the imprisonment which usually follows the failure to pay a fine in an entirety at the time of sentence.

Mr. Towne, secretary of the State Probation Commission, announced that the commission was preparing to furnish probation officers with official receipts, cash books and loose-leaf ledgers for their use in connection with the collection of moneys from probationers.

On the second day of the conference a luncheon was held at which brief addresses were made by County Judge Stephens of Monroe County; Dr. Edward T. Devine of the Survey, and Brother Barnabas of the school for Catholic boys at Lincolndale. The proceedings of the conference will be published in the next annual report of the State Probation Commission. A. W. T.

The Problems of Prisons.—At the recent Annual Congress of the American Prison Association held at Omaha a special committee was appointed to investigate the conditions under which prison labor in this country is performed and to report, furthermore, recommendations at the next year's congress to be held in Baltimore with reference to the best methods to be

pursued for the control of labor in the correctional institutions of different states. Many aspects of the labor problem were presented at this congress. Reports from New Zealand were presented with respect to the success of reforestation performed by prisoners. The work of convicts without guard on a wide prison farm as conducted in Toronto was presented. Reports from the District of Columbia told of the collection of important sums from convicts on probation for the benefit of their families. Representatives from Colorado showed how nearly fifty miles of state road have been built by convicts. Throughout the sessions of this congress the feeling was widespread that prisoners should be steadily and profitably employed, but that there should be no exploitation of them by state or corporation or individual, and, furthermore, that in every case the families of the prisoners should receive some part of their earnings.

There were two other ideas which were prominent at this congress; one that there should be a rational development of recreation in prisons and other places of correction, and the other that there should be in every case provision for the careful study of the mental and physical condition of each inmate. Various forms of indoor and outdoor amusement and educational exercise were recommended, such as baseball, lectures, concerts and prison schools. As to mental and physical defectives, the testimony of specialists was strong that a considerable percentage of prison inmates are backward and deficient, and that they, therefore, require special treatment rather than ordinary prison discipline. Emphasis was laid also on the deplorable absence of statistics of crime in the United States; a lack which European investigators have repeatedly observed in this country and which has occasioned astonishment in the minds of some of them. The report of the Committee on Criminal Statistics presented by its Chairman, Eugene Smith, Esq., brought this serious deficiency strongly to the attention of all who were present. It was shown to be impossible under existing conditions to tell whether crime is increasing or decreasing or, what is of really more importance, what are the general results of imprisonment in prisons and reformatories. R. H. G.

The Parole of Life Prisoners.—At the same meeting of the American Prison Association in Omaha Attorney-General George W. Wickersham was one of the principal speakers. The subject matter of his address was the parole of federal prisoners. He pointed out that the statutes in some of the states make life prisoners eligible to parole when they shall have actually served a long term of years, such as 35 years, less good time allowances in Minnesota; 25 years in Montana, Nebraska, Ohio and Utah; 15 years in Louisiana and Virginia; 10 years in Texas, and 7 in California. Under the federal statutes a prisoner who has been sentenced to 30 years' imprisonment for the crime of rape, one who has been sentenced to 21 years' imprisonment for kidnapping or 10 years' imprisonment for manslaughter are all alike eligible to parole. He thinks it is probable that no greater moral degeneracy is involved in the commission of the crime of murder in the second degree, for which a life sentence is imposed, if there is as much as in the crime of rape, and if the law-making power considers reformation and reinstatement in society possible in the case of one who has been convicted of rape, it is difficult to say on what principle the same possibility and hope of

reformation and liberation should not be extended to one who is guilty of murder under circumstances that are not punishable by death.

Mr. Wickersham had for some time been collecting statistics from the federal parole boards with a view to making at this meeting of the association an interpretation of the meaning of the statistics. The experience under the federal law, he thinks, amply justifies him in his past advocacy of parole. Out of 207 federal prisoners paroled during the year ended June 30, 1911, but one has been returned to prison for violation of his parole. The resolutions of the International Prison Congress adopted last year recommended a parole board made up of "at least one representative of the magistracy, at least one of the prison administration and at least one of medical science." The Attorney-General believes that no prison official should be made a member of such a board lest such an arrangement should disturb the relations between him and his prisoners. The following quotation sums up the address of the Attorney-General:

"On June 30, 1911, the federal parole boards had considered applications of 674 eligible prisoners. Paroles were recommended in 234 cases, and all but twenty-seven of these were approved by the Attorney-General. Paroles were refused in 440 cases. Four prisoners refused paroles granted to them. Though this is the record of an incomplete year—for the system was not put into effective operation until the fall of 1910—reports made by paroled prisoners show that the aggregate sum of their earnings during that portion of the year remaining after their respective discharges was $21,881.40.

"Of the paroled prisoners twenty-three were convicted of stealing from the United States mail; twenty-two of violations of the internal revenue laws; sixteen of counterfeiting; six for passing counterfeit money and one for having possession of counterfeit money; fifteen of embezzlement of national bank funds; twelve of violations of national banking laws; ten for using the mails for fraudulent purposes; eight of manslaughter; four for embezzling money-order funds and four of larceny; three for each of the offenses of violation of the postal laws, obtaining money under false pretenses, defrauding the United States customs, selling liquor without a license, assault and robbery; two for each of the offenses of bigamy, forgery, illicit distilling and photographing United States money; and one each for each of the offenses of breaking into a postoffice, impersonating a United States officer, resisting arrest, wrongful conversion of postoffice funds, selling liquor to Indians, introducing liquor into the Indian Territory, rape, kidnapping and mutilating United States coin." R. H. G.

Indeterminate Sentences.—On October 21 the new law relating to the indeterminate sentence went into effect in the state of New Jersey. It is known as Chapter 191 of the Laws of 1911.

Under this bill, even the man sentenced for life for the crime of murder knows that when twenty-five years shall have passed he can be sent into the world if the prison board approves. He must stay in jail until death releases him, unless he should gain the favor of the pardon board.

Under the new law a Judge cannot sentence a man to more than one-half of the limit of the penalty for his crime. At the end of the sentence term of one-half the penalty the head keeper of the state prison sits with the inspectors and canvasses the matter. If, in their opinion, the man is ready

to go out into the world and become a decent, self-respecting citizen, they can open the door. If, on the other hand, they conclude that he is unfit to return to society, they may keep him in up to the full extent of the penalty, thus in effect adding double time to the sentence imposed by the trial Judge.

Every man who is released under this law is placed on probation for the remainder of his term. One result of the law will be that the murderer, the burglar and the professional thief will serve a longer time in prison than hitherto, while the man who committed a crime in a moment of passion or temptation will be more equitably treated than heretofore. R. H. G.

Prison Population.—Doctor J. A. Hill, Chief Statistician for Research and Results in the Census Bureau, has submitted to Acting Census Director Falkner a preliminary account of the population in institutions, such as prisons, alms houses, etc. A summary of the report for the year 1910 follows:

According to this preliminary count the prison population on Jan. 1, 1910, was 109,311; the admissions or commitments to prisons during the year 1910 were 462,530, and the number of prisoners discharged during that year on account of expiration of sentence, or other reasons, including also deaths, was 458,996.

The last previous census of prisoners was taken June 30, 1904, and at that time the prison population was 81,772, and the admissions or commitments during that year, 149,691. These figures, however, are not comparable with those for the year 1910, for the reason that the 1910 enumeration included cases of imprisonment for non-payment of fine, while the census of 1904 did not include such cases. Accordingly the marked increase in prison population, and especially in commitments, does not reflect an increase in crime, but is largely accounted for by this difference in the scope of the two censuses. The Census Bureau will be able later to segregate from the 1910 figures the cases of imprisonment for non-payment of fine, and thereby obtain a figure which will be fairly comparable with the enumeration of six years ago. The larger number of admissions reported, as compared with the population present on January 1, is indicative of the fact that a large proportion of the commitments are for short sentences and for minor offenses. In the final census report the prisoners will be classified with reference to the offense for which sentenced and the term of sentence imposed.

The number of juvenile delinquents reported at the census of 1910 in institutions for that class was 22,903. This differs but little from the number reported in 1904, which was 23,034.

The number of paupers in alms houses on January 1, 1910, was 83,944. The number admitted during the year 1910 was 106,457, and the number discharged or dying during that year was 100,858. In 1904 the pauper population was 81,764 at the beginning of the year; the admissions during the year were 81,412, and the discharges or deaths, 77,886.

The enumeration of the insane in asylums indicates a very striking increase in this class of the population. In 1904 the number of insane in institutions was 150,151. In 1910 this number had grown to 184,123, an increase of 22.6 per cent in six years. The number of commitments to insane asylums during the year 1904 was 49,622 and during the year 1910 was 59,628, an increase of 20.2 per cent.

In 1904 the feeble-minded in institutions numbered 14,347; in 1910 the number

was 20,199. The number of commitments to institutions for this class increased from 2,599 in 1904 to 3,848 in 1910. R. H. G.

The Pardon of Capt. Hains.—Under the above title the Springfield (Mass.) *Republican* recently made the following editorial comment:

"We can make little progress toward either a suppression of the 'unwritten law' or the abolition of capital punishment when the pardoning power acts as does Governor Dix of New York in the Captain Hains case. The killing of William E. Annis three years ago by Captain Hains was a premeditated and cowardly murder. There was provocation, but no more than obtains in the usual cases which have appealed for justification to the so-called unwritten law; no more than obtains in the mob murders which are the disgrace of the country. It was a bold dislodgment of the state from its own assumed functions and a lawless recovery of individual action under the old rule of private vengeance. And all this is now condoned by the state of New York through the pardon by Governor Dix.

"Hains never would have gained this privileged consideration but for a devoted father of influence, who has worked day and night to move the pardoning power away from its cold, just duty. It is always so with the abuses of this power, and the fact is enough to discourage even the most devoted advocates of abolition of the death penalty. Practically every murderer has his relatives and friends, and with the pardoning power of the state so easily moved as this, what safety have we in mere imprisonment of murderers as a substitution for their removal from society beyond all power of recall? No matter how atrocious the murderous crime, these relatives and friends are certain to become active sooner or later. They will not keep their private griefs and afflictions to themselves. They will insist upon making the public share with them as a force with which to stir executive pity and move executive clemency. Their much coming wearies people into yielding to their petition, and if this can suffice to weary also the pardoning power into yielding, as it so often does, how is headway to be made with the movement to do away with the death penalty? Clearly the pardoning power of the states will have to be placed under new restraints if capital punishment is not to remain." A. W. T.

Protecting the Health of Prisoners.—In a recent issue of the Journal of the American Medical Association is an interesting comment under the above title. An examination of all arrivals at the New York State Reformatory at Elmira since November, 1910, revealed diphtheria bacilli in more than 80 out of 920 prisoners admitted. The isolation hospital had constantly to be maintained. In pursuit of an attempt to eliminate this source of affection the Judge obtained an opinion from the Attorney-General of the state and instructions from the State Commissioner of Health which may involve far-reaching consequences in relation to rights of prisoners and the duty of the State toward them.

The Attorney-General expressed it as his opinion that "the health of prisoners sentenced to reformatories is as much a part of the public health, and they are entitled to as much protection from contagious disease, as any other portion of the public," and that it was up to the State Board of Health to take such steps as were necessary. On this opinion the Commissioner of

Health instructed the Superintendent of the Reformatory to notify jails or penal institutions that before being sent to the Reformatory prisoners must be examined to determine whether or not they are suffering from any infectious or contagious disease. The Superintendent accordingly issued such instruction and required that, in addition to a general examination for such diseases, a throat culture must be taken and a certificate of health attached to the commitment. It will be seen that the right is recognized of a prisoner to demand protection of his health either from inmates with whom he is compelled to associate more or less closely, or from insanitary, unhygienic conditions in the prison itself, either from its manner of construction or from defective care, or from infection of the surroundings by diseased inmates, for which he no doubt might invoke the aid of the courts. It is asserted that many penal institutions, particularly the older ones, are hotbeds of tuberculosis, and that a long term in them means almost certain infection. The possibility of other infections is shown in the instance of diphtheria in the Elmira Reformatory. R. H. G.

Resolutions by the New York Conference of Charities and Correction.—This Conference adopted three resolutions with reference to the treatment of delinquents in New York. One resolution urged that the State Probation Commission be empowered by legislative authority to exercise general supervision over the parole work of state penal and reformatory institutions; another, repeating the recommendations made by previous conferences, called upon the Legislature to establish a state reformatory for male misdemeanants between the ages of sixteen and twenty-one years; a third recommended that the state custodial asylums for the feeble-minded be empowered to take over the care of feeble-minded persons now in correctional institutions. A. W. T.

Alleged Reason for So Many Murders in Georgia.—In the November issue of *Law Notes* we find the following:

"In *U. S. v. Gibson,* 188 Fed. 397, an application for supersedeas after conviction for burglary of a postoffice, Judge Speer of Georgia incidentally referred to a section of the Georgia Code as a fruitful cause of delay in the administration of criminal justice in Georgia, and then remarked: 'That, and perhaps the provision known as the "dumb act," which prevents the court from stating what has been proven, even though it may not be in the slightest dispute, from intimating an opinion as to the facts, whether they are in dispute or not, are perhaps of all others the most fruitful reasons why the condition of our state is so lamentable in so far as the criminal laws are involved, and perhaps explains why every year there are many more murders in the state of Georgia, with its less than 3,000,000 population, than there are in Great Britain and Ireland, with more than 45,000,000 population.' So far as Judge Speer attempts to make the 'dumb act' responsible for the prevalence of unpunished murders in Georgia we disagree with him. Volume 135 of the Georgia reports shows that from August, 1910, to March, 1911, six or seven months, the Supreme Court affirmed twenty-two convictions for murder and reversed eleven convictions. We can discern no relation whatever between this big percentage of reversals and the Georgia 'dumb act.' Moreover, it was less than a year ago, if we are not mistaken, that Judge Speer begged a federal grand jury of Georgia citizens to bring in an

indictment against some men accused of maltreating negroes, and upon their refusal to do so he was unable to restrain his tears. If the accused men ought really to have been indicted and punished, surely the state 'dumb act,' which could not and did not deter the federal judge, was not to blame for the failure of justice." R. H. G.

The Georgia "Dumb Act."—The following is taken from the November issue of *Law Notes*:

"The statute which Judge Speer termed the 'dumb act' is Section 1058 of the Georgia Code of 1911, which provides as follows: 'It is error for the judge of the Superior Court, in any case, during its progress, or in his charge to the jury, to express or intimate his opinion as to what has or has not been proved, or as to the guilt of the accused; and a violation of the provision of this section shall be held by the Supreme Court to be error, and the decision in such case reversed, and a new trial granted, with such directions as the Supreme Court may lawfully give.' From the marginal note to the section we infer that the provision was originally enacted in 1850. Similar statutes have existed for a long time in many states. It is pretty certain that the legislators distrusted the ability of the judges to give sterling advice to juries in the matter of determining questions of fact. 'Juries take a common-sense view of every question, according to peculiar circumstances, whereas a judge generalizes and reduces everything to an artificial system formed by study,' was the testimony of Judge Pearson of North Carolina in *State v. Williams*, 2 Jones L. (47 N. C.) 257, 269. The writer of an article in *Law Notes* a few years ago said that the intellectual degradation to which a judge may be brought by parrot-like repetition of ill-considered judicial statements concerning positive and negative testimony, for example, may equal the moral prostration of some minds under the malign influence of shocking religious superstitions, and may be as dangerous to the life or liberty of innocent persons. 'If anyone doubts it,' he continued, 'we invite him to read the charge of the trial judge to the jury as reported in *Innis v. State*, 42 Ga. 473, where the jury, relying on the judge's instruction, convicted the defendant of a capital offense, but the conviction was set aside by the Supreme Court.' Even a Lord Bacon, 'the Columbus of thought,' on the bench, might well remain dumb in the presence of a William Shakespeare, 'the Stratford peasant,' on the jury, when the value of human testimony was to be estimated.

"Nevertheless, we concur with President Taft, Judge Speer and numerous other jurists in the opinion that a judge ought to have the liberty, as at common law, to give to a jury the benefit of his observations and reflections in the determination of questions of fact. The jury will not necessarily echo the sentiments of the judge. With impressiveness surpassing any similar instruction that we have ever read, Judge Betts expounded to a jury in *U. S. v. Osgood*, Fed. Cas. No. 15,971*a*, the maxim *falsus in uno, falsus in omnibus*, as applied to the principal witness for the government. But the report concludes: 'The jury found the prisoner guilty upon the whole indictment.'"

R. H. G.

Modern Evidence as to Bloodstains.—The remarkable advance in the part played by science in the detection of crime, as evidenced by the institution of the new serological laboratory in connection with the Royal Institute

of Public Health, London, has been practically exemplified in a murder case heard at the Old Bailey. Certain bloodstains were found on the accused person, and Dr. Willcox, the celebrated analyst, was able to state definitely they were the marks of *human blood,* and further that the person from whom it came was *anæmic.* Until lately all that a doctor could swear to, if he made a test of blood, was that the blood was that of a mammal, or of a fish or a reptile. Now doctors are able to be more specific and they have for the first time justified in court more detailed statement.

To quote from the *Justice of the Peace:* "At the Central Criminal Court, before Mr. Justice Darling, George Baron Pateman, 33, gardener, was charged with the willful murder of Alice Isabel Linford.

"Evidence was given that Pateman was engaged to be married to the woman, a parlormaid in a situation at North Finchley. On April 23 he met her and her sister and said he had come to wish them a last good-by. The next day he wrote to her, asking her to meet him on the following Sunday evening. Shortly before 11 a fellow servant discovered Alice Linford with her throat cut. She died shortly afterwards without speaking. On the path outside the kitchen a bloodstained razor was found and identified as belonging to the prisoner and extensive bloodstains were found on his coat. The defense raised on behalf of the prisoner was that of temporary insanity. He said he had no recollection of the deed.

"Mr. Justice Darling stated, in summing up, that until the medical discovery recently made in regard to bloodstains, all the doctors could say was, 'This is the blood of a mammal or it is the blood of a fish or of a reptile.' Now, however, doctors were able to say for certain by tests whether it was the blood of a human being or some other mammalian creature. This was the first case in which they were told that it had been established in a court of justice that as distinct from the blood of another mammal this was the blood of a human being. But it went further than that. There was evidence that the blood on the prisoner's coat was the blood of a person suffering from anæmia, and the dead girl had been attended for anæmia. Therefore the inference was that the bloodstains on the prisoner's coat were her blood.

"The jury found the prisoner 'Guilty,' and sentence of death was passed."

R. H. G.

How Criminals Are Tried in Italy.—In "Case and Comment," for October, 1911, we have the following description of the method of criminal trials in Italy:

"The reports in American papers of the trial of the Camorrists at Viterbo have made many people wonder if there is any system at all about criminal trials. There is a system, and a very simple one, though utterly different from that which governs procedure in American or English courts.

"The trial takes place before three judges and a jury, to which are added a certain number of extra jurors who are sworn and are present in court to hear the testimony, and are held ready to take the place of any juror who may become incapacitated. The depositions of all the witnesses have been taken in writing and signed before the trial begins. Each of the judges has a copy of these before him. The prosecutor and the counsel for the accused furnish to the court a list of the witnesses they desire called, and these are all summoned by the court, which has power to punish non-attendance.

"The first thing that happens when the trial begins is the questioning of the accused by the presiding justice. In Italy, as in most of Continental Europe, a man accused of a crime is considered by the law to be the very best witness to his own guilt or innocence. He is the first and most important witness. He is allowed the widest scope in defending himself. He has a right to tell his own story and to offer anything he can in the way of justification or palliation; even hearsay evidence is admissible. The judge has absolute discretion as to what testimony may be received and what excluded.

"When the accused has given his testimony, he is confronted personally with his accuser. The accuser is necessarily the principal witness against him. Strictly speaking, the prisoner has no right to interrupt his accuser while the latter is telling his story, but in practice the judges permit it, and the confrontation sometimes becomes a three-cornered debate between accuser, accused and judge, the latter giving the accused the widest leeway to demonstrate his innocence." R. H. G.

Selection of Probation Officers in Syracuse.—The Civil Service examination which the New York State Probation Commission gave to candidates for the position of Chief Probation Officer is of wide significance. A credit of fifty per cent was allowed for the written portion, twenty per cent for age, education and experience and thirty per cent for personality and character, judged by an oral interview and by outside inquiries. Thirteen men took the examination and all were of a high type. Mr. Timothy J. Shea stood first on the list and received the appointment. He has been Superintendent of the largest recreation center in Syracuse. As Chief Probation Officer he will deal with both adult and juvenile offenders and will supervise the work of volunteer officers. The questions for the written examination are published here in full:

1. "State in your own language (a) the nature, objects and advantages of probation; (b) the classes of persons for whom probation is especially suitable.

2. What are the powers and duties of probation officers?

3. Assume that a thirteen-year-old boy, convicted of playing baseball on private grounds, is transferred by the court to your probationary care, after being on probation for one month under a volunteer probation officer who reported to the court that the boy failed to report to him promptly as he required, and who made other criticisms of his conduct; assume that the boy lives in a three-room apartment in a congested district; that his father, a painter who shows some signs of lead poisoning, is fretful and has lately been drinking to excess; that the father occasionally sends the boy to a neighboring saloon for beer; that the mother, who has two other children, is a good housekeeper and fond of her children; that the boy is bright in school, peddles papers, is a leader among his boy companions, but is inclined to be impudent. State what steps you would take after receiving the boy on probation, and how long you would wish to keep the boy on probation.

4. Enumerate and discuss some of the chief causes of (a) truancy; (b) petty thieving among boys; (c) public intoxication among men; (d) failure of husbands to support their families.

5. (a) What are the purposes of the preliminary investigations made by probation officers before defendants are placed on probation or their cases are otherwise disposed of by the court? (b) Assume that in investigating the

case of a young man, convicted of stealing and pawning an overcoat which belonged to a commercial traveler, you receive a report from an anonymous source that the defendant has been arrested before, and you also receive a telephone call from a well-known citizen who states that he has known him very favorably for several years; assume further, that the defendant has a comfortable home and good parents; that he had been unemployed for about one month; that he has been engaged to be married for two years; that he has indications of tuberculosis. After assuming any supplemetary facts you may desire, state what inquiries you would make; and whether in your judgment the young man should be placed on probation, and if not, what disposition by the court you would consider desirable. Give the reasons for your conclusion.

6 (a) By whom are probation officers appointed? (b) What qualifications should probation officers possess? (c) Discuss the advantages and disadvantages of using volunteer probation officers.

7. (a) Why should probation officers keep records and make reports? (b) State the principal facts which their records and reports should show; (c) what records, accounts, statistics and information should be kept by the chief probation officer which other probation officers are not expected to keep?

8. Assume that a fourteen-year-old girl, living in a lodging-house, where her mother is employed as a cook, is convicted of stealing a mask on Hallowe'en Day; that the father, who died last year, left the mother $1,000 insurance; that the girl is large of her age and goes a great deal with a girl sixteen years old; that she has frequent headaches, especially after reading; that she is fond of music; and that her mother declares her to be untruthful. State (a) whether in your judgment the girl should be placed on probation and the reasons for your answer; (b) if she were to be placed on probation, what sort of a person would make the best probation officer; and (c) what probationary treatment you would suggest.

9. Assume that an unmarried foreigner, twenty-seven years of age, who has lived in the United States less than one year and who speaks very little English, is convicted of peddling without a license and being abusive to a policeman and is placed under your probationary care for not less than six months; that in his native country he was a gardener and florist; that he has been unemployed much of the time lately, and has borrowed money from one of the two fellow-countrymen with whom he lives in a single room; that a few hours after being placed on probation he strikes a boy for ridiculing his appearance. State what you would aim to accomplish, and what means you would use.

10. Were you to be appointed chief probation officer, how would you expect to develop and strengthen the probation work in Syracuse?" R. H. G.

Massachusetts State Penitentiary.—During the recent session in Boston of the American Institute of Criminal Law and Criminology, at the request of Rev. H. W. Stebbins, chaplain of the Massachusetts State Prison, Mr. W. O. Hart, a member of the advisory board of the Institute, Judge J. W. Mack, now a member of the new Commerce Court at Washington and formerly judge of the Juvenile Court of Chicago, and Mr. Amasa M. Eaton, one of the commissioners on uniform state laws from Rhode Island, visited the prison and were marveled at what they saw there.

The prisoners do not wear stripes while within the grounds of the prison

and were allowed almost perfect freedom therein. Their working hours were limited to less than seven hours per day, and they were allowed to use part of their additional time for extra work, for which they and their families received compensation, the total amount raised in this way last year being over $5,000. Most of them have separate cells, but, under some circumstances, two are allowed in one cell. Many are engaged in the making of shoes, trunks and mattresses for the inmates of other institutions of the state. A fine library is maintained and there is also a complete educational system by which the prisoners learn everything from the alphabet up. The three visitors were specially invited to address the class of teachers, formed from the inmates of the penitentiary, of which the president happens to be a young lawyer, these men—thirty or more in number—from their peculiar fitness being selected to give instruction to the others. The classes are held once a week, when addresses are given by such visitors as find time to go there.

There are quite a number of life-term convicts in the penitentiary, but so far as appearances are concerned there is no difference in their treatment and that accorded to the others.

The visitors pronounced the prison a model of its kind and quite a contrast to the city prison, where conditions were pronounced by Mr. N. W. MacChesney, the retiring president of the Institute, as deplorable.[1]

[1]From W. O. Hart, New Orleans.

Recent German Literature on the Psychology of Criminology.—From the able summary of Professor Aschaffenburg (Zeitschrift für die gesamte Strafrechtswissenschaft. Band 31. Heft 7): The elaborate plans for revision of the German Criminal code have developed much critical literature bearing, from various points of view, on the whole subject. The Commission on Juridical Procedure of the German Psychiatric Society has published its findings in a special volume. (Bemerkungen zum Vorentwurf des Strafgesetzbuches. Jena, Gustav Fischer 1910.)

Dipsomania and drunkenness are treated of in relation to the criminal code by Stier. (Archiv für Psychiatrie, 47, I.)

Criminality in the young is treated of by Schultze (Grenzfragen des Nerven und Seelenlebens, Heft 72, Bergmann, Wiesbaden 1910) and Moenkemoeller (Arch. Krim. Anthr. 40,246). The latter emphasizes the large number of physical and mental defects which one finds among delinquents.

Baginsky has published a work on the value of children's testimony for legal purposes. (Die Kinderaussage vor Gericht. Berlin, Guttentag 1910). He comes to the conclusion that children are very faulty witnesses. On the other hand, Zingerle has given us a paper on the forensic relationship of senescence. (Arch. Krim. Anthr. 40, I.)

A very complete work on suicide has been produced by Huebner (Uber den Selbstmord. Jena, Gustav Fischer 1910), and a lesser one on the same subject by Schultze. (Halle a. S., Marhold 1910.)

Sexual criminals are treated of by Wulffen. (Bd. VII. der Enzklopädie der modernen Kriminalistik. Berlin 1910.) A work devoted to the forensic relationships of examination of the blood has been produced by Leers. (Die forensische Blutuntersuchung. Berlin 1910, Julius Springer.)

Klein has published the second edition of his work on the management and procedure of Prussian prisons. (Die Vorschriften uber Verwaltung und Strafvollzug in den preussischen Justizgefängnissen. Berlin 1910.)

Pollitz has a work on criminals and punishment. (Strafe und Verbrechen, Aus Natur und Geisteswelt Nr. 323. Leipzig.)

Philippi offers a volume on workhouses. (Auf der Insel. Berlin-Schöneberg, 1910. W. H.

Professor Antonini on the Lombrosian Theory.—Prof. G. Antonini, director of the insane asylum of Udine, Italy, contributes an article to the "Archivio di Antropologia Criminale, Psychiatria e Medicina Legale," a periodical founded by Cesare Lombroso, which is a reply to an article written by an Italian lawyer for the "Lupa" of Florence, in which the latter writer, according to Prof. Antonini, gives it as his personal conviction that the Lombrosian theory of crime is inconsistent, erroneous, and destined to perish. Lombroso, the lawyer continues, limited his investigations to legal criminality. He made no incursions into the domain of acts which are perverse and harmful from the point of view of natural right, but which still remain outside the pale of the criminal law. He studied only the known criminals, the imprisoned, but he neglected the unkonwn, the unpunished, the moral criminals who are at large.

When all tongues speak of a man, if there is not Babel there are at least some discordant notes. But the charge Prof. Antonini brings against the writer in the "Lupa" is a serious one. He doubts how anyone could read "L' Uomo Delinquente" without bringing away ideas totally different from those this iconoclast has taken away. "Not only did Lombroso not take into account the uncaught and unimprisoned, but he encompassed only Italian legal criminals, and paid no attention to environment!" This, the writer in the "Archivio" disputes. He regrets that the same charges that were brought against Lombroso in the 70's still reign in some minds. Lombroso embraced every social class, every manifestation of human activity, studied every side of the prism of criminality. He did not make bare and barren measurements of the cranium; he illuminated these measurements by the light of the political and economic structure of the society in which the individual under observation lived, moved and had his being. What, in a word, is the doctrine of Lombroso? The criminal is the natural and necessary product of a long series of miseries, tortures, and moral and physical violences, which through successive ages become finally fixed in degenerative characters. The criminal is, therefore, not a bad man, but a sick man. We do not consider him who has inherited syphilis a criminal. Indeed, we hardly consider him who himself has acquired it, of his own free will, as the phrase is, a criminal. We treat him for his disease,—we do not incarcerate him for his moral obliquity. And this latter proceeding seems to the writer of this note to be an unconscious tribute to the force of circumstances, the overweening power of heredity and the economic environment of the individual. Passion is brutal, beastly. We all admit that. But the majority of law-makers still act under the instinct that passion is so strong and that opportunity is so tempting, that the man who goes out to satisfy it is to be excused.

This doctrine certainly leaves room for the reformation, the complete redemption of the criminal. Lombroso himself shows that as soon as special criminal tendencies manifest themselves they may be gripped, and be made useful in the doing of altruistic things.

Lombroso does study criminals other than Italian ones. "Let the gentle-

man," says Prof. Antonini, "turn to 'L' Homme Criminelle,' and he will see spread out before him pictures and tables of German, Russian, French, American and even African criminals."

"To prove that the theory that the criminal is a patient has the force of truth to be applied even by those who declare they are not followers of Lombroso," says the writer, "I give the following facts: In the State of Colorado, U. S. A., a Mr. Tynan, warden of the State prison at Canon City, a man who is not a Lombrosian, but on the contrary, one who believes that all criminals are occasion-criminals, obtained splendid results, so far as the discipline and the conduct of the prisoners went, by changing from the old habits of brutality and violence which had been prevalent in Canon City to humane and liberal measures of assistance, procuring for the prisoners work in the open, pleasure-walks, conditional liberty, good treatment, in short, by making a jolly prison." R. F.

Report of the New York Prison Association.—The sixty-sixth annual Report of the Prison Association of New York deserves a whole number to itself. The Association asks New York legislators to consider the need of:—

"1.—A reformatory for young misdemeanants" (that is, minor offenders; Elmira and Napanoch are for felons on first conviction).

"2.—A farm and industrial colony for the compulsory detention, reformation and education of habitual tramps and vagrants.

"3.—One or more hospitals and farm colonies for the treatment of inebriates.

"4.—A State institution, or wards in present State institutions, for the adequate treatment of feeble-minded or backward delinquents convicted of crime and found to be unfit for existing prison or reformatory treatment." (p. 13.)

On the cover under the title in large capitals, and repeatedly referred to in the Report, is the International Prison Congress resolution:—*"No prisoner, no matter what his age or past record, should be assumed to be incapable of improvement."*

"The above resolution seems self-evident," they remark, "but many institutions are administered as if reformation were a practical impossibility." (p. 33.)

With regard to parole or after-care they say (p. 36):—"It has hardly yet dawned upon legislators or upon citizens in private life, that the most crucial period of a prisoner's life is that following imprisonment, rather than imprisonment itself."

In advocating "special public institutions for the treatment of habitual criminal drunkards," they add (p. 47): "Such institutions are successful in England." This is news to us. We were under the impression that, as our courts were only empowered to send almost hopeless cases to the inebriate reformatories, and there being, moreover, no proper system of after-care, the public inebriate institutions were not a great success. New York should soon be much better off, for we read on the same page that they have passed a Bill which provides "for the establishment by a board of inebriety of one or more hospitals and agricultural colonies for the more permanent treatment of the inebriate." They add, however, that "no person should be committed to any institution until every means for his restoration has been exhausted. A comprehensive probation system was provided for by the Bill." R. H. G.

Mr. John Galsworthy on Prison Reform.—Mr. Galsworthy writes in the *London Times*:

"The measures of prison reform outlined by Mr. Churchill in his speech on the Home Office Vote are proposals for which the country should be profoundly grateful to the Home Secretary and the Prison Commissioners. These changes are one and all inspired by imagination, without which reform is deadly, and by common sense, without which it is dangerous. We may possibly hear in connection with them the words humanitarian and over-lenient, but there are three plain facts habitually overlooked by those temperamentally inclined to this form of criticism—the first, that no useful reform was ever made without being at the start impugned for humanitarianism; the second, that criminality decreases steadily as penal methods become less cruel and more reformatory; the third, that the efficacy of punishment in reducing the ranks of the criminal and loafer is as nothing beside the efficacy of improved social conditions in general. * * * *

"No member of the upper or middle classes at all conversant with the life of the class from which the overwhelming majority of our youthful criminals are drawn can in common decency advocate vengeful methods of dealing with those who for the most part have never had a tenth of the chance that he or his own sons have had. The Home Secretary is now laying down the principle that the young shall not be punished except for their good; and it will be the most astonishing thing in the world if that principle is not generally accepted with acclamation. The proposition that no youth shall be sent to prison for less than a month, moreover, deals a wholly admirable blow to the grave evil of the happy-go-lucky three-day, six-day, ten-day term of imprisonment, that perfect incubator of the criminal germ. When these proposals for dealing with youthful offenders come to be developed in the form of an Act of Parliament it is to be hoped that the authorities will extend them so as to embody the general principle that no first offender of any sort or age shall be committed to prison, except under some form of the Borstal treatment. For, though there are, no doubt, many first offenders to whom this form of treatment will not be suitable, there are an infinitely greater number of cases to which Borstal treatment will be more suitable than treatment under the present system. The justification of a system is that it should be the right system for the majority. In other words, I would plead with the authorities to believe in their own admirable child even more than they do. We can hardly be too grateful to Sir Evelyn Ruggles-Brise for having initiated the Borstal system, or show our gratitude better than by begging for its extension.

"At the other end of the scale, the linking up of the prisoners' aid societies, the establishment of a central agency which will take direct charge and guidance of the discharged prisoner, and the Government grant in aid are all most excellent proposals so far as they go; but how far they can be made to go must still depend largely on the generosity of a public inclined, perhaps, to forget that gratitude is amongst the most potent guarantees of conduct.

"In reading *The Times* report of the Home Secretary's speech it would appear that there were present some gentlemen inclined to laugh at the notion of lectures and music in connection with prisoners. There is a school of thought in this country which seems to consider it needful to suppress in convicts all mentality and spirituality, and to force their generally strong individualities into a sort of sullen backwater. This is the main and secret root of recidivism. And

I had hoped that, in addition to such good palliatives of this sullen desperation as occasional lectures and music, the authorities would have seen their way to suggest that convicts should have it in their power to earn greater remission of sentence than at present, by additional hard work initiated by themselves and sustained voluntarily. At present it is a curious fact that the discharged prisoner rarely follows outside prison the trade which he learns within; and this would seem to be because it has not been connected in his mind with his own initiative and the self-respect which a man gains by independent achievement.

"The reform of separate confinement does not, in my belief, go far enough, but it goes, no doubt, as far as can be expected at the moment, in face of the uncanny faith and attachment with which this species of punishment has so long been regarded.

"When last year I talked privately in their cells with sixty convicts undergoing various terms of separate confinement in collecting prisons, I came across one man (and one only) who, though suffering, was convinced that his suffering was making him a better man. He had then served about fourteen weeks of his six months' "separate," the beginning of a sentence of five years' penal servitude, his first imprisonment. During this talk he showed himself so pitifully broken up at the thought of what he would have to face, being friendless, at the end of his sentence that no one could very well have helped promising to stand by him when he came out. Correspondence followed. The first letter, written from Portland soon after he arrived there (having completed his six months' separate in the collecting prison), contained the statement that he had been very ill. In the second letter, written after six months of Portland, occur these words: —'I am very thankful to tell you that my health is very much improved and that I am beginning to feel quite another man, and I feel stronger, and *my mind has become quite clear again.*' (Italics mine.) I have cited this because it is a quite unconscious piece of evidence of the effects of separate confinement on one who, alone among sixty, felt that the process was doing him good.

"The removal of so many thousand months of ineffectual suffering will cause a sigh of relief and gratitude to go up from those who, in their free lives, have found it at all possible to reflect on what it has meant to a thousand or so of their fellow-creatures every year to be shut up twenty-three hours out of twenty-four in a space thirteen feet by seven feet, for three, six, and nine months on end. The small percentage (in my experience eight in sixty) who for one reason or another prefer to be secluded will apparently not be debarred from seclusion under the new regulations.

"The suggestion that the working of the Preventive Detention Act should be very closely watched seems obviously wise; for the spirit of that act is a lazy spirit, which top-dresses the evil instead of attacking it at the root. The act encourages us in fact to go on making recidivists because we have a handy means of dealing with them when made. The act has its good points, but it has the very bad one of crowning all that is unsatisfactory in our prison system.

"To sum up, the whole scheme of reform constitutes an attempt, such as we have not seen in our time, to diminish criminality, and the waste and suffering entailed by criminality. It stamps the administrators responsible for it with the hall-mark of foresight. In connection with the Borstal system, and probation, it is the beginning of a new state of things. I say the beginning, for manifestly these are the allied lines of progress. It forms, in fact, a kind of charter of

common sense, and if in the future there arise administrators wishful, perhaps able, to go back on this charter, they will assuredly deserve but poorly of their country." R. H. G.

The Borstal System.—Members and friends of the Borstal Association in America should procure the latest report from 15 Buckingham Street, Strand, London. An attractive feature of the Borstal system is that it is experimental and progressive:—

"Something different from prison has . . . to be sought for," says this last report (p. 8), "and it is the aim of Borstal Institutions by patient experiment to discover that something. They aim at treatment which will not check but assist development, whilst it teaches young people to control themselves, to realize and develop their latent powers of body and mind, and to look forward with hope to a useful life when they pass out into the open again."

Further on we read (p. 7):—

"Whilst it may be said with some truth that Borstal Institutions are the only places of detention in England in which really hard labor is performed, it is a stimulating and educative hard labor, and the whole atmosphere of the place is quite different from that of the ordinary prison, just as the appearance and bearing of the lad is quite different from that of prisoners."

Here is a paragraph (p. 9) worthy of the serious consideration of magistrates:

"In the Reformatories of England and Wales, to which are sent boys and girls under sixteen years of age, who are presumably less difficult material than the older cases sent to Borstal, the average sentence is just short of three years. Yet in Borstal Institutions, more than half the inmates are sent for a period not exceeding eighteen months. It is, perhaps, not generally known that a lad sent to a Borstal Institution may be released on license at any time after the first six months, a girl after three months, and that this power of licensing is freely used, so that only the incorrigible, or those who are sent for short periods, serve their whole term of detention."

The supervision after release continues to the end of the term of the sentence. The pity is that those who complete their sentences in the Institution can only be kept under supervision for six months longer.

R. H. G.

Prison Reform in Japan.—Mr. T. Sanagi, Commissioner of the Prison Bureau of the Japanese Department of Justice, is the author of an article in the *Survey* of November 5, dealing with the progress of the movement for reform of the criminal law and prison administration of Japan. In 1872, he says, the principle and course to be adopted in the treatment of prisoners were for the first time defined and at the same time the essential point of prison government was indicated in the following terms: "The prison should be a place for the treatment of men with humanity and not with cruelty; it should be a place for correcting them and not for inflicting pain upon them." Three years ago the criminal code was revised with a view to insuring the effective enforcement of penalties, and the prison law was passed.

"With regard to the results of the enforcement of the revised criminal code and the prison law," he says, "it would be premature to speak with confidence as

the enforcement is still of a recent date; but if we were to compare the number of persons convicted during the twelvemonth following the introduction of the revised criminal code with the number during the same period immediately preceding that event, we should find a decided decrease. The revised code has generally extended the range of penalties and left room to reach the proper mean between severity and leniency, by letting the degreee of punishment vary with the circumstances of the offense and the character of the offender. As persons who have previously transgressed the law are in most cases condemned to longer terms of imprisonment than was the rule under the old code, those with previous convictions are struck with fear and not a few habitual offenders have taken up honest callings. The decrease in cases of gambling and larceny is an instance in point, and goes far to show that the deterrent effect of punishment is recognized and that its object, the general prevention of crime, has been attained. Further, many prisoners, fearing that if they commit crimes after leaving prison they will be condemned to long terms of imprisonment, become careful in their conduct and make up their minds to take up honest callings when they are released. Moreover, whereas in the old code it was prescribed that to be admitted to the special favor of provisional release those condemned to penal servitude for life must serve fifteen years, and those condemned to a definite term must serve two-thirds of that term, under the new code provisional release may be granted after ten years in the case of servitude for life, and in the case of penalty for a definite term, upon the lapse of one-third of such term. As this special favor may thus be enjoyed much sooner than formerly, the prisoners, in their eagerness to qualify as soon as possible for this favor, have shown a tendency almost unconsciously to become careful in their conduct.

"Among the reforms made in the prison law with a view to the effective enforcement of penalties, should be mentioned the fact that the wages for the work done by prisoners, which they received under the old regulations as a matter of right, are now given them in the form of rewards, and in the conditions for determining the rates to be given, conduct has been included. This intimate connection between their conduct and the amount of their rewards has produced a good impression upon the prisoners and brought about an improvement in their conduct.

"As it was necessary to foster men of character at the same time as the revision of laws and regulations, the training school for prison officials, which had been closed for some time, was reopened in Tokn upon the enforcement of the criminal code and the prison law. Once or twice every year one or two of the chief jailers in actual service are selected from every prison and admitted into the school, where during four months they receive instruction in law and other subjects useful to prison officials. Thus, the school is the means of obtaining men of special fitness for the work. Since last year two terms have passed and 117 persons have completed the course.

"The prisons hitherto erected in our country are mostly of wood, and the arrangement and construction are imperfect so that it is to be feared that perfect confinement and true reform cannot be confidently expected in such places. Rebuilding of prisons was perforce recognized to be as urgent as reform in administration. Accordingly, in 1900, it was decided that prison expenses, which had until then been defrayed out of the local accounts, should thereafter be defrayed out of the national treasury. At the same time, a program was

formed with respect to the reconstruction, and after a careful consideration of prison architecture in Europe and America, and close study of the actual convenience and advantages attached to it, it was planned to build our prisons entirely of brick or stone. The scheme was adopted of rebuilding one after another at the annual expenditure of 300,000 yen. First, the rebuilding of six prisons was commenced as an undertaking extending over five years. Those belonging to the first period have been completed, and the rebuilding of four prisons which belong to the second period has been commenced. The work is going on and will, it is expected, be completed in a year or two. In order to make the reconstruction as complete as possible, it is desired to rebuild the remaining prisons, and application has been made for funds to meet the cost. Although the object in view is, for financial reasons, yet unattained, a plan is being made to apply for an annual grant of not more than 500,000 yen, and to expedite therewith the rebuilding of the prisons of the whole country.

"If any prisoner, whose conduct has been good, who has received reward-badges and has been in prison for ten years under a life sentence, or for one-third of a definite term, is thought by the governor of the prison to show unmistakable signs of repentance and reform, and to be fit for provisional release, the governor reports to that effect to the minister of justice. If the minister of justice approves, the prisoner receives from the governor a certificate of provisional release. He must then take up an honest calling, maintain his good conduct and be under the control of a police officer. He must present himself without fail once a month at the controlling police office, and report on his occupation and other matters connected with his livelihood. If he commits a crime and is condemned during the period of his provisional release; if he is condemned to a major fine or a more severe penalty for an offense mitted prior to the provisional release, the minister of justice may, upon receiv-been condemned to a major fine or a more severe penalty for an offense committed prior to theprovisional release, the minister of justice may, upon receiving the report of the public procurator or prison governor, revoke the order for provisional release. The number of prisoners provisionally released during the five years (1905) was 8,281, while the number of those whose provisional release was rescinded during the same period was 264. The provisional release system has, on the whole, given good results and has been effective in bringing about the reform of prisoners so released.

"With a view to the development of the work of protecting discharged prisoners, the government has annually been distributing 10,000 yen among the protection societies of the country and has made every effort to stimulate and encourage the establishment of societies; but the object aimed at has not yet been completely attained. The present number of societies for the protection of discharged prisoners throughout the country is fifty-seven; but it is much to be regretted that they are organized on a small scale and that their field is consequently limited. It is, however, now recognized by both the government and the people that the protection work should not be neglected."

J. W. G.

Employment for the Unsocial in Agricultural Industries.—This subject has been discussed by Dr. Krohne with reference to the new codes of penal law

and procedure in Prussia. (Verhandlungen des Konigl Landes—Okonomie—Kollegiums, Berlin, Unger, 1911.)

Dr. Krohne's report furnishes copies of the provisions of the project of the new German code, the Norwegian code, the English acts for the prevention of crime, the Swiss bills, the Austrian and other codes or projects. He defines the unsocial elements to be those persons who, by repeated acts, have shown themselves to be a danger to society. He distinguishes three groups: recidivists, the lawbreakers of inferior nature, and the dissolute or vagabond. The present German law and even the proposed bill are criticized because they do not give the prison administration time enough to change the habits of habitual offenders, most of whom have physical and moral weaknesses. He also criticizes the judges because, in such cases, they too often assign the mininum term of sentence when even the maximum is too short. He looks forward to the time when practical men of affairs will have a place in the courts; then if they are lacking in firmness it will be their own fault if they suffer. He objects to the determination of the period of treatment by the judge in advance of trial, and urges the extension of conditional release. The final liberation should depend on the conduct of the prisoner, in prison and while out on conditional release.

For this class of offenders labor in the open air, and especially on works of drainage, road making, building protecting walls, etc., is recommended, on the basis of successful experience in Prussia.

Expensive prison buildings are not necessary; cheap barracks are sufficient. Discipline is not difficult; one guard to twenty men is enough.* In fifteen years only one attack on guards has been noted. Desperate characters are not permitted to join these groups. The chief difficulty comes after discharge. These weak men need a great deal of help from benevolent societies.

This discussion by a man who has spent a large part of a studious and laborious life in close contact with prison administration throws light on our problem in the United States. The New York movement to establish a farm colony follows the principles indicated. Experience at the Cleveland work colony shows that the ideas are sound and applicable to American conditions.

Evidently Dr. Krohne does not hope for much advance in this legislation at once. He urges that in the imperial commission business and agricultural interests should be represented, so that the law, when finally accepted, should be, not merely the expression of the thought of a single profession, the jurists, but of the practical experience of the nation. This idea is the basis of our American Institute which aims to bring into correspondence persons of all the groups who are interested in the protection of society against crime.

C. R. H.

A Baltimore Judge's Views on Parole.—The *Baltimore Sun* of May 1 contains a strong defense of the parole system by Judge James P. Gorter of the Supreme Court of that city. During the year 1909 Judge Gorter served in the Criminal Court of Baltimore and made extensive use of the power of parole. Of the 900 persons convicted in his court 400 were released on parole and of these only two were rearrested and convicted on another charge. Judge Gorter states that the thing which impressed him most during his year in the Criminal Court was the trifling nature of most of the crimes charged. The problem

*See Outdoor Labor for Convicts, by C. R. Henderson.

which caused him the greatest concern, he says, was not that of proving the innocence or guilt of the accused but that of fixing the punishment.

"There are always two things to be considered," he says, "the public and the individual. The object of criminal law is not so much to punish as to prevent crime. This must have been the chief, if not the sole, object under the old common law, as death was the penalty for many crimes against property, and not very serious ones at that. I read in Lord Campbell's 'Lives of the Lord Chancellors' that during the reign of Henry VIII 72,000 persons were put to death for crimes other than political.

"We might conclude from this that the object—prevention of crime by imposing excessive punishment—had not been attained."

The problem of dealing with the first offender he regards as the most serious of all.

"As a general thing, the first offender is greatly humiliated and mortified by his arrest and stay in jail—for in many cases he is unable to give bail and must remain behind the bars until his trial. That is usually sufficient to give him a decided distaste for prison life; he does not become accustomed to it nor hardened to the society of his fellow-prisoners. All of this makes a tremendous impression upon his mind; he would do almost anything to escape it and regain his freedom.

"In very many cases, therefore, the first offender has been punished enough when his case comes up, and he finds himself convicted. That is another severe shock in itself.

"Now here is the problem: Should you send that young man to the penitentiary where he will become accustomed to associating with criminals and undoubtedly will get a changed viewpoint of life? Instead of making a good man out of him, you will probably make of him another man for the police to deal with all his days.

"Another conviction forced upon the mind of Judge Gorter by his year in the Criminal Court is that there should be a change in the rules of evidence. The state, he thinks, should be allowed to show past convictions where it is not allowed now to do so. Many prisoners are afraid to go upon the witness stand because in that way they open the way for the prosecution to probe into their past record. In proving the character of an accused person those who know him should be permitted to testify specifically as to what they know. Thus an employer might not know a man's general reputation in his home community, but may be able to testify that the accused is steady, hard-working and a good mechanic. Anything, good or bad, that bears upon character should be admitted, the court guiding the mind of the jurymen in applying the information to the case at issue." R. H. G.

Probationers Required to Start Bank Accounts.—Judge Willis of Los Angeles has recently invoked as a condition of probation in his court the saving of money on the part of the accused during the whole term of parole, the sums that must be set aside varying with the ability of the prisoner to make money.

In some cases the amount fixed is but $1 a month; in others it runs as high as $10. It must be deposited in a bank, and the accused must show his

deposit book to the chief probation officer. In one case the man wanted to pay the money on a little home. The court consented to this.

"Put a dollar in a man's pocket and he has a feeling of independence," said Judge Willis to-day. "If he knows he has a bank account he becomes a better citizen. This city is full of business men who have arisen to affluence and prominence all because they knew how to save the first dollar. The weak should be encouraged to lay away something for that rainy day."

R. H. G.

Statutes Affecting Crime or Criminals Passed by the Thirty-fourth General Assembly of Iowa.—There have been only three laws passed by the late General Assembly of Iowa that are worthy of mention. One providing for the suspension of sentence in case of first conviction for felony, another for more speedy trials in bind over cases, and lastly and most noteworthy of all, the "Procreation Statute" as it is called. The first and the last are set out in full below. The second one is set forth in condensed form. There are but few statutes against procreation. Legislators are inclined to copy earlier statutes without considering their validity or how they have worked out in practice.

Trial judge may suspend execution of sentence:

Chapter 184 provides: "That whenever any person over the age of sixteen (16) years and under the age of twenty-five (25) years shall be convicted of any crime against the laws of this State, excepting treason, murder, rape, robbery and arson, if such conviction shall be the first conviction of the defendant for a felony, the trial judge before whom such conviction is had, and by whom the judgment of the court is pronounced, shall have the power to suspend the execution of the sentence of such person so convicted and place such person in custody and under the care and guardianship of any suitable person a resident and citizen of the State of Iowa, during good behavior of such person so convicted, and the judge so exercising this power of suspension of the execution of sentence shall enter same upon the calendar and cause the same to be journalized and made of record in the court in which such conviction is had, and the person having such custody, care and guardianship of the person, the execution of whose sentence has been suspended, shall make a full and complete report every thirty days, in writing, to the District Court wherein such conviction was had, showing the whereabouts and conduct of the person thus placed in his care, custody and guardianship.

"Section 2. That after any such suspension of the execution of sentence shall have been granted the same may be revoked by the District Court wherein such conviction was had or any judge thereof without notice, and the defendant committed to in obedience to such judgment."

This act applies only to first convictions for felony. It does not apply to misdemeanors or anything which can be tried by a justice of the peace, to no case in which the fine is less than $100, or the imprisonment is less than thirty days in jail. It does not apply to the great bulk of crimes which first offenders are likely to commit. It does not state how soon defendant shall be entitled to release from guardianship. After suspension has been revoked the law does not state for how long a time the commitment shall be. There is no provision for bond on the part of the guardian. (Perhaps it would be hard to get guardians if that were the case.)

Chapter 188 provides: "That criminal offenses in which the punishment exceeds a fine of $100 or imprisonment for thirty days may be prosecuted not only on indictment by the grand jury, as heretofore, but also on "Information." Whenever an accused shall have had a preliminary examination for a criminal offense, or shall have waived the right to such examination, and in either case been held to the grand jury to answer therefor, the county attorney of the proper county may, prior to the empaneling of the next regular grand jury, file in the Dstrict Court, either in term time or in vacation, an information under oath, charging said accused with the offense for which he has been held to the grand jury, or for any degree or grade thereof, or for any offense included therein. Upon the filing of such information the clerk shall issue a warrant for the arrest of the accused. The court or judge thereof shall fix the bail. In vacation or absence of the judge the clerk shall fix the bail. The time of commencement of trial on such information shall be the same as in cases of indictment and shall be computed from the date of filing the initial information. An accused thus prosecuted may be arraigned by any judge of the District Court, and in vacation shall plead before any judge. Judgments may be rendered in vacation on written pleas of guilt of the offense charged, or of any degree or grade thereof, or included offense, with the same force and effect as though rendered in term time.

"The act provides further in regard to the minutes of the evidence, names of witnesses, copy of information to be delivered to the accused, amendments, construction, what statutes apply, motions to set aside, forms of information, and other details."

It is expected that this law will furnish speedy trials. In some districts of the state there can be no criminal trials, and there are no sessions of the grand jury between the April and September terms.

An act to prevent the procreation of habitual criminals, idiots, feeble-minded and imbeciles:

Be it enacted, etc.

"Section 1. (Unsexing of criminals, idiots, etc.)—That it shall be the duty of the managing officer of each public institution in the State, entrusted with the custody or care of criminals, idiots, feeble-minded, imbeciles, drunkards, drug-fiends, epileptics and syphilitics, and they are hereby authorized and directed to annually, or oftener, examine into the mental or physical condition of the inmates of such institutions, with a view of determining whether it is improper or inadvisable to allow any of such inmates to procreate; and annually, or oftener, to call into consultation the members of the State board of parole. The members of such board and the managing officer and surgical superintendent of such institution shall judge such matters. If a majority of them decide that procreation by any such inmate would produce children with a tendency to disease, crime, insanity, feeble-mindedness, idiocy or imbecility, and there is no probability that the condition of any such inmate so examined will improve to such an extent as to render procreation by any such inmate advisable, or if the physical or mental condition of any such inmate will be materially improved thereby, or if such inmate is an epileptic or syphilitic, or gives continued evidence while an inmate of such institution that he or she is a moral or sexual pervert, then the surgeon of the institution shall perform the operation of vasectomy or ligation of the fallopian tubes, as the case may be, upon such

person. Provided, that such operation shall be performed upon any convict or inmate of such institution who has been convicted of prostitution or violation of the law, as laid down in chapter two hundred sixteen (216), acts of the thirty-third general assembly, or who has been twice convicted of some other sexual offense, or has been three times convicted of felony, and each such convict or inmate shall be subjected to this same operation of vasectomy or ligation of the fallopian tubes, as the case may be, by the surgeon of the institution.

"Section 2. Except as authorized in this act, every person who shall perform, encourage, assist in or otherwise promote the performance of either of the operations described in section one of this act, for the purpose of destroying the power to procreate the human species, or any person who shall knowingly permit either of such operations to be performed upon such person, unless same shall be a medical necessity, shall be fined not more than one thousand dollars, or imprisoned in the county jail not to exceed one year, or both."

Several considerations arise apropos of this law:

1. This law applies to all alike without regard to age and does not consider the possibility that a patient may ever be released from the institution in which he is confined.

2. The title refers to "habitual criminals, idiots, feeble-minded and imbeciles," and the body of the act adds to these: "drunkards, drug-fiends, epileptics and syphilitics," but neither the title nor the body of the statute refers to the insane.

3. The statute relates to "each public institution" entrusted with the care and custody of the classes named. It is not clear that it is intended to include county jails, women's detention homes, poor farms, juvenile detention homes, etc. All of these have the custody or care of one or more of the classes named.

4. Furthermore, "public institutions" are not limited to those whose heads are called "superintendents," nor to such as are under the State Board of Control of State Institutions. That board seems to have nothing to say except to dismiss a head of an institution who acts contrary to its wishes. The State University Hospital and every county hospital may be such a "public institution."

5. The board that is clothed with power in this matter is the board of parole whose only duties heretofore have been in connection with the paroling of prisoners from the penitentiary. They have in nowise made a study of the affairs of other state institutions. The probability is that no member of this board, nor for that matter, the managing officer, nor the surgical superintendent of the institution is an expert on heredity. There is no provision in the law for an examination by experts in any line who are not connected with the institution.

6. Does the law apply to institutions that care for the classes named exclusively or also to institutions that care for such classes among others? If the law is valid as to drunkards, does it apply only to the distinctive state inebriate asylum which is for men only or does it apply also to those institutions that have insane patients? If it applies to the latter kind of institution, what does it mean when it says that the managing officer shall "examine in to the mental or physical condition of the inmates of such institution?" Does this mean all inmates or only those who are drunkards? If only drunkards, does the statute mean that the drunkards of the institution who are likely to

produce children with a tendency to insanity shall be operated upon, while the insane of the same institution who, one would think, would be more likely to produce such offspring, shall go untouched? The drunkards may be operated upon "if the physical or mental condition of the inmate will be materially improved thereby." But, as the law stands literally, this does not apply to the insane.

7. The board may decide whether idiots and imbeciles "will improve to such an extent as to render procreation advisable," but they have no discretion in the case of epilepsy and syphilis. All that is necessary here is the diagnosis. All of the infants at our institutions for epileptics will, I presume, have to undergo operation.

8. Further: Being three times incarcerated for felony is made proof positive of a "transmissible tendency" to crime. There is no choice. Suppose the legislature were to make the sale of shoestrings a felony. Then one who has been convicted three different times must suffer the surgeon's knife. Now a "felony" as the Iowa statute defines it "is a public offense which is, or in the discretion of the court may be, punished by imprisonment in the penitentiary." In three successive cases it might be within the discretion of the court to send a man to the penitentiary, and the thirty-fourth general assembly has made a number of our crimes such that the court has the discretion, so that, after all, it will not in all cases be the board of parole, the manager, and the surgeon, but in many cases the committing judge, who will have to pass upon the question of operation.

9. Nor is there any hope for anyone imprisoned the very first time for "violation of the law laid down in chapter 216 of the laws of the thirty-third general assembly." That law is entitled: "An act prohibiting the detention or confinement of any female in any house, room, building, or premises by force, false pretense, or intimidation, for the purpose of prostitution or with intent to cause such female to become a prostitute." The act itself also strikes at "whoever aids, assists, or abets." One offense against this act is proof positive that a criminal tendency may be inherited. Is this prevention of hereditary crime or is it punishment by operation? Is one who once offends against this statute an "habitual criminal" as the title of the act has it?

In view of the foregoing criticisms it seems to me that before such provisions as these are enacted into law they should receive the approval of experienced social workers, medical experts, and good legal counsel.—From H. E. C. Ditzen, Davenport, Ia.

Responsibility of the State to Its Prisoners.—In connection with the whole subject of the law's delay we have the account of the act of the Massachusetts Legislature approved June 22, 1911, to "Authorize Compensation in Certain Cases to Persons Confined While Awaiting Trial."

"Section 1. Any person in this commonwealth who is kept in confinement awaiting trial for more than six months after having been indicted, and who is finally acquitted or discharged without trial, if the delay in trial was not at his request or with his consent, or at the request or with the consent of his attorney of record, may receive compensation for the period of his confinement after the lapse of said six months and until his acquittal or discharge: provided, that the payment of compensation is approved by the judge who pre-

sided at the trial, or in case of a discharge without trial, is approved by a justice of the Sueprior Court sitting at a session for criminal business in and for the county in which the indictment was found. Such compensation shall be paid by the county in which the indictment was found and shall be equivalent to the amount which the indicted person earned or received from his regular employment for any period of equal length during the two years immediately preceding his confinement; and if he had not employment, the compensation shall be such reasonable sum as shall be determined by the judge who presided at the trial, or in case of a discharge without trial, by a justice of the Superior Court sitting at a session for criminal business in and for the county in which the indictment was found. The judge or justice, upon application by the person acquitted or discharged, shall give a hearing at which such person or his representative may be present, if he so desires, and the district attorney or other officer representing the commonwealth or the county may also be present, and the person acquitted or discharged and the commonwealth or county may offer testimony as in any civil case. The decision of the judge or justice shall be final.

"Section 2. This act shall take effect upon its passage."

Damages for Imprisonment.—From Paris we have an account of an award of "damages totaling $6,000 being awarded by the Cher Assize Court as compensation for seventeen years' penal servitude served by a peasant named Charles Michaud as part of a life sentence passed on him for a murder he had never committed. The court acquitted Michaud after an eloquent defense by Andre Hesse, the counsel who defended Mme. Steinheil.

"Seventeen years ago a wealthy peasant-farmer was murdered in the Department of the Creuse, and Michaud, who was his neighbor, an illiterate and unintelligent man, then 28 years of age, was charged with the crime and convicted on very flimsy evidence. At his trial he vehemently protested his innocence.

"He was sent to the penal settlement in French Guiana, where he remained until, on the strength of a confession made by a convict who has since disappeared, he appealed for a revision of the proceedings, with the result noted above."

We are beginning to hear from various sources the question whether the state should not be held responsible for bodily injury suffered by prisoners while engaged in compulsatory labor. For instance, in a recent issue of the Sioux City *Journal* is a brief account of a convict who was placed at work in the cordage factory where, while at work, an arm and hand were torn to pieces in the machinery. And the contributor pointedly inquires, "Should not a State do something for a man whom the state has made a cripple while engaged in compulsatory labor just as public service companies are compelled to reimburse their employes who are injured while employed in their service?"

There is, of course, the elemental difference between the free laborer in the factory and the convict in prison: the former is engaged in gainful occupation voluntarily, the latter is the ward of the State not engaged in gainful occupation. But, much as a child at school, he is looked upon, in our century, as one who is undergoing training for increased efficiency in social service. The child may recover from his teacher for injuries suffered while undergoing restraint at school, but not from the State which supports and directs the school.

So the prisoner, it seems to us, in such a case as that described above, has no recourse excepting possibly to the one who is directly responsible for his injury. R. H. G.

Ein Musterhaftes Zentral Polizeiblatt.—In his paper, entitled "Ein Musterhaftes Zentral Polizeiblatt" which was published in the forty-first volume of the *Archiv fur Kriminalanthropologie und Kriminalistik*, Curt Weiss describes the official weekly bulletin of the French police. This bulletin is published at the central police headquarters in Paris by the chief police officer of France, and is printed by the prisoners at the central prison in Paris. Although the official German police bulletin is published daily, the French bulletin is superior in its make-up and its contents not only to the German bulletin but also to the Swiss, the Austrian, the Dutch and the Italian bulletins which are published weekly, and the English bulletin which is published fortnightly.

The French police bulletin is distributed free of charge to police officials, district attorneys, gendarmerie officers and prison officials throughout France, and is distributed on an exchange basis to police officials of other countries. It is published primarily for the purpose of distributing the photographs and personal descriptions of criminals who are being sought by the police. It contains, however, also descriptions of valuable stolen property, and instructions and directions to the police officers of the country on matters of general importance. For example, in one issue of the bulletin there were printed minute instructions for the preservation of finger prints at the scene of the crime and the transportation of the articles bearing these finger prints to the central police photographer.

Professor Weiss' paper is full of suggestions for the critical American police official. In America we have no central official police bulletin and no thoroughly efficient private bulletin for the dissemination of the information distributed in foreign countries by the official police bulletin. The need of an official police bulletin in America is greater than in any other country, not only because of the larger number of important crimes, but also because of the greater independence of the municipal police authorities and the want of a central power to control them. Those who have the interest of American police organizations at heart should strive for the establishment of an official central police bulletin to be published under the direction of the United States Department of Justice or the Superintendent of the Police of the District of Columbia for the dissemination of information regarding important crimes and criminals and the instruction of the municipal police authorities in the best police methods.

From LEONARD FELIX FULD, New York City.

The Scientific Study of Crime.—The Peoria (Ill.) *Star*, in a recent editorial, advocated a more general study of criminal anthropology as the basis for rational treatment of criminals:

"The greatest of all studies is that of man himself as he is to-day, and we must begin with the individual, but if we ever reduce this study to a science, we must carefully study a large number of individuals. As in machinery, we must first repair the wheels out of gear, so in society, we must first study the individual and then the community. Thus, a worthless crank by killing a prominent citizen can paralyze the community. Governments pay millions to catch, try and care for criminals, but pay little attention to the causes that lead

to crime. We now believe that the prison should be a reformatory and the reformatory a school. It is detrimentaal financially, as well as socially and morally, to release prisoners when there is a probability of their returning to crime, for in this case, the convict is much less expensive than the ex-convict. The determinate sentence permits many prisoners to be released who are morally certain to return to crime. The indeterminate sentence is the best method of affording the prisoner an opportunity to reform, without exposing society to unnecessary dangers. The ground for the imprisonment of the criminal is, first of all, because he is dangerous to society. This principle avoids the uncertainty that may rest upon the decision as to the degree of freedom of will, for upon this last principle some of the most brutal crimes would receive a light punishment. If a tiger is in the street, the main question is, not the degree of his freedom of will or guilt. Every man who is dangerous to property or life, whether insane, criminal or feeble-minded, should be confined, but not necessarily punished. As the seeds of evil are usually sown in childhood and youth, it is here that all investigation should commence, for there is little hope of making the world better if we do not seek the causes of social evils at their beginning. The most rigid and best method of study of both children and adults is that of the laboratory in connection with gathering sociological data. Such inquiry consists in gathering sociological, pathological and abnormal data, as found in children, in criminal, pauper and defective classes and in hospitals. Patient and extended study of men, especially children, is to gain more definite knowledge about him and a deeper insight into his nature. The time has certainly come when man, such as he is, should be studied as much as nature." R. H. G.

The Association Test Applied to Criminals.—The following paragraph, taken from Mr. Ernest Jones' review of "Die Komplexforschung. Tatbestandsdiagnostik," *Jour. f. Psychol. u. Neur.,* Band xv., S. 61-83, and 184-220; Band xvi, S. 1-44, represents Herr Ritterhaus' estimate of the value of word association tests for legal purposes:

"The question of the value of the method for criminological purposes is definitely answered in the negative, and the author is not hopeful that any future modification of it will increase its usefulness in this sphere. The purpose is too gross, the method too fine; it is like trying to weigh sacks of flour with an apothecary's scale. The obstacles of applying it to legal work are conscientiously set forth. A few of the main ones are the following: With a large number of cases the question is greatly involved by the subjects being complex psychopaths, so that they do not lend themselves to the solution of over-simplistic problems; many crimes are from their nature unsuitable for the purpose; individual differences are too great, in that many guilty subjects have only slight guilt-complexes, while many innocent subjects have strong ones." R. H. G.

Program of the Seventh International Congress of Criminal Anthropology.—The provisional program for the Seventh International Congress of Criminal Anthropology to be held at Cologne, Germany, from the 9th to the 13th of October, 1911, is divided into three sections. The first embraces a number of "Reports," as follows: 1. The Indeterminate Sentence: Drs.

Thyren, Comte de Gleispach, Vambery. 2. The Influence of Predispositions and of Environment on Criminality: Procurer General Garofalo. 3. Morphology and Psychology of the Primitive Human Races: Dr. Klaatsch. 4a. Present State of Criminal Psychology: Professors Sommer and Mittermaier; 4b. Morphologic Monstrosities, particularly of the cranium, from the standpoint of the medical expert: Prof. Carrara. 5. Treatment of the So-called Semi-responsible: President van Engelen and Dr. Kahl. 6. On the Administration of Prisons: Director Gonne and Counselor Julius Rickl von Bellye. 7. Confinement of the Dangerous Criminal Insane: Drs. Saporito and Keraval. The second section is devoted to a memorial to Lombroso by Dr. H. Kurella. In the third section are listed the following communications: 1. Dr. Reichart: Normal and Abnormal Forms of the Cranium. 2. Prof. Angelo Zuccarelli: The Prehistoric Cranium of the Grotto of Romanelli. 3. Dr. Szana Sandor: The Hungarian System of Oversight and Assistance for Depraved Youths. 4. Drs. A. Marie and MacAuliffe: Morphologic Human Types. 5. Dr. Hans Evensen: Measures of Safety Against Criminal Insane with Lucid Intervals. 6. Prof. Salvatore Ottolenghi: Criminal Anthropology and the Police. 7. Dr. Olof Kirberg: Compulsory Psychiatric Examination of Certain Categories of Accused. 8. Dr. Taralli: Impotence and Sexual Neurasthenia in Their Relation to Criminality. 9. De Rykere: The Criminality of Servants. 10. Conseiller Cramer: The Wards of Assistance in Their Relation to Psychiatry. 11. Prof. Dannemann: The Prohibition of Chronic Criminals as a Measure of Social Hygiene. 12. Prof. Rosenfeld: The Question of the Influence of Race on Crime. E. L.

Moral Weaklings and Degenerates.—Under this titie, in the June number of *Archives d'Anthropologie Criminelle,* Dr. Beaussart describes fourteen cases which he states are typical of a number observed in the French army. This type usually gets into trouble through some breach of regulations and if the individual's history is looked up and his record kept it will reveal repeated arrests and condemnations, usually for petty offenses. These repeated delinquencies are due to the person's instability; the impulsiveness, irritability and the instinctive perversions which characterize this type of offender. Vagabondage, theft, etc., are the most common offenses noted among these moral weaklings, as Dr. Beaussart calls them, but eventually they are liable to commit more serious offenses which bring them sometimes to the prisons and sometimes to the insane hospitals. Neither of these institutions is fitted to deal with these peculiar cases. Of unstable nervous organization, they are, nevertheless, not truly insane, but their weakness of will, due to their abnormal nervous system, does not respond to ordinary discipline. Only special institutions adapted to their needs can be of benefit to such cases. E. L.

Female Criminality in France.—In an article entitled "De La Criminalite Feminine en France," in the June number of the *Archives d'Anthropologie Criminelle,* Dr. Lacaze submits some interesting statistics and observations on woman's share in crime in that country. From a study of French criminal statistics from 1826 to 1907, Dr. Lacaze states that the proportion of crimes against the person committed by women has increased, while that of crimes against property has diminished. The proportion of the total female criminality

shows little variation, out of 100 accused there being 83 men and 17 women. A study of the statistics for particular crimes indicates that the economic factors have a greater influence on female crime than the social factors. Of the crimes against the person, the number committed by women exceeds the number committed by men in the cases of poisoning (53 in 100 accused being women), in infanticide (94 in 100), abortion (79 in 100) and assaults on infants (58 in 100). Of crimes against property, the largest number committed by women is in the cases of domestic theft (34 in 100) and arson of dwellings (25 in 100); but it never equals the number committed by men. From 1826 to 1907 there were 1,016 men and 1,142 women accused of poisoning and tried in the assize courts; there were 797 men and 13,360 women tried for infanticide and 902 men and 3,433 women tried for abortion. Of suicides the proportion per 100 is 77.8 men to 22.2 women. Dr. Lacaze contends that if woman is superior to man in morals, as has been contended, she is not in crime. While the crimes of women are, for the most part, of a specific character, this is due to her environment or life and position in the social life. Her closer connection with the interior or home life is the reason why the woman's crimes are of a sexual nature or center around the home. "The wife is the principal personage of the domestic tragedy." Another influence on female crime is the existence of a physical disturbance almost exclusively feminine: hysteria, and "poison is the chosen weapon of the hysterical person who kills." Is woman more or less criminal than man? Dr. Lacaze answers this question by saying that on the face of the statistics it would seem that she is less so, but if it is taken into account that because of the secret nature of the crimes mostly committed by women more of them are undiscovered than of those committed by men and also that women are frequently the inciting cause of male crime, it would seem that there is little quantitative difference between the crimes of the two sexes but rather a difference in kind. Indeed, if prostitution is included, Dr. Lacaze would doubt if woman is not the more criminal sex, but he concludes, as nearest the truth, that "woman is just as criminal as man, but in a different way."

E. L.

International Agreement in Regard to Identification.—Under the foregoing title there is published in the May-June number of the *Revista Bimestre Cubana,* a paper by Señor Juan Vucetich, the inventor of the system of dactiloscopy in use for purposes of identification in the Argentine Republic, which was presented at the International American Scientific Congress held in July of 1910. The author considers the problem of personal identification a subject of transcendent importance, not only in respect to the identification of delinquents but of all persons in general. He calls attention to the numerous circumstances under which the necessity for personal identification may arise and to the greater certainty and simplicity of the dactiloscopic method over all other methods of identification. In the case, for example, of an inquiry as to whether a certain person is the one who committed a certain act, the employment of the dactiloscopic method, with its greater simplicity and certainty, will render unnecessary a prolonged investigation with its evident prejudice against a person simply suspected. To obtain the best results from such methods, however, it is indispensable that a uniform international service be established by some means, as, for example, by an international agreement of experts

professionally occupied in identification work in America and Europe. Senor Vucetich urged that the Congress declare, in substance, that the identification of every person is a necessity which should be adopted by all the nations to the end of a more complete social defense and the perfecting of civil institutions; that for this purpose there is a great advantage to be gained by the establishment of a general and uniform identification service and that a commission to initiate such a service should be formed, to be composed of experts from the various countries which will join in the service. These declarations were adopted by the Congress. E. L.

The Case of Albert T. Patrick: A Medico-Legal Study.—The Medico-Legal Society of New York has made a report based upon the investigations of two of its committees declaring that the evidence upon which Patrick was convicted was contrary to scientific knowledge. It will be remembered that Patrick was convicted of murdering William M. Rice in 1900 by chloroform poisoning, upon the evidence of a valet named Jones and upon the expert opinion of physicians. The society in its report of December 12, 1910, referring to the investigation conducted by its committees says:

"The members of each committee having read all the evidence and proceedings on the trial of Albert T. Patrick used on the appeal to the court of appeals of the State of New York, from the record of the case on appeal, both committees conducting experiments and each declaring that the death of William M. Rice was due to natural causes, was not due to poisoning by chloroform, and that the evidence of the valet, Jones, was false, incredible and contrary to scientific knowledge, and each finding that death by chloroform could not have been produced in the manner described by the witness, Jones, on the trial before the jury by which Patrick was convicted. The Committee of Embalmers conducted a public demonstration on the 9th day of August, 1906, at the city of New York, by embalming the body of a dead man of about the age and build of William M. Rice by the right brachial artery in the same way and manner that the body of Rice was shown on the trial to have been embalmed under the supervision of Prof. S. H. Eckels, chairman of the committee, and demonstrated that the embalming fluid did enter the lungs as viewed by a large number of embalmers and others. The conviction of Patrick having been found on the evidence of medical men that the embalming fluid could not enter the lungs in the embalming process made on Rice's body, the crucial question then being whether the embalming fluid did or did not enter the lungs. The innocence of Patrick thus became a demonstrated scientific fact and his innocence of the crime for which he had been tried and convicted was demonstrated beyond a doubt, question or cavil by a purely scientific demonstration of a committee of the highest scientific authority in the land."

The practice of embalming dead bodies as followed for the past twenty years, says the society, has prevented the detection of crimes committed by those who have killed their victims by poison. It accordingly recommends the enactment of legislation against the use of embalming fluids by undertakers, the effect of which is to interfere with the detection of crime by chemical or other scientific tests. On this point the report says:

"It is now demonstrated that a perfectly sure, safe and reliable embalming

fluid can be made without the dangerous use of arsenic or any poison or ingredient that would interfere with the detection of crime.

"That science can, and does now affirm, that the safest, the most effective and successful embalming fluid need contain no organic poisons commonly used by the poisoner," R. H. G.

The Prevalence of Crime—The Meaning of Statistics on the Prevalence of Crime.—Studies of the prevalence of crime based upon statistics are very likely to be misleading. In those cases in which statistics seem to show an increase in criminal activity there is always the probability that the apparent increase is due merely to the fact that there is greater activity in the detection of crime than obtained during the period with which comparison is being made. A writer in *The Citizen* of Brooklyn, New York, says, after a discussion of this matter, that the records of the children's court in that city unmistakably show an increased number of arrests of juvenile delinquents caused, as he says, by the greater vigilance and not by a greater number of violations. The offenses of the juvenile delinquents are, he says, less serious than formerly and depraved inclinations apparently on the wane.

The prevalence of crime in New York City has recently claimed a high degree of public attention. *The Outlook* early in June, commenting on this subject, says:

"The evidence of demoralization in the police and audacity in the criminal classes is furnished by the official report of a special grand jury which was for some weeks engaged in an investigation of the conditions of public safety in New York City. That report lies before us, and we summarize here some of its more important statements. Its dispassionate tone adds greatly to the weight of its conclusions. We follow in the main the paragraphing and the order of the grand jury's report, and as far as possible preserve its language:

"'Many persons complain of inadequate police protection, and some parts of the city are not receiving sufficient protection.'

"Accurate comparison between the present and former periods based on the statistics of the police department is impossible 'because of the irregular, uncertain, and misleading figures and methods of keeping them.'

"In the first quarter of 1911 there were recorded at police headquarters 3,488 complaints of burglary, 5,199 complaints of larceny, and 299 arrests burglary made without precedent complaint.

"In 1910 there were recorded at police headquarters 9,109 complaints of burglary, and 1,179 arrests for burglary and attempted burglary, making an approximate total of 10,288 cases in that year. If the crimes continue in 1911 in the same ratio as during the first quarter, the result would be an estimated number of burglaries approximating 14,708, as against 10,288 in 1910, an increase of nearly fifty per cent. But these figures do not show all the burglaries, for the police records at headquarters do not show all the complains that are made by citizens. In the month February 27—April 4, 1911, there were 711 complaints of burglaries made by citizens which were not reported by the precinct authorities to the police headquarters. 'So it is apparent that these figures kept at police headquarters do not represent all the citizens' complaints.' The grand jury report that 'we were unable to determine how many cases were not reported from the station-houses to headquarters in 1910.'

"'In some parts of the city there is a deplorable amount and an apparent increase in the persistent violation of law and order by hoodlums and bad boys, often operating in gangs, and not restrained by the police. They commit many crimes and injure much property, and are a growing danger to the city.'

"A comparison of the citizens' complaints for the last quarter of 1910 with those of the first quarter of 1911 gives the following result:

	1910.	1911.
Burglaries	2,140	3,448
Larcenies	3,945	5,199
Values stolen	$1,072,994	$922,431.21"

The same cry comes from other sources. Even in England where the prompt and efficient administration of criminal law has long excited the admiration of all other nations, especially of Americans, who realize our own lamentable shortcomings in this matter. "It is therefore a little surprising to learn that crime is increasing among the English. This statement is not guesswork, but is based on an official compilation of statistics covering a period of more than a quarter century. Although the number of crimes committed fluctuates from year to year, the tendency prior to 1899 was downward, but since that year there has been a steady increase in criminality. That is, the number of crimes by the 1,000 of the population is increasing.

"A few years ago this condition would readily have been attributed to the growth of poverty and drunkenness, but this explanation does not suffice, for in recent years there has been a perceptible decline both in the degree of poverty and the consumption of alcoholic liquors. The compiler of these statistics advances the more reasonable contention that there has been a general relaxation of moral standards, and that 'compassion for the criminal has been carried so far as to blunt and blur the sense of indignation at the crime.'"

The Columbus, Ohio, *Journal* interprets it all as a real, not an apparent increase, and inclines to attribute it all to moral indolence on the part of the public which relaxes the whole mechanism of law enforcement; furthermore, an over-technical practice and procedure confuse and retard the ascertainment of essential guilt and the application of speedy justice. R. H. G.

Crimes—Newspaper Publications—Contempt.—"A recent number of the *American Law Review* suggests that the expedition with which a jury is obtained in criminal cases in England, as compared with this country, is due to the practice of American newspapers of trying the case in their news columns long before a venire is called to try it in court. Undoubtedly the manner in which American newspapers work up a sensation over a crime which, by reason of the parties concerned, or the circumstances surrounding it, or for some other reason, has riveted public attention, tends to bias the minds of all newspaper readers in the community, from whose number a jury will afterwards have to be selected to determine the guilt or innocence of the accused. But while a considerable number of possible jurors may actually form conclusions as to the guilt or innocence of the accused, before they are summoned as jurors, we are inclined to think that nine out of ten talesmen who admit having formed a conclusion do so for the express purpose of escaping service in a case which is likely to be long drawn out, and which may, perhaps, subject them to criticism, if nothing worse, from a large section of the community if they return an un-

popular verdict. We refer, of course, only to sensational and perhaps untruthful stories printed in advance of the selection of the jury. As to the news of the trial, printed during it course, the court can protect the jury from improper influence by locking them up and excluding newspapers from the jury room.

"While we have no doubt that the rigid supervision by the English courts of newspaper publications concerning crimes tends to a large degree to prevent a prejudgment of the case in the minds of prospective jurors, we do not believe that the readers of American newspapers, accustomed for more than a generation past to the publication, not only of the facts concerning a crime but of all rumors and suspicions, would be satisfied with a change of attitude on the part of the courts which would deprive them of their daily thrill over the sensation of the day. It is true that the judges in most of the States still possess the power which they had at common law, of punishing as for a contempt of court, the publication of any article having a tendency to bias the minds of prospective jurors, and thereby interfere with the proper administration of justice; but it takes a man of more than ordinary strength to defy a well-settled public opinion, and especially to defy the public press.

"It is easy, however, to exaggerate the pernicious influence of the extravagant liberty claimed by the American press, with reference to the publication of news. While the articles relating to a few sensational crimes may have this effect, it is to be remembered that the great majority of crimes receive but scant notice in the daily press, and, as a rule, by the time the cases are reached for trial the most industrious newspaper reader has forgotten all about them. In cases of this kind, where the fees are small and the limelight of publicity is not concentrated upon the actors, the work of selecting a jury usually proceeds with something like reasonable speed, though nothing like the speed with which juries are selected in England, even in the most sensational cases. For this the courts are to blame to an immensely greater degree than the newspapers. Sometimes an attorney will be allowed to spend an hour or two asking a witness to define all sorts of difficult words, under pretense, of course, of ascertaining whether the talesman is possessed of sufficient education and intelligence to acceptably discharge the duties of a juror, but really for the purpose of finding some excuse for rejecting him because of a suspicion that he will lean towards the opposite side. Such practices would not be tolerated in England. If judges would simply have the courage, when they perceive that the court's time is being wasted by dilatory tactics of this kind, to take the examination of the juror into their own hands, they could speedily bring about the prompt selection of juries, just as is done in England, and the chances are that the juries so selected would be just as satisfactory as those chosen after several days have been wasted in asking idle questions." R. H. G.

The Encouragement of Legal Research.—The following is taken from the Chicago *Legal News* of August 26:

"The London *Law Journal* apparently believes that in some respects, at least, England offers less encouragement to higher research in the law than the United States. It does not belittle what is being done at the universities of Oxford, Cambridge and London, but in America, it remarks, 'post-graduate legal research is encouraged at every university.'

"In view of the inactivity or want of other agencies, the *Law Journal* is

led by a small stipend granted by the Benchers of Lincoln's Inn to hope that the Inns of Court will do more for the promotion of scholarly studies. To emphasize the point, a quotation is made from Maitland which cannot be displeasing to American ears:

" 'In the concluding passage of a famous lecture Maitland pointed to the great service which the Inns of Court had performed in the Middle Ages in preserving English law from the encroachments of foreign systems. And he drew the moral that if, in our own day, English law is to be preserved from the disintegration that threatens it in the manifold developments of various parts of the Empire, the Inns of Court, by a higher conception of their educational responsibility, must again come to its aid. "In that case, he said, "the glory of Bruges, the glory of Bologna, and glory of Harvard may yet be theirs." '

"Whether our American universities are doing as much as the *Law Journal* seems to assume is a question that might receive some discussion. While many of them are undoubtedly liberal in their attitude toward scientific research, in the law as well as in other fields, we believe we are safe in saying that too many of our universities, particularly of the younger or smaller institutions, are handicapped by inadequate endowments or by that utilitarian spirit which hesitates to make any expenditure without the prospect of an immediate return. And doubtless there are too many professors of law in every way fitted to perform valuable research work, who are forced to spend a disproportionate share of their time in teaching and administrative duties. The American bar, while it has no institutions like the Inns of Court to endow legal scholarships, may well interest itself in the cause of legal research to the extent of urging that our law schools make from time to time more liberal provisions for it as circumstances may demand." R. H. G.

Legal Aspects of Family Resemblance.—In an article by W. Huwald in the *Archiv fur Kriminal Anthropologie und Kriminalistik* for April, 1911, entitled "The Legal Importance of Family Resemblance," the author shows the importance of a correct understanding of the laws and new facts regarding physical inheritance and heredity especially when there is a dispute about the paternity or maternity of the individual. Several well known cases are mentioned in which claims of relationship were made on the grounds of family resemblance or because of the possession of some one or more inherited physical traits. It may often be necessary to prove or disprove with certainty what physical characters are liable to predominate in the children of two given persons. The laws of heredity as laid down by Vries and Mendel are briefly explained and their application shown. The observations of other physiologists and anthropologists with reference to the inheritance of deformities and abnormalites are given in detail. In conclusion the writer states that while in most cases by comparing the physical characters a probable parentage might be established, it is only in a few very exceptional cases that parentage can be determined with absolute certainty.

In case cited, a Jewess named D., of Frankfort, gave birth to a child and sought to have O. pay for the care, claiming him as the father. The defendant accused the mother of having relations with H., and that the latter was the real father of the child. In common with O., the child had a peculiar shaped skull, outstanding ears and had the Jewish type of face, and H. was a Gentile.

The court decided against the woman, although a prominent biologist stated that if certain bodily characters present in a child are found in only one of the two persons accused, the one in whom they are absent cannot possibly be the father of the child, and that outstanding ears and peculiar shaped skull are such distinctive characters. In the light of the newer investigations, however, the shape of the skull in a young child is dependent upon so many factors that it cannot be considered distinctive, and outstanding ears occur in a large percentage (11.1) of normal persons and might even be a maternal inheritance. The Jewish type of face would be derived from the mother as well as the father, and consequently there is no certainty in this particular case that O. was the father of the child.

The literature on the subject is freely quoted. M. V. B.

The Yeggman.—An article in a recent issue of *The Outlook*, by Mr. James Forbes, Secretary of the National Association for the Prevention of Mendicancy, very strikingly calls attention to the operations of "yeggman," which he says, "at the beginning of the twentieth century, and in civilized America, are markedly suggestive of the Middle Ages, when small bands of broken soldiers or mutinous mercenaries attacked and plundered rich trading communities, unhesitatingly pitting themselves against thousands of citizens untrained in arms."

"John Yegg," the "Yeggman's" great ambition is to own a "dump." Such places of yegg rendezvous obtain in most of our big cities. It is difficult for an outsider to understand how peculiarly anti-social or criminal is the atmosphere of such yegg hangouts. Bartenders and hangers-on alike are men with proven records. The casual drinker at the bar has no suspicion as to the character and occupation of the clean-cut and determined men who form the background of these places. In the "dump' the yegg may freely discuss his business, since the place is practically free from that curse and parasite, the "stool-pigeon." The keeper of the hangout is almost always an ex-yegg, and I have yet to hear of any one of these turning traitor on one of the fraternity. There is something in the yegg life, a certain bond, which is almost never violated. The yegg is deaf alike to threats and cajolements. The "third degree" has no terrors for him. He has a genuine contempt for money, and cannot be bought when it comes to betraying a companion or divulging fraternal secrets.

The New York *Times* of Aprii 10, 1911, editorially stated: "Two judges of the County Court of Kings county, Dike and Fawcett, submitted a number of facts on which they based the conclusion that there is a certain degree, and an extended degree, of organization among criminals of various classes, by which they co-operate with each other in avoiding punishment for their crimes."

From many other sources we have information with respect to the organization of criminals. The police officer or other executive who stakes the success of his administration upon his ability to ferret out the secrets of such organizations is, doubtless, in ninety-nine cases out of one hundred, spending his time to no purpose. R. H. G.

Work of Prisoners' Aid Societies.—Since its organization, ten years ago, says the *Review of the Prisoners' Aid Association*, the Prisoners' Aid Association of Washington, D. C., has benefited over 28,000 prisoners, 9,000 of

whom were returned to their homes. The record shows that 90 per cent of those aided financially have returned every cent advanced to them by the association, while the majority of the others were unable to repay the association.

A recent report made by the parole officer of the Board of Public Welfare of Kansas City, Mo., shows that 547 persons are paroled from the workhouse and Leed's Farm. These persons are earning an average of $10 per week. All have been put at work except seventy, and of these twenty are too ill to be employed. The parole system is said to be saving the city $392 a day.

J. W. G.

Bloodhounds for Police Work in India.—The Bengal government has, says the *International Police Service Magazine,* decided to introduce bloodhounds into India for police work. Acting on their behalf Mr. F. S. McNamara (a District Superintendent of Bengal) has purchased a couple of young bloodhounds from the Wiltshire Police Bloodhound Kennels at Marlborough, to be trained for tracking purposes in India. These hounds, which are only a few months old, have been sent to India and Mr. McNamara has also arranged for another couple to be sent out at a later period and for a further supply at a still later date should the experiments prove successful.

Mr. McNamara is keenly interested in bloodhounds and has great faith in their tracking abilities. He considers that they may become invaluable for police work in India. Commissioned by the Bengal Government to make inquiries into the use of bloodhounds in England, he visited the various bloodhound kennels in England before going to Marlborough, but it was after seeing the performance of the Wiltshire hound Shadower that the order was placed for some of this hound's progeny. Shadower, a thoroughbred bloodhound of excellent pedigree, is a splendid specimen of the working hound. He was given to Police-constable Wilson by the Chief Constable of Wiltshire (Captain Hoe Llewellyn) to train for police purposes, Captain Llewellyn being himself deeply interested in the work of bloodhounds. The Indian officer was so pleased with the work of this hound that he wanted to buy him and take him back to India with him, but the authorities were not disposed to part with him, and Mr. McNamara thereupon negotiated for the pick of Shadower's puppies. Shadower has done excellent work in his trials and in practical service, and has never been at serious fault. On one occasion he tracked a gang of marauding gipsies over the Wiltshire Downs.

J. W. G.

The Cost of Tramps.—Tramps cost the United States $100,000,000 annually according to a recent investigation. One dollar and eight cents is spent for each man, woman and child in the country each year to maintain the army of those who will not work. And the tramp population is increasing. It now numbers 700,000. Boys are constantly being lured from their homes to fill the ranks of the maimed and those whom age and drink have rendered unfit for the hardships of tramping. Nearly 5,000 trespassers, most of them tramps, are killed yearly by the railroads of the United States and a greater number are injured. Instead of trying to rid the country of these mauraders, local police, magistrates and superintendents of poor farms often connive with them in their system of graft. The public fosters mendicancy through indifference or misplaced charity.

The figures given for the cost of tramps to the country seem appallingly large, but are conservative if investigations of social experts have any value. No attempt has been made to include in them the damage to private property. This item is estimated at $25,000,000 a year on the railroads alone. Neither has anything been added for what tramps beg and steal.

The estimate is based on figures that came to light during an investigation in Rockland county, New York. The eivdence disclosed that for some time the county had been paying an annual tramp bill of $47,000. The population of the county is only 46,873, making the bill a little more than $1 per head. This was simply the public moneys spent for arrests, commitments, transportation, care in institutions, etc. The burden fell on the taxpayers equally.

Switzerland and other countries of continental Europe have a solution of the tramp problem. They have farm labor colonies, some for forced and some for volunteer labor. These colonies have become a source of revenue to the communities that founded them. There are no State-owned colonies in America for the detention, reformation and instruction in agriculture and other industrial occupations of persons committed by magistrates as tramps and vagrants.

A bill providing for a farm of this nature is pending before the New York legislature. Like bills have been introduced in four other States. Adequate labor colonies could be established for half what the States now pay for tramps, and if they fail to support themselves, which is unlikely, they could be kept up for a still smaller sum. R. H. G.

Classification of Criminals.—The Cleveland *Plain Dealer,* in a recent editorial discussion of reformatory and prison methods, expressed regret that "judges do not commonly distinguish, as criminologists do, between the three great classes of criminals—the born criminal, the occasional criminal, and the deliberate criminal Psychologists," it says, "have listed them thus, and scientists know that such categories exist. The first is a criminal by heredity; his acts are in a manner irresponsible because they are instinctive. He is, therefore, a diseased person. The second is a criminal through passion, from imitation, by suggestion—one might almost say 'hypnotism.' He is incited to crime by combinations of circumstances. The third is a deliberate plotter against the social order—he is a professional. In fact, he is the only real 'criminal.'

"This last person knows that he is a criminal. His crimes are voluntary and reflective. He knows how to place a true value upon his acts, and he is a conscious enemy of society.

"For the criminal of the first type, we should have hospitals. For the criminal of the second type, we already have reformatories. The third type belongs in prisons—and the pity is that we know no better place for it! But this is certain: that today we are putting in state prisons both the physically diseased and the physically incompetent. That we drive, helter-skelter, into our so-called reformatories the ones who do not wish to be reformed is a lesser sin.

"When the millennium arrives, perhaps society will recognize all criminals as curable patients, and treat them accordingly. Until then, however, it is not an impossible task to distinguish among the classes thus roughly indicated. And it is worth the effort to make just such distinction, and just such subsequent treatment an ideal for present dealing with society's delinquents."

PRISON CULTURE

The State of Colorado has among its statutes a law "To prevent the oppression of persons held in custody, and to provide punishment for persons violating this act." The act in full is quoted below:

"Be It Enacted by the General Assembly of the State of Colorado:

"Section 1. Any public officer or any peace officer, or any sheriff, undersheriff, deputy sheriff, constable, warden or jailer, or any chief of police, police magistrate, police officer, policeman or detective, or any person who shall have authority to arrest or to detain in custody, who, by threats either in words or physical acts, or by foul, violent or profane words or language, or by exhibitions of wrath or demonstrations of violence, or by the display or use of any club, weapon, or instrument, place, or thing of torture, shall put in fear, submission or under duress, or shall assault, beat, strike, slap, kick, or lay violent hands upon, any person for the purpose of inducing or compelling such person to make any statement of fact about any transaction, or to make a confession or statement of his knowledge of the commission of any crime, or alleged, or suspected crime, shall be deemed to be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for not less than a year nor more than two years.

"Section 2. Nothing in this act shall be construed to alter or affect in any manner whatever the rules of evidence applicable to the trial of civil or criminal cases, or to prevent the examination, or interrogation of any person by any proper officer in authority respecting his knowledge of or participation in the commission of any crime, or alleged, or suspected crime, or to prevent the use by any proper officer of reasonable and lawful force in taking or detaining in custody any person in proper cases." R. H. G.

Mr. Joseph Matthew Sullivan, in an article entitled "PRISON CULTURE," in the *New England Magazine* for June, 1911, says:

The prison library is unique in this respect; its borrowers of books can always be found, and every missing volume can be located. The prison library is almost as well equipped as the library in the outside world; it has its card indexes, cabinet files and catalogues. Reverend Herbert W. Stebbins, Chaplain of the Massachusetts State Prison, in speaking of the library at that institution says:

"The library, which is under the care of the chaplain, contains 10,000 circulating volumes and 5,000 textbooks. There have been 37,142 issues of library books during the year ending September 30, 1909. Through the generous courtesy of the Honorable Horace G. Wadlin, Librarian of the Boston Public Library, who has supplied us with the last eleven annual catalogues of the library, we receive monthly not fewer than fifty books, selected by the men, which are retained for one month. These have been of great value to those pursuing special studies. The loan of a choice selection of books by the Society of Arts and Crafts and the loan and gift of art books by others has brought further inspiration to the art workers. The nearly thirty monthly magazines and the numerous weekly papers for which the administration has subscribed have kept our population in touch with the current thoughts and activity of the 'outside.' The day school, with two grades of studies, has 120 pupils. The correspondence school, offering courses of instruction in 32 branches, has 220 pupils in 23 classes.

"A spirit of determined purpose to use the unusual educational advantages offered here, and a hopeful uplook and outlook at the present time, characterize the educational, moral and religious life of the institution.

"During the year the library at the State Prison has been thoroughly rearranged, under the direction of the chaplain Duplicates have been eliminated, and volumes unsuitable for use have been discarded. Nearly five hundred volumes have been sent to other institutions. so that, while the number of volumes is less than reported last year, the efficiency of the library has increased."

The prison magazine has a peculiar field of its own. Its editor is usually a college man who has strayed from the straight and narrow path, and its literary standard is as high, if not higher than many of the so-called first-class magazines in the outside world. No bad poetry or doggerel can get into its pages; the waste-basket is always ready to receive specimens of badly written English. To obtain a place in its columns the contribution must have decided literary merit. A glance at the contents of the magazines published in the various state prisons of our country will prove my assertion. "John Carter," lately a convict in the Stillwater, Minn., prison, easily obtained publication for his literary efforts in such high-class periodicals as the *Century* and *Lippincotts*. There is published in prisons, to my knowledge, the following periodicals: *Our Paper,* Massachusetts Reformatory; *Mentor,* Massachusetts State Prison; *Star of Hope,* Sing Sing, New York Prison; *Reformatory Record,* Huntingdon, Pennsylvania Prison; *Summary,* Elmira, New York, State Reformatory, and the *Reflector,* Jeffersonville, Indiana Prison.

Dumas is easily the favorite among prisoners, both on account of the vividness of his style and the general interesting nature of his work. Victor Hugo's "Les Miserables" still holds a warm place in the convict's literary affections. Dickens is still a favorite author, but not to the same extent as Hugo and Dumas. Of the poets it is hard to say which one holds the foremost place; tastes differ, and the average convict is something of a budding poet himself, like the spring poet of fiction. But he cannot perpetrate his bad poetry on his fellow inmates because there is a aconstitutional law against cruel and unusual punishment. In the western states, when traveling on railroad trains, it is a dangerous thing to show an intimate acquaintance with the English classics; you are suspected of having an academic degree from a penal institution, and, within a few minutes, you will find your companions as scarce as a red Indian on the shores of Manhattan Island.

TABLE SHOWING THE AVERAGE NUMBER OF PRISONERS FOR THE YEAR ENDING SEPTEMBER 30, 1909, AND THE NUMBER OF VOLUMES IN THE LIBRARY OF EACH PRISON.

Institutions	Average No. of Prisoners	No. of Vols. in Library
State Prison	839	8,935
Massachusetts Reformatory	968	3,437
Reformatory Prison for Women	251	1,961
Prison Camp and Hospital	93	——
State Farm	1,313	1,400
Barnstable Jail and House of Correction	14	90
Boston Jail	310	1,064
Cambridge Jail and House of Correction	345	1,360

Institutions	Average No. of Prisoners	No. of Vols. in Library
Dedham Jail and House of Correction	90	557
Deer Island House of Correction	1,523	6,421
Edgartown Jail	——	——
Fitchburg Jail and House of Correction	115	500
Greenfield Jail and House of Correction	38	150
Ipswich House of Correction	49	75
Lawrence Jail and House of Correction	151	500
Lowell Jail	123	236
Nantucket Jail and House of Correction	——	——
New Bedford Jail and House of Correction	274	527
Newburyport Jail	11	50
Northampton Jail and House of Correction	55	200
Pittsfield Jail and House of Correction	74	723
Plymouth Jail and House of Correction	117	208
Salem Jail and House of Correction	141	——
Springfield Jail and House of Correction	246	900
Taunton Jail	49	141
Worcester Jail and House of Correction	203	625
Total	7,392	30,060

Mr. Train on the Jury System. —In the September issue of *Everybody's Magazine* is an article on "Sensationalism and Jury Trials" by Arthur Train, from which the following is taken:

"For the past twenty-five years we have heard the cry upon all sides that the jury system is a failure. Indeed, such to-day is prevalently believed to be the case; and to this general indictment is frequently added the specification that the trials in our higher courts of criminal justice are the scenes of grotesque buffoonery and morbidity. Before such an arraignment of present conditions in a highly civilized and progressive nation is accepted as final, it is well to examine into its inherent probabilities and test it by what we know of the actual facts.

"While admitting its theoretic value as a bulwark of liberty, the modern assailant of the jury brushes the consideration aside by asserting that the system has 'broken down' and 'degenerated into a farce.'

"Let us now see how much of a farce it is. If, four times out of five, a judge rendered decisions that met with general approval, he would probably be accounted a highly satisfactory judge. Now, out of every one hundred indicted prisoners brought to the bar for trial, probably fifteen ought to be acquitted if prosecuted impartially and in accordance with the strict rules of evidence. In the year 1910, the juries of New York County convicted sixty-six per cent of the cases before them. If we are to test fairly the efficiency of the system, we must deduct from the thirty-four acquittals remaining, the fifteen acquittals which were justifiable. By so doing we shall find that, in the year 1910, the New York County juries did the correct thing in about eighty-one cases out of every hundred. This is a high percentage of efficiency. Is it likely that any judge would have done much better?

"The following table gives the yearly percentages of convictions and acquittals by verdict in New York County since 1901:

Year	Number Convictions by Verdict	Number Acquittals by Verdict	Convictions per Cent	Aquittals per Cent
1901	551	344	62	38
1902	419	349	55	45
1903	485	307	61	39
1904	495	357	58	42
1905	489	299	62	38
1906	464	264	65	35
1907	582	264	69	31
1908	649	301	68	32
1909	463	235	66	34
1910	649	325	66	34

"After a rather long experience as a prosecutor, in which he has conducted many hundreds of criminal cases, the writer believes that the ordinary New York City jury finds a correct general verdict four times out of five. As to talesmen in other localities he has no knowledge or reliable information. It seems hardly possible, however, that juries in other parts of the United States could be more hoterogeneous or less intelligent than those before which he formed his conclusions. Of course, jury judgments are sometimes flagrantly wrong. But there are many verdicts popularly regarded as examples of lawlessness which, if examined calmly, and solely from the point of view of the evidence, would be found to be the reasonable acts of honest and intelligent juries."

Mr. Train then refers to the cases of Thaw, Nan Patterson, and Roland B. Molineux, because they are commonly referred to in support of the general contention that the jury system is a failure. "But," he says, "I am inclined to believe that any single judge, bench of judges, or board of commissioners would have reached the same result as the juries did in these instances.

"It is quite true that juries, for rather obvious reasons, are more apt to acquit in murder cases than in others. In the first place, save where the defendant obviously belongs to the vicious criminal class, a jury finds it somewhat difficult to believe, unless overwhelming motive be shown, that he could have deliberately taken another's life. Thus, with sound reason, they give great weight to the plea of self-defense, which the accused urges upon them. He is generally the only witness. His story has to be disproved by circumstantial evidence, if, indeed, there be any. Frequently it stands alone as the only account of the homicide. Thus murder cases are almost always weaker than others, since the chief witness has been removed by death; while at the same time the nature of the punishment leads the jury unconsciously to require a higher degree of proof than in cases where the consequences are less abhorrent. All this is quite natural and inevitable. Moreover, homicide cases as a rule are better defended than others, a fact which undoubtedly affects the result. These considerations apply to all trials for homicide, notorious or otherwise, the results of which in New York County for the past ten years are set forth in the following table:

Year	Convictions	Acquittals	Convictions Per Cent	Acquittals Per Cent
1901	25	17	60	40
1902	31	11	60	26
1903	42	8	84	16
1904	37	14	72	28
1905	32	13	71	29
1906	53	22	70	30
1907	39	10	78	22
1908	35	17	67	33
1909	43	11	80	20
1910	45	15	75	25
Total	382	138	Av. 73	Av. 27

"A popular impression exists at the present time that a man convicted of murder has but to appeal his case on some technical ground in order to secure a reversal, and thus escape the consequences of his crime. How wide of the mark such a belief may be, at least so far as one locality is concerned, is shown by the fact that in New York state from 1887 to 1907 there were 169 decisions by the Court of Appeals on appeals from convictions of murder in the first degree, out of which there were only twenty-nine reversals. Seven of these defendants were again immediately tried and convicted, and a second time appealed, upon which occasion only two were successful, while five had their convictions promptly affirmed. Thus, so far as the ultimate triumph of justice is concerned, out of 169 cases in that period the appellants finally succeeded in twenty two only.

"Since 1902, there have been twenty-seven decisions rendered in first-degree murder cases by the Court of Appeals, with *only three reversals*. The more important convictions throughout the state are affirmed with great regularity.

"As to the conduct of such cases, the writer's own experience is that a murder trial is the most solemn proceeding known to the law. He has prosecuted at least fifty men for murder, and convicted more than he cares to remember. Such trials are invariably dignified and deliberate so far as the conduct of the legal side of the case is concerned. No judge, however unqualified for the bench; no prosecutor, however light-minded; no lawyer, however callous, fails to feel the serious nature of the transaction or to be affected strongly by the fact that he is dealing with life and death. A prosecutor who openly laughed or sneered at a prisoner charged with murder would severely injure his cause. The jury, naturally, are overwhelmed with the gravity of the occasion and the responsibility resting upon them.

"In the Patterson, Thaw, and Molineux cases the evidence, unfortunately dealt with unpleasant subjects and at times was revolting, but there was a quiet propriety in the way in which the witnesses were examined that rendered it as inoffensive as could possibly be. Outside the court room the vulgar crowd may have spat and sworn; and inside, no doubt, there were degenerate men and women who eagerly strained their ears to catch every item of depravity. But the throngs that filled the court room were quiet and well ordered, and the merely curious outnumbered the morbid.

"What are the celebrated cases—the trials that attract the attention and interest of the public? Invariably they are those in which the human element and the legal element are most sharply distinguished from each other in the popular imagination. In which the defense is in the hands of the adroit counsel, and in which, due partly to the length of the trial, there has grown up a vivid idea of the prisoner's rights.

"The results of such cases are therefore but a poor test of the efficiency of the jury system. They are, in fact, the precise cases where, if at all, the jury might be expected to go wrong.

"But juries would go astray far less frequently even in such trials were it not for that most vicious factor in the administration of criminal justice—the yellow journal. For the impression that the public trials are scenes of coarse buffoonery and brutality is due to the manner in which these trials are exploited by the sensational papers.

"The instant that a sensational homicide occurs, the aim of the editors of these papers is so to handle the matter that as many highly colored "stories" as possible can be run about it.

"Thus, where the case is perfectly clear against the prisoner, the yellow press seeks to bolster up the defense and really to justify the killing by a thinly disguised appeal to the readers' passions.

"This antecedent public sentiment is fostered from day to day until it has unconsciously permeated every corner of the community. The juryman will swear he is unaffected by what he has read, but unknown to himself there are already tiny furrows in his brain along which the appeal of the defense will run. In view of the deliberate perversion of truth and morals, the euphemisms of a hard-put counsel when he pictures a chorus girl as an angel and a coarse bounder as a St. George seem innocent, indeed.

"It is not within the rail of the court-room but within the pages of these sensational journals that justice is made a farce. The phrase "contempt of court" has ceased practically to have any significance whatever. The front pages teem with caricatures of the judge upon the bench, of the individual jurors with exaggerated heads upon impossible bodies, of the lawyers ranting and bellowing, juxtaposed with sketches of the defendant praying beside his prison cot or firing the fatal shot in obedience to a message borne by an angel from on high.

"How long would the 'unwritten law' play any part in the administration of criminal justice if every paper in the land united in demanding, not only in its editorials but upon its front pages, that private vengeance must cease. Let the "yellow" newspapers confine themselves simply to an accurate report of the evidence at the trial, with a reiterated insistence that the law must take its course. Let them stop pandering to those morbid tastes which they have themselves created. Let the 'Sympathy Sisters,' the photographer, and the special artist be excluded from the court-room. When these things are done, we shall have the same high standard of efficiency upon the part of the jury in the great murder trials that we have in other cases."

The Responsibility of the State to Its Prisoners.—Our own country recently furnished a striking example of that just cited from France and yet in one important respect decidedly different. The public attention some time

ago was sharply called to the injustice of the law in regard to Andrew Toth, who had been convicted of murder in the state of Pennsylvania and who had served twenty years of a life sentence in the penitentiary. At the end of this time, it will be recalled, his absolute innocence has been established and he was released old and penniless. The State gave no compensation. Mr. Carnegie pensioned the old man at $40 per month, and he has returned to his native country, Hungary.

The *Virginia Law Register* comments editorially upon the case as follows: "Had this man been imprisoned at the instance of a private person for twenty-four hours in jail and such imprisonment been shown to be false and malicious he could have recovered ample damages. But in his present situation he is without redress and the strong arm of the law which has taken out of his life twenty years, caused him to endure shame, suffering and humiliation, is withdrawn from him and he goes forth an outcast and a beggar, only saved from actual want by private charity. Is this a condition of affairs which should exist in a civilized country, boasting of men's equality before the law? In a late number of the *Register* we spoke of the propriety of a law allowing a man tried for an offense against the Commonwealth and acquitted, an allowance for costs. We believe such a law should be passed, despite the fact that there is no precedent in history for it.

But in a case like Toth's it seems to us there can be no question that the state should compensate the man and that a general act should be passed permitting a man who has suffered at the hands of the law for a crime of which he was innocent, compensation to be fixed by a court of justice upon good cause shown.

We have a precedent in an English case which occurred only a short while since. A man named Beck was convicted of a crime, was suffering a term of imprisonment and was then proven to be entirely innocent. He was allowed a sum equivalent to $25,000 by the Crown, along with his pardon.

The great infrequency of such case in no way renders the responsibility of the Government any less.

It may be expedient that "one man should die for the people," but it is not any juster to-day than it was in the day of the High Priest who plead it in extenuation of the greatest crime in history; and if compensation cannot restore, it can at least exhibit a willingness to do all that can be done to right an injustice and grievous wrong." R. H. G.

Finger Print Identification.—The August number of Groess' archiv brings three different articles, discussing the finger print system in Bavaria, Mecklenburg and Moscow.

In a book of Georges Clemenceau on South America I found the very interesting statement that in the republic of Argentine large parts of the well-to-do population make use of this almost absolutely perfect system of identification before they venture out on someway dangerous expeditions. A case was cited of a rich Argentino, who was found drowned in France, and who could be identified only by his registered finger prints.

While the larger cities in Germany have used this system for years in their police departments and have exchanged cards with each other and foreign police departments, Berlin serves as clearing-house in this respect. Saxony was the

first state to adopt it in its penal administration. Bavaria and Mecklenburg have recently introduced it also in their prisons. The new Bavarian law establishes stations for the identification service in every city over 10,000 inhabitants and at the seats of the lower courts. Not all the people arrested by the police must submit to it, but the following classes are thus tested:

All gypsies and immoral women and men, persons who can not prove their identity, thieves, panderers, cadets and smugglers, vagabonds, coiners of false money, professional gamblers and beggars.

The adoption of the system all over Germany is only a question of time.

Dr. K. Prochoroff of Moscow discusses in his paper the difficulties of taking finger prints. He contends the rolling of the fingers is not necessary for the obtaining of suitable samples. He has constructed an apparatus for analyzing finger prints, which should facilitate the work greatly and does not require any technical skill. If the result of the analysis is registered in a given order and corresponds to a formerly obtained sample, the identification of an individual is established without any doubt.*

Medical Examination Without a Person's Consent.—A dead, newly born baby was found in the toilet room of a wholesale house in Germany employing 200 women. In order to discover the mother of the child, the whole force had to submit to medical examination, which showed that 34 per cent of the girls were infected with venereal diseases. The very important question, whether the public attorney is allowed to order such a measure, is by one writer answered in the affirmative, as he contends that this officer is obliged to get at the truth in every possible way. Other writers disagree and say that, as a measure of public policy, the proceedings can not be tolerated. The criminal act had been committed and the law on criminal procedure allows medical examination only in cases of the probable criminal's possible escape. In all other cases the medical examination must be ordered by the judge. But such an order could not have been given in this case, for it would have meant accusation of all the 200 women employed. The examination of the workers was therefore illegal and a clear case of restraint of personal liberty.*

Injuries to the Skull and Mistakes of Memory.—Bismarck's biographer, Busch, relates an incident in his hero's life when the Iron Chancellor fell from his horse and temporarily lost control of his memory. Although he remounted his horse, he imagined that his servant instead of himself had been hurt; he did not hear the barking of the dogs when he arrived home nor did he know that it was home. The accident referred to could be cited when the antemortem statement of a person, succumbing to such an accident, after having accused a third person of it, is doubted.*

First National Congress Against Illiteracy and Crime in Sicily.—The First National Congress Against Illiteracy and Crime in Sicily was held in August of 1911. Many interesting papers were read before the Congress and the practical outcome seems to have been excellent. Facts were brought out which had lain hidden within musty records, inferences were drawn and lines of action decided upon. One of the papers was by Napoleone Colajanni, Pro-

*From Dr. Victor von Borosini, Chicago.

fessor at the University of Naples, and dealt with "The Connection between Crime and Illiteracy." Prof. Colajanni analysed the statistics and drew out of them these interesting facts: that education exercises a minimum of good influence upon sexual crimes; that education, joined with good economic conditions, restrains crimes against property and that it more certainly exercises its good influence in respect to crimes of violence.

Prof. Giorgio Mortara spoke upon the same subject, and warned the Congress that there was a difference between illiteracy and ignorance. That ignorance is more properly the cause of crime and that to fight ignorance they must not only teach the a b c but must provide civil and moral education.

Three papers were presented by Prof. Michalangelo Vaccaro, Mr. Nicotri, and Mr. Bruccoleri, on "The Action of the State in the Prevention of Crime in Society." Prof. Vaccaro said that it was necessary to transform the system of land holding and land cultivation. It should be made possible especially for those who return from America, to become small land owners. Collective lettings ought to be extended, longer terms ought to be granted, the hirers ought to be assured the value of improvements made by them, and, in short, a more equable distribution of the rents of the land between the owner and the laborer should be brought about, in that way assuring a better livelihood to the agriculturist, and so lessening crime in general and especially the graver sort of crime in the Eastern part of the Island. In this way, the Mafia would receive a death-blow, because the field of its operations would vanish. A more able police force is necessary, and a more enlightened justice apt to inspire full confidence in all. But in order that the work of the Government and the authorities may be efficacious it must be supported by the citizens. The co-operation of the citizens has, however, always been lax.

Prof. Carnevale spoke on "The Economic and Moral Factors in the Prevention of Crime in Sicily." He said that the exuberance and the impetuosity of the Sicilian which at present conduce to crime may some day, in another environment, be founts and springs of good. The untamed love of liberty of the Sicilian, his heroic deeds, his ardor and sacrifice in labor, and in every other high work are the good qualities, which because of lack of beneficent and guiding surroundings conduce to the shedding of blood. The remedy is reconstruction of agricultural life, the gradual introduction of industries, organization of the proletariat, the moral and civic education of the masses, the training of the latter in habits of providence, foresight and solidarity. Feudalism is still rife in the Island of Sicily, and the antidote to it is industrial civilization—the deadly enemy of the spirit of violence.

The country places contribute a large quota to Sicilian crime, especially to the crimes of the Mafia (extortion), vendettas, abductions, larcenies of animals. To remedy the conditions that give birth to these crimes the country places must be populated, and they must be connected with convenient and secure roads. Prof. Carnevale also advocated agrarian reforms, and an internal colonization that would open public and private lands to the intensive labor of farmers.

Another interesting discussion took place upon "The Graver Forms of Crime in Sicily," and under this head were included homicides, abductions, extortions, vendettes and larcenies of animals. Prof. Lanza deplored the fact that while Sicilian jurors showed no mercy in punishing crimes against property, they were very lenient toward perpetrators of offenses of passion. He also

enumerated the different kinds of homicides, homicides arising out of points of honor, homicides for revenge (vendettas) for light causes, and in quarrels.*

R. F.

The Coroner's Office.—The following is from a recent issue of the *Cleveland Plain Dealer:*

"Common pleas judges, county officials and attorneys are united in commending the recommendation made in the report of the county examiners urging the abolishment of the county coroner's office.

"The fact is certain that the benefits derived from the coroner's office are not commensurate with the cost incurred. Abolishment of the office would save the county a considerable sum of money each year, and to make the new one per cent tax limit work out, all unnecessary expense must be cut out.

"Figures presented show that for the county year just ended, the county coroner's office cost the county $11,947.21. This sum is exclusive of the cost of maintaining the county morgue on Lakeside Avenue N. E. For the year just ended, Coroner M. A. Boesger received $6,767.45 for his services. Witness fees and mileage amounted to $2,408.60. George Schaufele, constable attached to the coroner's office received $1,514.85 for serving papers. Seventy-three autopsies performed by Dr. Robert C. Droege, deputy coroner, cost the county $1,095, and there was $161.31 allowed for miscellaneous expenses. In the year preceding, ended September 1, 1910, the coroner's office cost the county $10,773.03, and for the year preceding that, $10,837.17.

"Aside from these bills paid by the county for the maintenance of the coroner's office, the county commissioners pay all the expenses of the county morgue, which includes three keepers, who get $75 a month apiece, one janitor at $65 per month and the cost of lighting, heating and of the refrigerating plant which is connected with the building.

"The county examiners in their recommendation that the office of coroner be abolished, add that the coroner's duties should be turned over to the county prosecutor's office so that all investigations pursued under the present system of inquiring into sudden, mysterious or violent deaths may be made under the personal supervision of the county prosecutor.

"The coroner's office is the only remaining county office which exists under the old and universally condemned fee system. The coroner is allowed a fee of three dollars for every body he views. There are other fees for various duties, including a fee for each page of testimony taken in connection with inquests held by him. Under an arrangement between Coroner Boesger and his assistant, Dr. Droege, the latter is allowed fifteen dollars for each autopsy performed and does all of that work.

"Common Pleas Judge Harvey R. Keeler, for years the prosecuting attorney previous to taking his position on the common pleas bench, declared that the office of coroner is of absolutely no use and that in many instances it is an actual hindrance to the carrying out of justice in the prosecution of criminal cases where murder is involved.

"'In the first place,' said Judge Keeler, 'the office is not a constitutional one, but a statutory one, created by the legislature. The office might have been a necessary one about one hundred years ago when it was created and the police

*From "Il Progresso del Diritto Criminale," Reported by Guido Guidi

powers of the cities and counties were not as highly developed as now. The question now is whether the office is necessary.

"'In my long experience as the prosecuting attorney of this county I often found it necessary to tell the coroner's office to keep its hands off in murder cases that demanded investigation and criminal prosecution by my department. Coroner's inquest in those cases only served to mix things up and obstruct justice in many ways. The office often serves to defeat the ends of justice in making a public record of testimony which is later given before a grand jury and which by law is supposed to be a State secret. This testimony, in the case of a trial for murder, is hauled out by the attorneys for the defense and the very matter which is supposed to be a secret locked up in the deliberations of a grand jury is made public property.

"'We have all the necessary machinery to do all the work provided for by statute for the coroner in the police and county criminal department. The coroner's investigations in murder cases and other cases of violent death are of absolutely no use or benefit to the criminal department of the county. There is no duty prescribed by statute for the coroner to do what is not already being done or could be done by either the police or country criminal department.

"'The coroner of any county in this State is without executive power of any kind. All he can do is to institute an inquiry, take testimony, and there his power ends. This testimony, which is meant to assist in the prosecution of criminal cases, is never used. The office, in my mind, is absolutely without any use or purpose, is a useless expense and ought to be abolished, placing in the hands of the prosecutor of the county the authority to make inquiries into all violent or suspicious deaths.'

"Common Pleas Judge Charles Estep declared that the office of coroner is of no use and means a useless waste of money. Judge Estep likened the office to the appendix of a man in a chronic state of inflammation.

"'We have a county jail physician whom we pay between $1,200 and $1,500 per year,' said County Commissioner Vail. 'I can't see why it wouldn't be a good plan, in the event of the abolishment of the office, to impose on him the duties of the coroner, placing him under the direction of the county prosecutor's office and increasing his salary commensurate with the services rendered.

"'In this manner all the benefits to be derived from the office would be continued, at the same time eliminating all useless and unnecessary expense now connected with the office. This plan would also place in the county criminal department the direct investigation of all suspicious deaths, eliminating the useless waste of time, money and energy now involved in a double and, sometimes, triple investigation of the same case.'" R. H. G.

Sentimentalism and Crime.—The function of the criminal courts is to protect society from the individual who forms a part of that society. Hence the interests of the individual and society are one and the same. There is no real conflict here. The best way to protect society against the criminal, as the *Journal* has time and again insisted, is to reform him. The worst way is to send him back into the community to go on with his crime. If our point of view in this whole matter is correct the criminal should never be set free until he shall have given satisfactory evidence of such a degree of rehabilitation that he can fairly be expected to return to normal life outside the prison walls

without entering into serious conflict with it. If this involves life imprisonment let the prisoner be confined for life regardless of the specific nature of his criminal activity. We are right in our generation in measuring as accurately as we can all the conditions under which crimes are committed: the physical condition of the prisoner, his family history, the environment in which he lives, etc., but we ourselves have not properly safeguarded the interests of the individual and society if we for a moment allow these considerations to lead us into namby pamby compromising with crime.

Under the title, "Sentimentalism and Crime," Joseph Du Vivier, writing in *The Outlook* of August 19, 1911, cites several cases taken at random from an experience of several years as a prosecuting official in which there appears to have been an abuse on the part of the courts of the power to suspend sentence. What he has to say there is pertinent, and I quote at length:

"What is the explanation of such results? Why is it that in 2,793 convictions secured in New York County during 1910 a few more than 900 of these convicts were turned loose on the community through the virtue of the suspended sentence? It is not that the judges are corrupt; the standard of honesty among American judges is high. If you will go into a criminal court on sentence day and listen to the requests for leniency in the cases of convicted criminals, you will appreciate that the judges reflect public opinion.

"Then why should it seem that public opinion is in league to prevent the enforcement of law? I speak deliberately when I say that it is because of the sentimental way in which we, as a people, have come to regard crime. Our fathers regarded the criminal as an enemy to society; and so he is. Any person who states that the criminal is not an enemy to society either has no first-hand acquaintance with crime or looks upon it from a sentimental viewpoint. The youthful first offender may cease to be such by proper education of several years in a State institution; but he cannot be reformed by turning him back into the same environment in which his evil tendencies have been developed. There can be no compromise with crime, and none should be attempted; and it is this spirit of compromise, so characteristic of our entire National life, which is the root of the entire evil. Crime should be treated as we treat disease. It is a stern reality." R. H. G.

The New York State Board of Parole.—A recent number of the *Review* contains a reprint from the *New York World* of an article from the hand of Mr. George A. Lewis in which he describes the methods and results of the New York State Board of Parole of which Mr. Lewis is a member. The substance of the article follows:

Of the value of the parole in the State of New York there need only be said that, so far as the parole authorities have been able to learn, out of every one hundred men paroled from Sing Sing, Auburn and Clinton prisons since the system went into practical effect in October, 1901, eighty-three have "made good." During these ten years there have been approximately two thousand more useful members of the community returned to it, and there are two thousand less actual and potential criminals in existence that if there had been no parole work in the State, and the State has made a material gain to the extent of some hundreds of thousands of dollars that would otherwise have been expended for the maintenance in prison of men who have been at large and are self-supporting.

The hope of early and favorable action on a plea for parole furnishes the strongest incentive for the prisoner to conduct himself without fault in his cell, in the workshop and in the school. The family and friends on the outside bestir themselves with equal zeal to obtain suitable offers of employment (which are always investigated by the Board), a proper place of abode, and to enlist the interest of good people generally to lend a helping hand to the released prisoner.

"There were some sixty men who applied for parole at the April meeting of the Board at Sing Sing, and of these thirty applications were granted, and I may safely assert that in the case of every prisoner granted his parole it was better, both for the State and the individual, that he should be given the opportunity again to test his capacity in the struggle for an honest livelihood. In each instance the application for parole, signed by the prisoner, contained a statement as to his regular trade, profession or vocation, an account of his occupation in prison, his hopes and expectations on his release, with full details as to prospective employment while on parole and residence during that period. This application was accompanied by a written statement made by the prisoner at the beginning of his term, and by separate reports of the warden, the prison clerk, the principal keeper, the prison physician, the prison chaplain, the principal of the prison school and the district attorney who had prosecuted the case originally. Each prisoner's preliminary statement, filled out and signed on entering prison, covered about thirty-five points, including his own version of his 'criminal history,' particulars of his conviction, family relations, information relating to drinking habits and insanity in the family, his own account of the particular crime for which he was convicted and his industrial history, with the names of his employers.

"The report of the warden gave his estimate of the character and capacity of each man, with that official's view as to the probability of the prisoner keeping his parole. The report of the prison clerk was as to the convict's crime, the date of his reception in prison, his criminal history as revealed by photographs, finger prints and measurements, and an account of punishments, if any, and other particulars from the prison records. The principal keeper's report was along the same lines as that of the warden, but made out quite independently, as was another by the prison chaplain. The prison physician's report was as to the convict's physical and mental condition and his ability to do work of various kinds. The report of the principal of the prison school showed the conduct and progress of the convict in the classes, unless he had been excused as competent or on account of bodily or mental disabilities. The report of the district attorney who had convicted the prisoner was merely a statement of his views as to the advisability of granting the parole.

"In addition to these formal documents each prisoner's dossier contained letters from persons whose names he had given as references, and offers of employment, signed by the proposed employer before a notary, giving his name, address and business, and stating the amount of wages he proposes to pay and whether the amount included board. These offers of employment had been investigated thoroughly by a parole officer or some one connected with the Board, and were indorsed as approved or otherwise. All of the documents had been prepared with care and deliberation within six weeks before the meeting of the Board.

"Each applicant is brought separately before the Board of Parole, which

consists of three members (the State Superintendent of Prisons, ex officio, and two others appointed by the Governor) of equal rank. The Board having familiarized itself with the documents in each prisoner's case, he is questioned as kindly and delicately as possible with regard to every detail essential to a knowledge of his past life and his future prospects and intentions. As a misstatement to the Board, if detected, has a most unfavorable effect upon the prisoner's petition for parole, and as any statement he may make is subject to verification, he generally speaks the truth."

One of the interesting cases at a recent meeting at Sing Sing was that of an Irishman, forty-nine years of age, who had served twenty years of a life sentence for murder in the second degree, but had become eligible for parole under the law of 1907. Being asked the usual question: "Do you think that you will be able to support yourself out of prison?" he replied confidently in the affirmative.

"Twenty-five years ago," he said, "I got married and went into the trucking business in New York with one horse and wagon. When my trouble came I had twenty double teams at work. My wife has carried on the business all the time I have been in prison, but she had a hard pull to get over the panic four years ago, and now she's only got four teams. Two years from now I'll have the twenty teams at work again."

It is reasonably certain that a man will keep his parole.

Another case somewhat out of the ordinary was that of a man of thirty, who had evidently been a wild young fellow, but was possessed of superior intelligence and education, and the warden, the principal keeper and the chaplain, reporting separately, each expressed the opinion that the prisoner was sincere in his expressed determination to redeem his character on leaving prison. The meeting of the Board in April was the third occasion on which his application had been presented.

On this last occasion the prisoner's former employer had retracted his earlier protests against his being admitted to parole, and the man had the offer of a good position on his release. No prisoner is ever admitted to parole unless he can show that he will be self-supporting out of prison. Only a day or two before this meeting of the Board, however, a letter had been received by the warden of the prison from the New York police department to the effect that the police of a Western city had telegraphed that a warrant for the man's arrest was on the way from that city, where he was wanted for grand larceny. Of course, it was impossible to admit him to parole until this warrant had been disposed of.

Two former public officials who had betrayed their trusts and been punished among the applicants for parole at the April Sing Sing meeting were compelled to conform to the same rules of parole as the others.

"An idea of the value of the scholastic instruction in our State prisons may be gathered from the fact that four convicts—three Italians and one Russian—who came before the Board at the Sing Sing meeting in April had learned the English language and reading and writing during the periods of their incarceration. Three other Italian convicts, who had begun their sentences entirely ignorant of the language and had not progressed so far as to be able to answer the questions of the chairman of the Board without the aid of an interpreter, made not the slightest protest on being informed that they would be retained a little longer in prison until they should be somewhat improved

in reading, writing and speaking English. Ten or twelve of the men paroled on this particular occasion had learned trades in Sing Sing. Entering the prison as unskilled common laborers, they left it fairly qualified in trades that pay good wages.

"Provision for the indeterminate sentence in the State of New York was first inaugurated by a law enacted in 1889, which merely permitted such sentences in all cases and made no distinction between the first offenders and recidivists. The early hostility of the judiciary to the parole system is illustrated by the fact that during the twelve years' life of this law, from 1889 to 1901, only 115 indeterminate sentences were imposed in all the criminal courts of the State, involving 13,000 convicts committed to its prisons, not one subject of an indeterminate sentence in all these years being sent to Sing Sing from New York City, wihch furnishes about 70 per cent of all commitments to the State prisons. In 1901 the indeterminate sentence was made mandatory for first offenders in all cases where the maximum penalty was five years or less, but it was not until 1907 that it became mandatory in all cases of first offenders, with the exception of those convicted of murder in the first degree. In 1909 a law was enacted applying the parole system to all first offenders then in prison under definite sentences.

"The system that bears the name of 'probation' is one which has grown to its present proportions and importance since 1901 through the enactment of no less than forty general and local statutes. First applied only to adults and in cities, its benefits have been wisely extended to children and to all the courts of the State. By legislation in 1909 a measure took effect which enables boards of supervisors to fix salaries for probation officers, and during last year fifteen counties availed themselves of this privilege, and others are following their example. The system does not exist and is not designed for habitual criminal and hardened recidivists, but only for first offenders; or, at least, for such whose personal characteristics and history give promise of good results from its restraining and guiding influence.

"Had it not been for reforms inside the prison it would have been impossible to apply successfully the parole and probation systems in the State. A writer in the *World's Work* says, 'With the last ten years greater advances in the reform of prison administration have been made throughout civilization than during all the previous centuries that man has been forcibly sequestering his lawless brother from society,' and he declares that the United States has led the world in these reforms, and that New York has led the other forty-seven States. More than to any other one man the constructive legislation and the progressive reforms that have brought about this splendid advance in humanity and civiliation is due to Cornelius V. Collins. When Mr. Collins first took charge of the prisons of New York the essential principle of penology was retribution; in the words of Dr. Frederick H. Wines, 'to measure guilt on the one hand and suffering on the other, and to strike an equitable balance between the two.'

"Today, due to his efforts, a well-fitting uniform of bright blue gray has been substituted for the convict's striped suit, and the military squad formation has superseded the lockstep. His hair is trimmed with shears to suit his individual preference. Crockery has replaced the old tin cups and pans in the prisons of the State. An oculist and a dentist look after the eyes and teeth of the prisoners. An electric light in each cell has replaced the old tallow candles.

Infraction of rules in the New York prisons to-day merely consigns the convict to solitary confinement until he reaches a normal condition of mind and signifies his willingness to conform to discipline. The paddle, the rack, the ducking stool and all other forms of corporal punishment have been abolished in New York's penal institutions.

"Just now we are beginning to realize and measure the far-reaching result of the prison system of graded schools, the inauguration of which was accomplished by Mr. Collins in 1905. These schools are conducted with the greatest earnestness and efficiency, under the supervision and with the co-operation of the State Department of Education. Many men who come to prison are absolutely illiterate; many, too, without the smallest speaking acquaintance with the English language. The prison school pupils are almost always eager to learn, and display the greatest patience in gaining an elementary education. Without attributing any distince ethical value to the mere acquisition of unfamiliar facts, it is nevertheless true that the broadening of the mental prospect, the removal of blindness from the mental eye, is very often—particularly in the case of men guilty of crimes of violence and passion—the apparent proximate means of a practical reformation of the individual. He is awakened to a glimmering consciousness of the relativity of his rights, wrongs and desires, to the rights of others, and he is less apt to break out in anti-social criminal acts. The recent introduction of a carefully graded marking system, with honor bars or chevrons, and stars worked on the sleeve, has been a potent means of obtaining better discipline and improved conduct among the prisoners. Let us not be too optimistic, as there is a reverse side to the picture which claims our earnest attention and should stimulate public-spirited persons to promote and encourage ceaseless efforts aimed at betterments which require legislative and executive concurrence and encouragement for their realization.

"Among other things, the Board needs and must have more active relations with committing magistrates and prosecuting attorneys, and must be supplied with some brief on the facts in each case, showing its salient features and distinguishing facts, which color and qualify the significance of the crime in question and aid in checking up the narratives of the parole applicants.

"Further, the Board needs and welcomes the widest co-operation of probation officers, the happy application of that "Big Brother" idea which is rapidly coming to the front in the remedial treatment of delinquency.

"The traditional New York system of congregate prison administration, long accepted by the people of this State as the wisest and most humane scheme which could be devised for the treatment of convicts, and crystallized in our prison laws and practice, seems to necessitate by its maintenance a degree of freedom of intercourse which I must regard as harmful in its influence on many of the prisoners, particularly the youngest men.

"One more burning question affecting the material and moral welfare of our convict population is the matter of industries and earnings.

"While opinions radlcaliy differ upon these subjects, I am persuaded that we shall find in the near future some more just solution of the problem of providing more work and more diversified industries in our prison and securing to each industrious convict something like a living wage, available to ameliorate the pitiful conditions of poverty and want so prevalent among the families of prison inmates." R. H. G.