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Notes on Current and Recent Events

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ANTHROPOLOGY—PSYCHOLOGY—MEDICINE

Anthropological Study of Criminals in Belgium.—(From *Revue Penitentiaire.* From Belgium comes government recognition of the practical value of scientific investigation of the criminal classes. In connection with the prison of Forest there has been established by royal order a laboratory of anthropology for the collection and correlation of the results of anthropological investigation concerning its prisoners.

The Minister of Justice, in his report to the king, states that anthropological investigations concerning the characteristics of prisoners have, besides the well-recognized scientific value, a practical value in the penitentiary regime. He speaks of the dual aim of the penitentiary—punishment and reform—and holds that to attain the last it is necessary to obtain as much data as possible concerning the individual. It is necessary, he states, to make an investigation of his origin, his native environment, the environment in which he developed and that in which he committed the crime, also to make a thorough physical and mental examination. From the resulting data conclusions will be drawn which will determine the most efficient mode of treating the individual prisoner while confined and often also the precise degree of his guilt.

CLARA HARRISON TOWN, Lincoln, Ill.

S. S. Gregory on the Treatment of Insane Murderers.—The account of the meeting of the Wisconsin branch of the Institute of Criminal Law and Criminology, which was contained in the *Milwaukee Free-Press* for December 2, 1911, gives a great deal of space to the recommendations made by President Gregory of Chicago in his address at the meeting of the Wisconsin branch, which was, on the date mentioned, in session at Milwaukee. Mr. Gregory insists upon defining insanity as a chronic disease and upon recognizing it, therefore, as a physical ailment. Its existence or non-existence is a question for experiments and high-minded medical experts to decide. He referred to the old idea that the one great aim of punishment was vengeance and to the fact that this idea was losing its hold and that even the idea that punishments were valuable for their deterrent effect was sometimes denied. If, as the direct result of disease, a man does what he would not otherwise do, he does not merit punishment.

At the same meeting Col. Nathan William MacChesney emphasized the slogan of the day, which is individualization of punishment, considering the act committed, the offense against society, and protection of society, yet notwithstanding, with an eye always to the offender, his motives, his environment, his limitations, his possibilities, and applying the remedy with an eye to the future, so as to reclaim the individual, if possible, for future usefulness to his community without at the same time sacrificing the real demands of society.

R. H. G.

Jersey Justice—Overlooking the Patient.—At the time of the conviction of the would-be assassin of Mayor Gaynor much press comment was indulged in on the celerity of so-called Jersey justice.

Naturally there had been a conflict, a conflict which to an open-minded man would seem to be the last in the world to be found. The defense maintained, and mainly through the evidence of Dr. Henry A. Cotton of Trenton State Hospital, that the prisoner was suffering from general paresis, that he not only showed the physical signs, but the mental characteristics, and, furthermore, analysis of the cerebrospinal fluid showed the presence of lymphocytes, of positive globulin, and positive Wassermann reaction.

There never was any question, nor is there, that Dr. Cotton's standing is of the highest, and it is well recognized among the psychiatrists of the day that both by training and experience he is a man whose word is entitled to respectful credence.

There were those opposed who, while granting that some of the physical signs were present, were yet incapable of seeing, or unwilling to see, the mental features, and against the psychological and serological findings the objection was raised that a technical method, which is recognized the world over as representing the highest advance in scientific technique, was one that was not used. In the face of most unbiased evidence the prisoner was convicted and sent to jail, and now, within two or three months of the trial, we find that it is recognized, even by laymen, that he is suffering from general paresis and must be sent to the Trenton State Hospital.

This points a moral and adorns a tale. The older psychiatrists are able to diagnose a case of dementia praecox, of general paresis, of manic depressive insanity when the disease is so far advanced as to make it obvious to the man on the street that the patient is suffering from mental disease.

The facilities of modern psychiatry are such that the real psychiatrist should be able to make a diagnosis before the layman can. Refined methods of technic, advanced modes of examination, have come into the field and are bound to stay. We await with much interest the post-mortem report which undoubtedly Dr. Cotton will supply. SMITH ELY JELLIFFE, New York.

Injury to the Hair and Its Forensic Significance.—Röttger (*Archiv für Kriminal-Anthropologie und Kriminalistik,* XLIV, 1911, 209-248) has set forth in this article the various changes which human hairs undergo as the result of age, disease and external injury.

Pathological Conditions, such as fungoid growth, cause both mechanical and chemical damage, as the splitting of the shaft, due to destruction of the cement substance, in trichoptilosis and fevers, with gradual decay from disturbed nutrition.

Normal Secretions, as sweat and urine, cause a loss of the cylindroid form of the shaft, the cortex is partly peeled off by the acids, the macerated shafts become brittle and present the characteristic brush-like appearance.

Heat effects changes in both structure and color. The intercellular air spaces in the cortex become disturbed, and vacuoles may appear in the medulla and the outline of the hair becomes styslike. Scorched areas, as from the flame from pistol shots, show fibres split off from the shaft.

Shooting off firearms at close range produces characteristic changes, not

due to the heat alone, bending and tearing of the hair shaft, fissures in the hair, clean cuts and longtitudinal fractures.

In direct injuries the lesions are modified by the nature of the underlying surface and the character of the weapon.

Injuries produced by an instrument with a flat surface against the flat portion of the skull are characterized by a long ribbon-like flattening of the hair shaft. On the convex portion of the skull the hair becomes spindle formed. Blunt instruments produce sharply circumscribed rosette-like enlargements, while objects with sharp edges produce fractures with broadening and splitting of the ends.

Changes produced by injuries inflicted *after death* depend upon the time that has elapsed since the assault and upon the influence of air, water, blood, etc., all of which conditions Röttger has especially studied. He found that hair allowed to soak in blood for six months showed definite changes, as longtitudinal fissures of the shaft and splitting off of fibres.

He further placed hair in the thermostat at 40 C. for ten days in a mixture of blood and tissue fluid, but found no change in human hair, beyond a reddish brown discoloration, while rabbit's hairs showed fractures and complete disappearance of pigment.

The two chief medico-legal aspects of the changes which human hair undergo concern: (1) The possibility of determining the nature of the injury inflicted, and (2) the possibility of identification or of determining the age of the individual.

To the first question Röttger answers that in general neither the injuries inflicted during life, nor after death, produce characteristic and reliable changes; further, that we can only form an opinion as to the nature of the injury when the body region to which the hair belongs, and the surrounding conditions, are known and considered.

Identification is not always possible, on account of the color changes which hair is subject to after death. The age of the hair is equally uncertain, for in favorable conditions hair has been preserved for hundreds of years, but in conditions favoring decomposition the destructive changes are rapid and set in soon after death. SMITH ELY JELLIFFE.

Homosexuality and the Law.—There is no doubt, writes Bruno Meyer, (*Archiv für Kriminal-Anthropologie und Kriminalistik*, XLIV, 1911, 235-249), that inversion of the sexual instinct is congenital in the vast majority of cases and that very little can be done. It is often acquired, however, during adolescence, before the sexual instinct is completely differentiated, when the nature of the influence to which the individual is subjected determines the direction of the instinct. Meyer thinks that preventive and restrictive measures should be directed chiefly towards this form, as it is precisely during adolescence that the examples of homo-sexuals—among the female sex as well—is most dangerous, especially as psychic hermaphroditism is not uncommon.

The explanation of this phenomenon is found in the fact that the male and female sexual organs are developed from the same germinal layer, so that if differentiation has not been complete the individual may anatomically belong to one sex and psychically to the other. Psychic hermaphroditism includes all transition types between normal sexual tendency and total inversion.

Homosexuality may also be acquired by adults who have experienced

heterosexual inclination, but in whom a revulsion of feeling has been caused by some disagreeable experience, and later through seduction or bad example the sexual instinct is completely inverted.

We know that the sexual desire originates in the cerebral cortex and not in the sexual organs; therefore, it is clear that any misdirection of the desire indicates some anomaly or disease of the cortex. Homosexuality is therefore parallel to insanity, and it becomes the duty of the state to guard the population against this evil by enforcing certain measures, as it does in insanity.

It is generally accepted that *degeneration* is the fundamental cause of homosexuality. Degeneration, on the other hand, is the direct outcome of our present social order and exists only in man and domestic animals. As man advances in civilization degeneration increases, because better care is taken of epileptics and the mentally defective, and they are allowd to procreate, though their offspring are invariably degenerates. As homosexuality is a distinct manifestation of degeneration, it is a direct product of our culture.

By rendering it punishable, we cannot prevent the cause—degeneration—but the fear of punishment would prevent those whose sexual instinct is not differentiated from yielding to the as yet faint impulse.

The present German penal code says that acts of unnatural debauch committted between persons of the *male* sex shall be punished with imprisonment—not less than six months—and loss of civic rights.

It is now proposed to include the female sex and to extend the term of imprisonment to five years.

Meyer states that in his opinion there is no ground for constituting the performance of some moral offense a penal offense when performed by two adults who have given their mutual consent, but the law must ensure that no boy or girl, who has not yet reached the age of discretion, should be seduced or abused by some other person. The age limit is at present 16 years, but he agrees with Wulffen that it should be raised to 20, or, better still, to 21 for both sexes. As regards the inclusion of the female sex, it is absolutely necessary for the checking of this evil.

In summing up, Meyer states that homosexual acts should be punishable whenever (1) performed upon an individual under the age limit, (2) performed upon adults without consent. Compulsion here includes the use of hypnotics or narcosis.

Attempts at seduction, where proven, should also be punishable.

SMITH ELY JELLIFFE.

COURTS, LAWS.

A Bill to Establish in the Department of Commerce and Labor a Bureau to Be Known as the Children's Bureau.—Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that there shall be established in the Department of Commerce and Labor a bureau to be known as the Children's Bureau.

SEC. 2. That the said bureau shall be under the direction of a chief, to be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual compensation of five thousand dollars. The said bureau shall investigate and report upon all matters pertaining to the welfare of children and child life, and shall especially investigate the questions

of infant mortality, the birth rate, physical degeneracy, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several states and territories, and such other facts as have a bearing upon the welfare of children. The chief of said bureau may from time to time publish the results of these investigations.

SEC. 3. That there shall be in said bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Secretary of Commerce and Labor, who shall receive an annual compensation of two thousand four hundred dollars; one private secretary to the chief of the bureau who shall receive an annual compensation of one thousand five hundred dollars; one statistical expert, at two thousand dollars; two clerks of class four; two clerks of class three; one clerk of class two; one clerk of class one; one clerk, at one thousand dollars; one copyist, at nine hundred dollars; one special agent, at one thousand four hundred dollars; one special agent, at one thousand two hundred dollars; and one messenger, at one thousand four hundred and forty dollars.

SEC. 4. That the Secretary of Commerce and Labor is hereby directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed two thousand dollars.

SEC. 5. That this Act shall take effect and be in force from and after its passage.

The above bill was introduced by the Hon. A. J. Peters on April 13, 1911. It is known as H. R. 4694. It has since become a law and Miss Julia Lathrop of Chicago has been made head of the Bureau. R. H. G.

Proposed Penal System Commission Law of Maryland.—An act creating the Penal System Commission, and providing for the appointment of the members thereof and of a secretary thereto and employes thereof; prescribing its duties and directing it to investigate the penal laws and penal system of the state and empowering it to enter and fully investigate and inquire into the management and conduct of every institution in the state of Maryland wherein any person may be sentenced to confinement for violation of any law of the state, to examine all books and other records of any such institution and to summon witnesses and examine them under oath administered by an officer of the state authorized to administer oaths; and directing said commission to report the results of its investigations, with such recommendations as it may approve, to the next session of the General Assembly and appropriating the sum of $10,000, or so much thereof as may be necessary, for the payment of the expenses of said commission and salaries to the secretary and clerks thereof.

Whereas, it is deemed desirable to create a commission to inquire into and consider the provisions of the laws and the administration thereof relative to the sentence and probation of persons convicted of offenses, the length of service prescribed and imposed for the several offenses, the parole, probation and indeterminate sentence systems, the method of employment of convicted persons while undergoing sentence, and such other matters relative to the penal laws and the administration and enforcement thereof as said commission may deem advisable, and to report to the next session of the General Assembly the results of the investigations and the conclusions of the commission with recommendations of legislation that will adequately protect the people of the state from crime and at the same time work for the punishment and correction of the persons convicted; therefore

SECTION 1. Be it enacted by the General Assembly of Maryland, that a

commission by the name of the Penal System Commission be and the same is hereby created consisting of eleven members, as follows: One member of the Senate, to be appointed by the President thereof; one member of the House of Delegates, to be appointed by the speaker thereof; two members to be appointed at large by the Governor, and the following members to be appointed by the Governor: one member of the Board of Directors of the State Penitentiary, one member of the Visitors of the Baltimore City Jail, one member of the Board of Managers of the Maryland House of Correction, one member of the Federation of Labor of Maryland, one member of the Faculty of Johns Hopkins University, one member of the Medical and Chirurgical Faculty of Maryland, one member of the Prisoners' Aid Association of Maryland. The Governor shall designate one of the members of the commission as chairman thereof and the commission shall elect such other officers as it may deem necessary. The governor shall fill all vacancies in the commission and shall appoint to a vacancy a representative of the body, institution or organization whose representative caused the vacancy, but if the vacancy was caused by the death or resignation of one of the two members appointed at large by the Governor then the Governor shall fill such vacancy by an appointment at large.

SEC. 2. And be it enacted, that the commission may appoint a secretary, who shall not be a member of the commission, to hold office during the pleasure of the commission, at a salary not to exceed the rate of $2,500 per annum, and may employ such other clerks as it may deem necessary, but no member of the commission shall receive any compensation for his services, but the members and employes thereof shall be entitled to receive their reasonable expenses incurred in the performance of their official duties, and the sum of $10,000, or so much thereof as may be necessary, is hereby appropriated from any money in the treasury, not otherwise appropriated, for the payment of the salaries of the secretary and clerks of the commission and for the expenses of the commission in carrying out the purposes of this act.

SEC. 3. And be it enacted, that said commission be and it is hereby directed to investigate the penal laws and penal system of the state and it is hereby empowered to enter and fully investigate and inquire into the management and conduct of every institution in the state of Maryland wherein any person may be held or sentenced to confinement for violation of any law of the state, and it is further empowered to examine all books and other records of any such institution, and it shall be the duty of every official and employe of every such institution to testify before and give full information to said commission relative to any matter it may inquire into.

SEC. 4. And be it enacted, that said commission is hereby empowered to summon witnesses to appear before it and to examine witnesses under oath administered by an officer of the state authorized to administer oaths.

SEC. 5. And be it enacted, that said commission is hereby directed to report the results of its investigations with such recommendations as it may approve, to the next session of the General Assembly.

SEC. 6. And be it enacted, that the invalidity of any section or of any part of this act shall not affect in any way the validity of any other sections or of any other parts of this act.

SEC. 7. And be it enacted, that this act shall take effect from the date of its passage.

JOSEPH N. ULMAN, Baltimore,
President Prisoners' Aid Association of Maryland.

An Act in Relation to the Election of Public Defenders in New York. —The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter sixteen of the laws of nineteen hundred and nine, constituting chapter eleven of the consolidated laws, with the several amendments and supplements thereto, is hereby amended by adding a new article, to be known as article eleven A, to read as follows:

ARTICLE 11A.

SEC. 206. Election, appointment and term of office of public defenders. 1. At the general election to be held in the year nineteen hundred and twelve there shall be elected in counties having a population of one million inhabitants, or over, a public defender, who shall hold his office for four years from and including the first day of January, nineteen hundred and thirteen. Every four years thereafter there shall be held other elections for the election of successors to the public defenders chosen at the first election herein provided for, which successors shall hold office for the term of four years, from and including the first day of January next succeeding their election.

2. In the event of the death of a public defender elected as herein provided for, his resignation or vacancy occurring through other means in the office of public defender, the Governor, by and with the consent of the Senate, may appoint a public defender to fill out the unexpired term.

3. Any public defender elected or appointed under the provisions of this article may be removed by the Governor in the same manner as a district attorney.

SEC. 207. General duties and powers. 1. It shall be the duty of every public defender to defend, without charge, and to represent generally all persons who have been indicted by the grand jury of the county, who are without means to employ counsel and who desire the services of said public defender.

2. He shall have power to employ such deputies, assistants and clerks as shall be necessary for the proper conduct of his office, subject to the approval of the Board of Supervisors of the county, except where the county is wholly within the city of New York, in which case the employment of such deputies, assistants and clerks shall be subject to the approval of the Board of Estimate and Apportionment of the city of New York.

3. He shall be paid a salary of fifteen thousand dollars per annum in equal monthly installments.

SEC. 208. Employment of counsel by the public defender. 1. The public defender of any county in which an indictment has been found for a capital or other important crime, with the approval in writing of the presiding justice of the court in which the indictment is found, which approval shall be filed in the office of the county clerk, may employ counsel to assist him on the trial of such indictment, and the costs and expenses thereof, to be certified to by the judge presiding at the trial, shall be a charge upon the county.

Sec. 209. Application to counties having a population of less than one million inhabitants. The board of supervisors of any county of this state, having a population of less than one million inhabitants, but more than two hundred thousand inhabitants, may at any time after the enactment of this act, by resolution, create the office of public defender for such county, and in such event the public defender of such county shall be elected at the first general election after the adoption of such resolution and shall be governed in all other respects by

the provision of this article, except as to compensation, which shall be fixed by the Board of Supervisors of such county.

SEC. 2. All of section three hundred and eight of the code of civil procedure, constituting chapter four hundred and forty-two of the laws of eighteen hundred and eighty-one, as amended, except the first sentence of such section, is hereby repealed.

SEC. 3. This act shall take effect immediately.

The above draft was introduced in the assembly of the state of New York by Mr. Blauvelt on January 10, 1912. It was referred to the Committee on Judiciary. February 6, 1912. R. H. G.

An Act Relating to the Examination of Persons Charged With a Crime in the State of Rhode Island.—It is enacted by the General Assembly as follows:

SECTION 1. No force, subterfuge, intimidation, cruelty, threats or other means, shall be used by any constable, detective, inspector, police officer or other person to extract a confession or admission of guilt from any person who has been arrested charged with a crime.

SEC. 2. Any confession or admission of guilt so obtained from any person under arrest accused of crime shall not be evidence to be used against the said person, unless used solely by the said person's consent, and the denial of the said person that any such confession or admission of guilt was given voluntarily, will be sufficient to exclude it from being used as evidence against the said person at the time of his or her trial.

SEC. 3. Any violation of the provisions of this act shall be a misdemeanor, punishable by a fine of one hundred dollars or imprisonment for one year or both.

SEC. 4. This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

The above act was introduced by Mr. Munroe of Providence.

R. H. G.

Effect of Plea of Guilty.—The following comment appeared in the January issue of *Law Notes*: "Had the trial of the now notorious J. B. McNamara been held in New York, New Jersey or Michigan, it would not have been immediately terminated by a plea of guilty. The New York Penal Code provides that 'a conviction shall not be had upon a plea of guilty where the crime charged is or may be punishable by death.' In New Jersey the statutory provision is that if upon arraignment a person indicted for murder offers a plea of guilty such plea shall be disregarded and the plea of 'not guilty' shall be entered. In Michigan the judge is required, even in other than murder trials, to ascertain by a search of the evidence and a personal examination whether the plea was voluntarily entered. The New York statute came up for construction in *People v. Smith*, 78 Hun. 180. Smith was indicted for murder in the first degree. After a plea of not guilty and a trial thereon the jury disagreed. Subsequently he pleaded guilty to manslaughter in the second degree and was sentenced to ten years' imprisonment. On an appeal from the dismissal of a writ of habeas corpus wherein it was argued that the sentence was invalid because of the foregoing section of the Penal Code, it was held that the provision did not apply to a conviction of a crime punishable by a term of years."

Other states have statutes regulating the admission and effect of the plea of guilty. In Texas the statute (Rev. Crim. Stat. 1911, Sec. 565) provides that the plea of guilty shall not be received unless it plainly appears that the prisoner is sane, and is not influenced by any fear or persuasion or hope of receiving a pardon. Under the Illinois statute (Rev. Stat. 1909, Ch. 38, Sec. 424) the judge must explain to the defendant the consequences of such plea, and wherever the judge has discretion in fixing the amount of punishment, he must hear witnesses regarding the aggravation and mitigation of the offense. A statute in Washington (Ballinger's Code and Stats. 1897, Sec. 6907) provides that "if the defendant plead guilty to a charge of murder, a jury shall be impaneled to hear testimony, and determine the degree of murder and the punishment therefor." The same procedure is prescribed by statute in Tennessee (Code of 1896, Sec. 7174) in cases where the punishment is imprisonment in the penitentiary, and in Alabama (Crim. Code, 1907, Sec. 7506), except in cases where the penalty is fixed by law. Under a statute (Ind. Rev. St. 1881, Sec. 1904) providing that upon conviction of murder the defendant "shall suffer death or be imprisoned in the state prison during life, the Supreme Court of Indiana decided in *Wartner v. State* (102 Ind. 51) and *Lowery v. Howard* (103 Ind. 440) that upon a plea of guilty to a charge of murder it was error for the trial judge to impose a sentence of death.

In *Commonwealth v. Battis* (1 Mass. 95), decided in 1804, the defendant pleaded guilty to an indictment for murder and an indictment for rape. According to the official report:

"The Court informed him of the consequence of his plea, and that he was under no legal or moral obligation to plead guilty; but that he had a right to deny the several charges, and put the government to the proof of them. He would not retract his pleas; whereupon the Court told him that they would allow him a reasonable time to consider of what had been said to him; and remanded him to prison. They directed the clerk not to record his pleas at present. In the afternoon of the same day the prisoner was again set to the bar, and the indictment for murder was once more read to him; he again pleaded guilty, upon which the Court examined, under oath, the sheriff, the jailer, and the justice (before whom the examination of the prisoner was had previous to his commitment), as to the sanity of the prisoner; and whether there had not been tampering with him, either by promises, persuasions, or hopes of pardon, if he would plead guilty. On a very full inquiry nothing of that kind appearing, the prisoner was again remanded, and the clerk directed to record the plea on both indictments. * * * He has since been executed."

EDWIN R. KEEDY, Chicago.

Argument in Support of the Recommendation of the Committee on Reform in Procedure of the Oklahoma Bar Association.—"The question of law reform is being considered and discussed by the bench and bar throughout the entire country. Presidents Taft and Roosevelt thought it sufficiently important to call the attention of Congress and the nation to it in their message. The American Bar Association and the bar associations of the various states have been studying and agitating the subject for years and criticizing the administration of the law so severely, its delay in the trial of cases and reversals on technicalities, until it is thought a great necessity exists for such reform, and especially in matters of procedure. The sentiment for legal reform which placed harmless error provisions in the constitutions of the states of

Oregon and California is a protest against this condition. Likewise the recall of judges is intended as an extraordinary remedy for an extraordinary necessity. It is the duty of the bench and bar throughout the country to assist in the correction of any errors existing in our procedure.

"The writer calls the attention of the profession and the people generally to the procedural reforms suggested in this report and ventures some suggestions and observations in relation thereto. An indictment or information should be sufficient if it enables the accused to determine what the offense is and when committed, and to enable the court to render judgment thereon. This is covered by section 1 of the report. In regard to section 2, our present procedure, forbidding reference to the failure of the accused to testify in a criminal action, is a relic of the dark ages, and should not be the law in this enlightened period. The latter part of this section is of doubtful constitutionality. Sections 3 and 4 need no explanation. All who are familiar with the trial of criminal cases when the plea of insanity is relied on, will approve these reforms, unless it be the skilled lawyer who is ever zealous of the rights of the accused and too fond of the rules of the 'game' as now played, without regard to the expense of these long-drawn-out criminal actions to the taxpayers of the state. Six needs no comment. Seven is so in accord with the modern trend of law reform that no good citizen should oppose it. To permit a defendant to come into court for the purpose only of notifying the court that he has no notice of plaintiff's suit and require the expense and delay necessary to get out a new summons and have it served upon him, is not only frivolous, but ridiculous. Section 8 would prevent a great many fictitious defenses made only for delay, and save time and expense in the administration of the law.

"The profession will differ as to the reforms suggested in section 9, and the writer does not consider it so important as other provisions of the report. The recommendation in section 1 is very important to taxpayers and to those officers of the state who sincerely desire to administer the law impartially, speedily and at the least expense possible. The necessity of this reform was suggested to the writer soon after he took up the duties of a district judge after statehood. Just why the taxpayers of the county should be required to pay a sheriff to go out twenty miles into the country and notify a citizen in person that he was drawn to serve on a jury, he could not understand, when such citizen could be notified over the telephone or by letter at a nominal cost. Upon investigation it was found that law reform in this respect is one hundred and fifty years behind the times. We are using the same cumbersome machinery in the administration of the law that was in use before the United States mail system was established, or the telegraph and telephone invented.

"Often, as judge of the court, I ordered the attendance of jurors and witnesses by mail and by telephone without legal authority, but with much success. I recognize that no corporation or business concern would use the expensive machinery used by our courts, and so feeling, in February, 1910, I prepared a bill to authorize the summoning of jurors for the district and county courts and witnesses in both civic and criminal cases in person over the telephone, by telegraph or by mail, registered or ordinary, at the option of the litigant ordered the service. I called attention to the legislature by circular letter to the necessity of such a law, and also to Governor Haskell, who promptly submitted the matter by special message, and the bill became

a law, amended however, as to not authorize a witness to be subpoenaed by telephone or telegraph. This section recommends that this law be amended to authorize such service. It should be done. Since this law was passed, as district judge, I have experimented with the procedure by ordering jurors summoned by telephone, by mail, ordinary and registered, with equal success. I have found but one juror who declined to obey the summons by mail, and I hardly think he will do so again. In my district witnesses in both criminal and civil cases are served by telephone, and they promptly obey the service."

The Admission of Proved Handwriting as Testimony.—In a communication from Hon. Marcellus L. Temple, United States Attorney for the Southern District of Iowa, a point is made which I had not before considered and that is that more lawyers are interested in limiting the powers of the prosecution than in extending them. Mr. Temple says: "You know, these matters in Congress are usually controlled by the lawyers in the delegation and lawyers are, as a rule, conservative. Too many of them are interested in the defense of that class of cases and are very slow to support any law that will give the prosecution any greater latitude than they have had heretofore. That question I have found to be a very important one, but I trust that influence will be brought to bear to procure this much-needed legislation."

It is a humiliating fact that England passed this proposed law fifty-seven years ago and that our country, which we think so progressive, has not yet been able to do it. ALBERT S. OSBORN, New York City.

The Unreliability of Handwriting Expert Testimony.—"A miscarriage of justice caused President Taft to-day (January 19) to grant a full and unconditional pardon to Oscar Krueger of New York, who had served nearly one year of an eighteen months' sentence in the Atlanta prison for a crime he did not commit. Expert (?) handwriting testimony, it was said, was responsible for his conviction on a charge of mailing an obscene letter. An exhaustive investigation by the Department of Justice established Krueger's complete innocence."

Expert testimony in the matter of handwriting is a matter of mere "deduction" and the testimony concerning handwriting can never be accepted by the courts as an exact science. The expert merely examines specimens of the handwriting of the accused, and makes a few comparisons, and his inferences are venal, that is, he will state what the government or defense may desire. This testimony is for sale to the government or defense, and expert handwriting testimony can always be procured if the party desiring it is able to meet the terms of the expert. It is pretty near time that the courts should put a stop to depriving a citizen of his liberty upon the mere guesses of "professional witnesses for hire." JOSEPH MATTHEW SULLIVAN, Boston.

Proof of Handwriting.—In an article under this title in the December, 1911, number of the *Illinois Law Review,* Albert S. Osborn, well known as the author of "Questioned Documents," discusses the rule of evidence which does not permit the introduction of specimens of a person's handwriting solely for the purpose of comparison with the writing in dispute. This rule has been changed in many of the states but still obtains in some. However suited this

rule may have been to the conditions of knowledge on the subject formerly prevailing, it seems clear that it should now be changed so as to allow the introduction of sufficient material to enable a proper comparison of disputed writings to be made. Mr. Osborn points out that the great value of the introduction of standards of comparison lies in the fact that thus the very thing in dispute is actually before the court and jury in tangible form. The proof thus does not rest merely on the opinion of an expert, but he is able to give his reasons and to demonstrate them from the things themselves and the jury can thus judge of the value of the opinion and may themselves make the comparison. It would seem clear that this affords more satisfactory proof than the mere opinion of persons judging of the writings from memory of the general characteristics of a person's handwriting or of experts. The article is a valuable discussion of the subject. E. L.

The Oregon Constitution, Art. 7, Sec. 3, as Amended November 8, 1910.—In actions at law where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of this state, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the Supreme Court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the decision of the appeal. If the Supreme Court shall be of opinion, after consideration of all the matters thus submitted, that the judgment of the court appealed from was such as should have been rendered in the case, such judgment shall be affirmed, notwithstanding any error committed during the trial; or if, in any respect, the judgment appealed from should be changed, and the Supreme Court shall be of opinion that it can determine what judgment should have been entered in the court below, it shall direct such judgment to be entered in the same manner and with like effect as decrees are now entered in equity cases on appeal to the Supreme Court; provided, that nothing in this section shall be construed to authorize the Supreme Court to find the defendant in a criminal case guilty of an offense for which a greater penalty is provided than that of which the accused was convicted in the lower court."

See 115 Pacific Reporter, p. 418. *Wills v. George Palmer Lumber Co.*

GEORGE B. WINSTON, Judge, District Court, Anaconda, Mont.

Report of the Commission on the Inferior Courts of the County of Suffolk, Massachusetts.—The commission appointed to investigate the inferior courts of Suffolk County, Massachusetts, and to consider the expediency of revising the judicial system of the county, reports in part as follows:

"The prevalent complaint against the law's delays can have no application to the inferior courts of Suffolk County. They are all fully abreast of their work in point of time. Civil causes can be tried upon the issues within a month of the date of the writ. Criminal cases are in the large majority of cases finally disposed of on the return day of the summons, or the day following arrest. Requests for continuance generally come from the defendant, and usually involve only a few days.

"The element of delay touches the work of these courts only in its relation to the appeal system, which is dealt with later herein.

"We find that although these courts, except for juvenile jurisdiction, exercise within their several districts the same criminal jurisdiction, and the same civil jurisdiction except as to variation in amount in the central court, and although the social and economic conditions of their various districts do not differ essentially, there exists a radical and multiform variation and antagonism of practice in matters essential to the enforcement of law. In our opinion this is a matter of grave moment, for no body of law can serve its full purpose, no penal law can command the full measure of that public respect failing which the law itself fails, when the execution of such laws needlessly and unreasonably varies within a given community. We are well aware that absolute uniformity of legal enforcement is not humanly possible, but that furnishes no argument for the inviolability or retention of a system which of itself tends to promote such contradictions; for the fault is in the system,—not in the various judges and other officials, but in the segregating system, which not only permits but promotes such variations by depriving each of them of efficient points of contact with the others. Some of those variations are as follows:

"In two of these courts the provisions of Revised Laws, chapter 212, section 37, permitting the release by probation officers of certain persons arrested for drunkenness, is almost a dead letter.

"There is a wide variation in the length of probation terms, ranging from three months to two years; eight courts continue cases on probation to a day certain, while the ninth continues such cases *nisi* or indefinitely, notwithstanding a serious doubt as to the validity of sentences imposed upon subsequent surrender.

"In one court sentences for drunkenness are largely predetermined by the court, upon inspection of the probation officer's report of previous convictions, right or wrong, and this in the absence of the prisoner.

"The provisions of St. 1902, chapter 227, permitting release of certain convicts on parole by consent of the judge and probation officer of the committing court, are unequally applied.

"In certain courts a policy prevails of fining in practically all cases of persons arrested for drunkenness who are not residents of the particular judicial district.

"There is a marked variation in the policy of fining or imprisoning in certain classes of offenses.

"There is a similar variation in the application of laws designed to alleviate the unequal effect of imprisonment for nonpayment of fine, *e. g.*, suspension of sentence, etc. (Acts of 1905, chapter 338).

"A decided variation exists in the use of the probation system, not only as a whole, but in its relation to specific classes of cases.

"The diversities of civil practice are not so important, more especially as 92 per cent of all the civil cases are entered in the central court, but it is worthy of note that these courts are working under several different sets of rules, which certainly does not make for the convenience of the bar or of litigants.

"In endeavoring to frame a remedy for these conditions we have tried to keep constantly in mind these three objects: first, the adoption of what public sentiment seems to demand; second, no, avoidable interference with existing conditions; and third, local remedies for what is essentially a local problem.

"The overwhelming sentiment of the community, as expressed in the hearings before us, and one in which we unanimously concur, is that the time has come to consolidate these courts.

"In devising a plan for consolidation, the attention of the commission has turned naturally to the Municipal Court of Chicago. While the Municipal Court idea is an old one in Boston, the Chicago court was created with a distinct legislative recognition that there is a business as well as a judicial aspect to court work. The act creating the Chicago court adopts the business corporation idea, lodging the general control in the judges, with wide powers analogous to those of a board of directors, and a chief executive officer, with substantial powers of supervision and direction, acting through various responsible department heads. The court has final jurisdiction of fact, with a speedy means of determination of legal questions by higher tribunals.

"The work of the court in the five years of its existence has fully justified its creation. It has obviated the abuses incident to the old system of segregated courts, has kept abreast of its work and materially relieved the pressure and delay in other tribunals, has developed celerity and efficiency, and eliminated waste. Legislative correction and amendment have come from the inside by recommendation of the judges. This shows a more healthful condition than legislative restriction born of outside grievance.

"With it as a model have been created similar courts in Cleveland, Buffalo and Milwaukee, and its administrative features have been legislatively adopted for the New York court of special sessions.[1] Its system has been agitated with expectation of success in Pittsburgh, St. Louis and San Francisco. We believe that many of its features can be made useful here, especially its plans of solidarity and of efficiency through centralization in administrative matters, and have incorporated them in the recommendations for legislation. . . . .

"Summary of recommendations made, and for which provision is made in the legislation proposed:

1. "A consolidation of the inferior courts of the county, by the extension of the central court, the abolition of the remaining courts, the creation of a juvenile division having jurisdiction throughout the country, and an appellate division for error of law in civil causes; the court to consist of one chief justice, fifteen associate justices, ten special justices and one associate and two special justices for juvenile work.

2. "Larger and more specific authority in the court, by majority vote of its judges, to make rules and orders for the transaction of its business and regulation of its practice.

3. "Centralization of executive authority, to secure efficiency and uniformity in the transaction of its business, and to promote co-ordination in the work of its departments.

4. "The adoption of a system to prevent duplication of trials on issues of fact, in civil causes.

5. "Permissive authority for the court to appoint salaried interpreters."

The report is signed by WILFRED BOLSTER, JOHN F. BROWN, JOSEPH C. PELLETIER, A. NATHAN WILLIAMS and DANIEL T. O'CONNELL.

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[1]Laws of New York, 1910; fourth Chicago report, p. 49; final report, Page Commission, New York, p. 24.

The Conservative Point of View on Procedural Reform.—Dean Brooks, of the College of Law in Syracuse University, makes it quite plain in his article appearing in the *Yale Law Journal* for February, 1912, that he is a patriot. The characteristically efficient and expeditious methods of British criminal tribunals, he does not hesitate to term "judicial lynching." Whereas our methods "have been formulated by a great liberty-loving, free people, and make paramount the life, liberty and happiness of the citizen," and in them the Dean has "great faith."

The following extract is reasonably typical of his point of view:

"Holding up as an example to be emulated, some European government does not appeal to me. I believe in the thoroughly Christian humanity of our own laws, and legal system, and I am not ready to approve any law of procedure that has in view the quickest legal immolation in prison or the taking the life of a citizen charged with crime."

The Dean apparently concedes that we, in America, have a "slouchy manner" of enforcing criminal procedure. Yet he patriotically insists that the more speedy criminal justice meted out in England is what "our fathers planned wisely and well to avoid and prevent."

The Dean's suggestion for relief is to "live up to the spirit of our law." That is our suggestion as well. In our judgment, however, the very genius of the common law is embodied in the sane and sensible criminal jurisprudence and administration of Great Britain and the British dependencies. Their example, at least in that respect, we must insist as "holding up to be emulated," even at the risk of being deemed unpatriotic by some patriots.

There are few crumbs of comfort to be gleaned from Dean Brooks' article by a public suffering from the technicalities and the delays of the criminal law and its administration on this side of the Atlantic. Perhaps the chiefest of these is the reluctant concession that there is now abroad in the land a spirit which does not hesitate to criticize, in the first place, and to study the solution of the problem abroad, in the second place.

I. MAURICE WORMSER, University of Illinois.

The Legal Attitude of Germany, Austria and Switzerland on the Subject of Prostitution.—(Paul Balmer, *Schweizerische Zeitsch. für Strafr.*, 24th year, No. 2.)

The writer comments on the general similarity of the codes which is unintentional and probably the result of evolutionary processes common to German-speaking peoples. Hope is expressed that beneficial legislation may result from the attention being given to the subject by great thinkers. The present laws were not secured without conflict, and progress will not be made without many more battles.

The article covers the following phases of the subject: Prostitution and its manifestations; and prostitution as a trade and its regulation by the state.

Prostitution in itself is looked upon as not punishable; not because it cannot be punished but because of its personal nature. The law is concerned principally with those phases which challenge social attention. The scandal proposition is not looked upon as a large one because it is local in nature. There is a tendency to ignore neighborhood complaints for the novel reason that "the prostitute must live somewhere." The idea of making the communication of venereal disease a crime seems to be a new one in Germany. The code which

makes it a crime to mishandle or inflict bodily injury of any sort is not looked upon as covering the case. The laws guaranteeing personal freedom and against the maltreatment of minors are looked to for protection against traffic in young girls.

Switzerland punishes with imprisonment the knowing impartation of venereal disease by a prostitute or an infected man.

The general attitude of regulation brings difficulties because regulation implies public consent and involves the government in the problem of "morals police." The attitude of American communities has been to refuse to make any recognition of the traffic. The Austrian plan of recognition amounts practically to unlimited freedom for prostitution with efforts to restrict harmful contagion as far as possible.

Gainful prostitution is forbidden by law in Switzerland. This law makes houses of prostitution impossible. In Germany, gainful prostitution is punished only when health is endangered. Traffic in young girls is looked upon as an international menace. Transportation is punished by two years' imprisonment in Switzerland; in Austria, with from four weeks to three years' imprisonment. The German plan calls for imprisonment from three months to five years.

Practically the same situation confronts reformers in Europe as in America. Legal ostracism of prostitution is not a complete victory. The issue depends upon social morality everywhere.

PHILIP A. PARSONS, Syracuse University.

Compensation by the Criminal for Injury Inflicted.—(Prof. Dr. Earnst Hafter, Zurich, in *Schweizerische Zeitsch. für Strafr.*, 24th year, No. 4.)

The growing tendency to recognize the rights of the injured person to compensation has registered itself in laws in several European countries. Professor Hafter discusses and criticizes such legislation and the principles involved.

The question of releasing the culprit without further punishment upon the payment of compensation to the injured party turns on the effect of such an action on the public safety. Quite frequently justice is only partly obtained when the injured party has been compensated. Social protection may demand the restraint of the offender from repeating the damaging action. The principle of awarding half the fine to the injured party is a return to primitive German custom as well as Roman. Where property is confiscated for payment of fines the right of the injured should still be recognized.

In case of labor, either in confinement or at liberty, a stated portion of the proceeds of the labor should go to the injured. The principal difficulty arising from such an arrangement lies in the fact that the returns from the labor of many criminals little more than pays the state for the cost of their support. Consequently the amount available for the injured party would frequently be insignificant. For an extended discussion of this whole subject, see my own "Responsibility for Crime," Chapter IX, on Justice and Restitution.

PHILIP A. PARSONS.

Usury Laws.—The Appellate Division of the Supreme Court in the Second Department, New York, has taken a position construing the usury laws of the state of New York as applied to a device by a loan concern for evading the operation of those laws. The case was *Myrtle M. Thompson v. the Erie R. R. Co.* An employe of the company applied to the Chester Kirk Company of New York for a loan of $37.00 and received a blank to be signed by him,

which turned out to be a power of attorney in which he constituted one Stella Blanding his attorney, to make notes, assignments of wages and any other instrument to repay the loan. This power to be exercised in the state of Maine. When the note was not paid at maturity, the attorney made an assignment of the employe's wages due from the Erie Railroad Company in the sum of $90.00. A copy of the assignment was sent to the railroad company, with a statement that if $60.50 were paid under it before the claim was put in the hands of an attorney the assignment would be withdrawn. Suit was then brought against the railroad company to collect the $60.50. The Appellate Division of the First Department held the assignment void and dismissed the suit on the ground that the law required that notice be served on the employer within three days after the borrower made his note and assigned his wages, and not within three days after the assigned wages were collectable. R. H. G.

A Grave Defect.—The following is from *Case and Comment* for January, 1912: "In the new English Court of Criminal Appeal the first capital case was recently passed upon, says the New York *Evening Post,* and it revealed a serious defect in the law creating the court, novel in British judicial procedure. A convicted murderer appealed on the ground that the jury in the court below had been improperly directed as to certain corroborative evidence. The judges on appeal found the plea to be well taken. Without asserting the innocence of the accused man—indeed, it is evident that they believe him guilty—the judges declare that they cannot be certain that the jury would have convicted him if it had not been misinformed as to the nature of part of the evidence against him. Hence the verdict was quashed; but now comes the surprising thing—the Court of Criminal Appeal is not able, under the law, to order a new trial! Over this lack of power Justice Darling expressed sincere regret, saying that the court felt that the case was one in which it was eminently desirable that 'all the facts should again be submitted to a jury with an adequate and proper direction.' Unhappily, the statute did not confer authority to order a new trial in criminal cases, though it did in civil. Justice Darling significantly added that he hoped that what the court said on this point would be 'considered by those who had power to amend the law in this respect.' One would think so! The right of criminal appeal was established in England as a safeguard against possible injustice to the innocent; it could never have been intended to permit a man charged with atrocious crime to escape by means of a loophole in the law. To close it will certainly be the immediate duty of Parliament." R. H. G.

Free Legal Aid Bureaus.—The following is from *Case and Comment* for January, 1912:

"The value of the free legal aid bureau," says the Kansas City *Journal,* "has been demonstrated on many occasions, but rarely more conspicuously than when it took up the cause of a number of waitresses whose valid claim against a defunct concern would in all probability have been overlooked had they not been represented by counsel. In the nature of things, working girls, whose claims averaged only a few dollars each, could not employ attorneys to look out for their small interests, but the very fact that they were working girls made even the most modest of claims matters of importance to them.

"The moral effect upon the unscrupulous of the knowledge that there

stands between them and those needing protection an organization of such potency is probably the most telling influence exerted by the bureau, as has been proved on numerous occasions when the mere demand for redress of wrongs has been met with alacrity.

"In commenting on this line of work, the St. Louis *Republic* observes: 'Our philanthropic lawyers are going to provide free, or nearly free, litigations for the poor. That is, they will take poor people's cases for nothing or next to nothing.

" 'We should condemn this philanthropic enterprise if its object were to encourage pauperism. But this is not the case. The guiding object is 'to help people to help themselves,' and the litigants will be allowed to pay whatever they can, be it ever so little. So that we commend it cordially, and the more so since a special purpose will be to attack loan sharks that wring usury out of the poor.

" 'In such excellent work every member of the bar might well bear a part. But it appears that the older members have left it all for the young ones. Every name in the list of those actively interested is that of a young man. Are only young lawyers philanthropic? Do they become colder and less unselfish as years wear on? Have old lawyers no time for poor clients and no sympathies?'

"There has never been a time in the history of the American bar when many of its members in their private practice did not unostentatiously and freely give their professional skill to deserving persons who were unable to recompense them. The establishment of free legal aid bureaus but emphasizes a trait of the legal profession which has never been adequately recognized or appreciated and the extent of which has never been half revealed. The public has been inclined to point out the shortcomings of the lawyers rather than their virtues. Too much, however, cannot fairly be demanded of the legal profession in the way of charitable and unrequited service. The law is the lawyer's business and his means of livelihood. He has fitted himself for it by years of arduous preparation and ought not, any more than any other business man, to be expected to give the public too freely of his stock in trade."

R. H. G.

Appeal in Criminal Case Five Years After Original Trial.—The following is from the *New Jersey Law Journal* for December, 1911: "In 1906 a lawyer in Long Island was convicted of forgery in the first degree and sentenced to serve not more than five years in prison. Fully five years later, when, if guilty, he should have served his term and been released, his appeal was decided in the Appellate Division of the Supreme Court confirming his conviction. In the meantime the defendant was free and under bonds to await the decision of the appeal. The appeal is said to have been based wholly on technicalities. This is one of the things which tend to nullify all the good arising from criminal laws supposed to be wise and of criminal procedure supposed to be prompt. We cannot conceive of any good excuse for the postponement of the hearing and decision of an appeal in a criminal case to five years after the original trial. If the event had happened in New Jersey it would have been widely noticed as a most unseemly departure from Jersey customs and practice, but somehow or other, it having occurred in the state of New York, we have not observed any press comment upon it. There is

no question but that punishment for crime must be sure and swift, or the influence of good criminal laws is lost upon the community wherein there is such tardy enforcement. In striking contrast to the case noted above is the speedy conviction and sentence to death of five Italians charged with the murder of a woman in Westchester County, New York. The murder was committed on November 9, and twenty days later the defendants had all been arrested, tried and convicted, and two or three days later sentenced to death. Should there be an appeal in this latter case, we suspect it will be decided within a brief time as compared with the decision in the case of the lawyer. Can there be any suspicion on the part of anyone that it may sometimes happen that a foreigner or an ignorant citizen without friends might receive different treatment at the hands of some courts as to the speediness of the administration of justice from a wealthy man, or a man who has been somewhat distinguished in professional or other lines! We do not say that this is so, but there are a great many trials and appeals from trials in this country which furnish the foundation for just such a conclusion on the part of the public, and it is a matter to be deeply regretted by all friends of good order. The civilization of America is being tested in many ways as it never has been before, and one of these ways is in the line of quick or slow, fair or unfair, prejudiced or unprejudiced criminal procedure. Happily, New Jersey is a conspicuous instance of where objections to our criminal processes have not come to the front. There has been no occasion for them, and we hope there never may be." R. H. G.

Expedition of Justice in New Jersey.—The *New Jersey Law Journal* for December, 1911, says that the New Jersey State Bar Association "has again taken the initiative, in an effort to provide some method by which the administration of justice in this state may be improved and expedited. It has appointed a committee to investigate and report upon this subject, which committee consists of former Justice Van Syckel, former Governor Fort, Supreme Court Justices Swayze and Bergen, Vice-Chancellors Walker and Howell, Judges Skinner and Gaskill, Senator Silzer, former Justice Gilbert Collins, William N. Clevenger and Frank H. Sommer.

"Two things are certain: First, that this committee is eminently capable of devising a plan of judicial procedure. Second, that the present dual plan in operation in this state ought to be improved, simplified and brought down to present needs and conditions.

"Nothing can be done in the way of voting on a constitutional amendment until 1914, and by that time the able committee may have devised a plan which the legislatures of 1913 and 1914 will approve and which the people will consider on its own merits." R. H. G.

Reforms Projected by the Chicago Bar Association.—There is an extensive investigation being conducted by committees of the Chicago Bar Association with a view to bringing to light those members of the bar who are guilty of unprofessional conduct in the practice of their profession. It is the hope of these committees that blackmailing collection agencies and "ambulance chasers" may be done away with. There is, furthermore, a contemplated investigation of the judges of Cook County with the purpose of ascertaining whether it is possible to do away with country judges. This investi-

gation goes on with the idea that it is unwise to bring the country judge into the city, because he is not familiar with the situations in Chicago.

In the radical reform which is receiving the attention of the association is the changing of the method of selecting judges. One of the reforms in this regard suggested is the appointment of twelve non-partisan citizens to act as selectors of the judges, four to serve for two years after appointment, four to serve four years and four to serve six years. On reappointment each man to serve for four years. This body will submit a list of twice the number of judges to be appointed to the governor, who will appoint the judges from the list. This plan, it is hoped, will eliminate politics from the choice of our judges. R. H. G.

"Stampeding the Jury."—In the Chicago Tribune of December 1, 1911, is an editorial under the above title, in which comment is made upon the Patterson murder trial in Denver, in which to no purpose, as the sequel proves, much time and infinite pains were employed in an attempt to find a satisfactory jury. The writer of the editorial, in his comment, points out our inconsistency in placing such safeguards around the selection of the jury and nevertheless permitting corruption from outside sources to run rampant. He says:

"The purpose of a criminal trial is presumed to be the ascertainment of the fact of guilt or innocence under the law. Yet the very widest latitude is permitted in argument, so that, after the most cautious and minute process of preventing prejudice in the selection of jurors and the most drastic process of presenting testimony in order to prevent irrelevant facts and considerations to enter the minds of the jury, all this elaborately safeguarded structure is thrust into a whirling phantasmagoria of rhetoric, melodramatic, histrionic appeals to passion, prejudice, and overwrought sentiment. Counsel are permitted personal recriminations, innuendoes, and sneers which involve themselves, their characters, and their methods in the main question of the defendant's guilt, and out of this roaring storm the jury is expected to stand firm, cool, unbiased, to hold with a steady hand the delicate scales of justice! All the disinterested assistance they receive is in the form of certain so-called 'instructions,' which are statements in law English, involved and technical, of the legal principles they must obey. These are contrived not by the court but by the battling attorneys, chiefly the attorney for the defense, whose object is not so much to enlighten the jury as to trick the judge into a technical error from which, under our technical system, reversal may be hoped.

It is high evidence of the innate good sense and right feeling of the average man serving on juries that justice is served as well as it is. But a system so plainly defective is sure to produce much preventable evil, and ought to be amended in the light of reason.

Among lawyers and judges who have considered remedies for the defects of our legal procedure the strongly preponderant opinion favors strengthening and enlarging the function of the judge. At present the forensic mêlée of the attorneys goes on unchecked to almost any excess because the judge's hands are tied. Procedural reformers say he should be allowed more freely to control debate and should be privileged to comment, as the English judges do, upon the evidence.

There ought to be public spirit enough in the legal profession to correct the

most glaring faults of our peculiar American system. But the legal profession is proverbially 'conservative,' and its progress is very slow." R. H. G.

"The Law's Delay."—The committee on Judicial Procedure of the Law Association of Philadelphia has had under consideration for some time the subject of delay in the trial cases in the county court with a view to suggesting limitation and has prepared a report in which a comparison is made of the time required for reaching a case in Philadelphia with that in several other cities. In Philadelphia the time varies from one to three years, but after a case has been ordered on the list another year passes before it comes to trial. In New York the time required is from one and one-half to two years in ordinary cases, three to six months in cases preferred by law; in Brooklyn one and one-half to two years; in Chicago three months in the Municipal Court and one year in the county courts; in St. Louis from three to six months; in Boston from six months to two years; in Baltimore from four to eight months; in Cleveland and Buffalo, one year; in San Francisco, thirty days; in New Orleans, two to five months. The committee favors an increase in the number of judges of the Common Pleas Courts. The report goes on to say:

"Jury trials are held in New York during thirty-six weeks of the year, in Brooklyn during thirty-nine weeks, in Chicago during forty weeks, in St. Louis during twenty-five weeks, in Boston twenty-six weeks, in Baltimore thirty-seven, in Cleveland thirty-six, in Cincinnati thirty weeks, in Buffalo thirty-two weeks, in San Francisco every week, and in Philadelphia twenty-one weeks. This figure in Philadelphia is based upon the practice until recently. Several of the courts have added some weeks this winter to their jury periods, though we understand it is not yet decided that the addition shall be permanent.

"It seems," says the committee, "that the number of hours of jury trials ought to be increased either by adding to the number of judges or adding to the number of weeks of jury trials in each year, or by lengthening the court day or by some combination of the foregoing."

The committee will present a resolution for the consideration of the association to the effect that the judges be requested to sit till 3:30 o'clock each day, with a half-hour recess for lunch. R. H. G.

Harmonizing State Laws.—A number of prominent lawyers in New York City are organizing an "American Academy of Jurisprudence" for the purpose of taking action toward the harmonization of the legal systems of the several states. It is understood that the leading idea of the organization is to compile and publish a monumental work which may hope in time to acquire legally quotable authority as a national or interstate code. Its value to American civilization will depend upon the common sense of the men who do the work. It is to be hoped that the organization will mobilize the law and set it free from mere words and forms; that it will place the emphasis upon living principles rather than upon dead precedents.

A fund of $100,000 is to be raised to carry on the work of the academy. Among those who are mentioned as actively interested in the plan are Joseph H. Choate, Senator Elihu Root, Former Judge John M. Dillon, ex-president of the American Bar Association; Alton B. Parker, Thomas G. Jones, former governor of Alabama; James DeWitt Andrews, Former Judge Peter S. Grosscup of Chicago, Eugene Prussing of New York and L. H. Alexander of Philadelphia. R. H. G.

Proof of Handwriting in Judicial Proceedings.—The following quotation from the report of the Attorney-General of the United States is self-explanatory:

"I recommend the enactment of a law making a uniform rule for the federal courts throughout the country respecting the admission of evidence to prove disputed handwriting. Briefly stated, the general common-law rule which prevails in some of the states is to the effect that in a case involving disputed handwriting, no genuine specimen of the handwriting of the accused person not already in the record, or that is not otherwise relevant, can be introduced as a basis for comparison. (*Withaup v. United States,* 127 Fed. 530.)

"In a recent letter on this subject the United States attorney for the Southern District of Iowa says:

"'In many cases arising under the criminal laws of the United States the case hinges upon the question of handwriting, and a large number of such cases are found in enforcing the laws relating to the postoffice and postal service. The conviction of offenders in such cases is well nigh impossible, especially if the defendant is a criminal of experience in courts and court proceedings. As a rule they refuse to put their names to any paper connected with the record and refuse to make any written statement in connection with any matter connected with the case.'

"During the first session of the Sixtieth Congress, there was introduced in the House, by the chairman of the Judiciary Committee, the following bill (H. R. 12676) relating to proof of signatures and handwriting:

"'Be it enacted, etc., That in any proceeding before a court or officer of the United States where the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison by witnesses or by the jury, court or officer conducting such proceeding to prove or disprove such genuineness.'

"This bill had the approval of my predecessor, and I earnestly urge that this or some similar measure be enacted into law.

"GEORGE W. WICKERSHAM, Attorney-General."

(From the Annual Report of the Attorney-General of the United States for the year 1911, p. 88.) A. S. OSBORN.

Judge Kavanagh on the Causes of Crime.—In a warning sounded by Judge Marcus A. Kavanagh at a banquet given on December 6, 1911, in Chicago, in honor of Judge John P. McGoorty, Judge Kavanagh said "The law is so charged and clogged with harmful legislation and technicalities that justice is defeated. I want to call attention to concrete facts. A German's horse and cart were stolen and the case was fined $1. A pawnbroker armed two burglars and set them to work. They broke into forty homes and were caught red-handed, but an 'inadvertance' in the judgment set them free by a ruling of the Supreme Court. There is a whole lot the matter with the administration of our criminal law, and the people are awakening and are looking to us judges and members of the bar to do something." R. H. G.

Municipal Court of Chicago.—The annual report of Chief Justice Harry Olson of the Municipal Court of Chicago gives the following interesting items as to the volume of business done in this court:

There were filed during the year 53,223 civil cases; 50,931 were disposed

of, leaving 2,292. The money judgments amounted to $4,096,254.58, an amount equal to that entered by the High Court of Justice in the City of London, England, for a like period. There were filed during the year criminal, quasi-criminal and preliminary hearings in felony cases, a total of 93,832; 92,730 were disposed of, leaving a balance of 1,102. Jurors' fees paid to jurors in civil cases amounted to $93,284.15 and in criminal cases $17,657.55, making a total of $110,941.70. During the last year there were 2,418 more cases filed than disposed of. There were 4,955 more cases filed than during the previous year and 2,282 more cases disposed of. The total receipts of the court for the year were $781,000. The net earnings returned to the taxpayers amount to $568,000. The total expense of the court for the year was $768,000. The report shows there were 93,832 new criminal suits filed during the year, divided as follows: Quasi, 72,189; preliminary, 9,361; criminal, 12,012. Of these cases 92,730 were disposed of as follows: Quasi, 71,434; preliminary, 9,526; criminal, 11,770. R. H. G.

Dr. Ullman on the Crippen Case.— In *Osterreichische Zeitschrift für Strafrecht,* Vol. II, 4 u. 5 Heft., 382 ff, Dr. Julius Ullman discusses the Crippen case. The writer remarks that in the same way that the Thaw case, some years ago, threw light upon the peculiarities of American criminal procedure, the continent is indebted to the publicity given the Crippen case for some knowledge of the essential characteristics of English criminal procedure in the gradually altered form given to it by Reform Statutes and practice. He remarks that the formality cult (which is still in vigor in America and unduly lengthens the procedure) has practically disappeared in England. The endless preliminaries in the selection and examination of talesmen, challenges, etc., leading to trickery, have disappeared. The indirect proof of the *corpus delicti* would have been difficult, if not impossible, in America. The speed with which the whole process was conducted is the subject of wonder and admiration. The tendency in Great Britain and in the proposals of Bar Associations in America to make the "merits," rather than the "formalities," count is noted.

The contempt proceedings growing out of newspaper comment on the trial are understood and intelligently reviewed. Dr. Ullman says: "The more strictly the contempt rules repress public criticism during the pendency of the trial, the more freely will this criticism be exercised after the trial in the land of the liberty of the press." The proposition stated by J. Darling that "trial by newspaper is not to be substituted for trial by jury" is so essentially bound up with the jury system that no legislation introducing that system can disregard it. The frequent separate investigations by political newspapers in Europe would no longer be immune. Ullman says, "Objectivity of courtroom reports before the final verdict of the law is indispensable to impartial findings by lay judges (jurors).

J. I. KELLY, Chicago.

PENOLOGY.

"My Life in Prison."—Under the above title the *Bulletin* of San Francisco is publishing a series of chapters under the authorship of Donald Lowrie. It is a fascinating story of the crime, capture and conviction of the author;

what he saw, learned and felt in the penitentiary at San Quentin. The articles are exceptionally well written and they inspire the feeling that they truly represent the author's experiences. It is the case of a man who was down and out, with only a punched nickel in his pocket and without work, and who, furthermore, was repeatedly refused employment. While on his way to the river to drown himself it suddenly occurred to him to toss his damaged nickel to determine whether he should put an end to his life or take the desperate chance of obtaining relief through robbery. Robbery came up in the toss, and here began the career of one who, up to this moment, had lived an upright life. Mr. Lowrie wishes to have it distinctly understood that in writing this series he does not extenuate his violations of the law. He has twice been committed to San Quentin. The simplicity and the sincerity of the series should help people who are not wearing the stripes to a clearer understanding of the prisoner's side of life. W. I. DAY, San Francisco.

Cruelty to Women and Children in Georgia Prisons.—The following is from *The Reflector* for December:

"A witness called by the city of Atlanta, in the investigation into the charges made by the *Georgian* in reference to cruelty and mismanagement at the city stockades, a graduate physician, in fact, testified to and described the most horrible details of inhuman barbarism that the people of this community have, or ever will have, to listen to. He told of a little 13-year-old negro girl being placed in the whipping chair invented by Superintendent Vining. She was brought downstairs with only two thin undergarments on and placed in the chair. The front was fastened and it was turned over on its face. A white man then whipped her with a strap, about which the *Georgian* has told, until when she was released from the chair she was hysterical. She said something in this hysterical condition, she knew not what, and the superintendent ordered her placed back in the chair and again whipped. While being beaten she slipped her arms down through the box alongside her body, being so small that she did not fill the box of heavy plank which tightly incases the body of an adult prisoner. She placed her hands over the parts of her body that were being beaten, trying to take some of the blows on her hands. They were soon bleeding from the blows, and the doctor testified that as she went away to work that morning the blood showed through her clothing where the cuts had been made with the whipping strap. What will the citizens of a city like Atlanta, of a state like Georgia, do to bring justice to men who are so free from human instincts as to administer such cruelty, such disgrace, such shame? Are we men or are we brutes and animals? *Georgian* is making this fight for humanity, in the name of civilization, cursed by the men who are responsible for these atrocities. Even the attorney defending these men, in his very opening words, ridiculed what we are doing and stated to the committee that a mountain was being made out of a mole hill. What do you say now, Mr. Attorney? WOMAN GETS 110 LASHES IN GEORGIA PRISON CAMP. A dispatch from Atlanta, Ga., dated September 14, 1910, gives the following: Anne Clare, a young white woman, is in a critical condition today as the result of 110 lashes administered to her at Fulton County Woman Convict's Camp by order of Superintendent Fanning, and the greatest indignation prevails here. Woman's clubs and a number of civic organizations of Atlanta are preparing vigorously to prosecute Fanning, who today was

summoned before the prison commission. Fanning admits he administered 110 lashes with a heavy strap, because, he says, that was the only way he could silence the woman. Later accounts show that Fanning was let off with a reprimand from the commission. In the *Atlantic Georgian* of December 30, 1909, the editor, Mr. Seely, who was one of the stockade inspectors, tells of a white woman at the stockade being suspended from the rings until she fainted. The witness stated that the woman came to consciousness by having water thrown in her face. Witness also said that on the same day he had chained up another white woman. Mr. Seely considered that punishment cruel, inhuman and barbarous; that the pain resulted from stretching of the muscles of the arms when suspended above the head. 'As to filth,' said Mr. Seely, 'I do not believe there is a prison in the world that can compare to the city stockade.' Four men were found in the stockade whose legs had great sores on them. One man told Mr. Seely he had been there forty-four days and had not taken his clothes off in that time. It was impossible to do so on account of the shackles." R. H. G.

Convict Labor.—According to a clipping from the New York City *Daily People* of December 26, a stamp of indignation has been aroused at Hartford, Conn., on account of the speeding up of convicts in the state of Connecticut. According to this clipping, contracting corporations have forced prison officials to resort to physical punishment in order to get the maximum output. A prominent social worker said:

"The physical punishment of the convict by the contractor who has leased him for industrial purposes is a disgrace to the community which tolerates its continuance, yet the citizens of Connecticut stand meekly by and let a political boss remark: 'Well, what in hell are you going to do about it?' The contract system is discredited universally, but in no other state in the Union has it sunk to as low an ebb as in Connecticut. Were it an advantage to the citizens of the state as a whole, or to the taxpayers, there might be justification in the eyes of some, but even here it falls short.

"The New Haven jail seeks to get work out of its convicts, not by giving them the incentive of a wage, but by physical punishment. At the state prison at Wethersfield the men work on shirts and shoes; few are trained to earn their livelihood when released. The institution yields immense profits to the giant corporation, the Reliance Manufacturing Company, the well-known Prison Labor Trust. Since the installation of the contract system, the institution has never got back to its original basis of educational work for the prisoner and self-support for itself." R. H. G.

Work for Texas Convicts.—The following appeared in the Chicago *Record-Herald* of January 11:

"Two thousand convicts are to be turned loose in Texas under an honor plan worked out by Governor Colquitt. Five hundred will be given their freedom at once, and if the plan proves a success 1,500 more prisoners will be released. The men will be hired to the counties for 50 cents a day each and will be allowed to work as free laborers and without guards or manacles. Extreme penalties are provided for any convict who violates the trust, and he will have to serve the balance of his term and an extension of time if he leaves the state or commits any crime while on parole.

"It is proposed that one-half of the convict's wages be paid to his family and the other half to the state penitentiary fund.

"There is a demand for several thousand laborers for work on the roads and bridges, for which the different counties cannot afford to pay the cost of free labor.

"The governor says few convicts will abuse the privilege and escape. The punishment for anyone violating the trust has been prescribed by a vote of the convicts, which the governor and prison board have approved." R. H. G.

The Penal Reform League.—The fourth annual meeting of the Penal Reform League was held in London on December 8, 1911. In his introductory address the chairman said that the Criminal Court of Appeal had surpassed the expectation of its authors in respect to the good work accomplished. Miscarriages of justice had been prevented. Throughout the country had been a general improvement in the ordinary mode of trying criminals The charges to juries were more careful and precise than before and sentences were better considered. Several resolutions were adopted at this annual meeting, as follows:

First: "That provision should be made in connection with the criminal courts for the careful examination by skilled experts of accused or convicted persons, and that those found to be mentally defective or abnormal should not be imprisoned, but should be suitably cared for in institutions provided for the purpose for as long as is advisable in their own interest and in that of the public."

Second: "That the conditions of service of prison officers require radical alteration with a view to their being treated with proper consideration and confidence."

Third: "That this meeting welcomes the project for starting a juvenile community on the lines of the George Junior Republic, New York, and pledges its support."

Fourth: Lady Constance Lytton introduced the fourth resolution, which she called a "rider," as follows: "That no scheme for a reformatory juvenile community of this character can be satisfactory unless it includes provision for girls and women as well as for boys and men, either in the form of a co-educational community for both sexes, or of two separate branches (one for males and one for females) on similar lines." R. H. G.

Prison Needs in the State of New York.—Mr. O. R. Lewis, General Secretary of the New York State Prison Association, in an interview which appeared in the *World* of November 10, comments upon the need for a State Reformatory for misdemeanants and a second institution for feeble-minded criminals:

"The principal prison needs of this state," said Mr. Lewis, "are a separate cell for each prisoner in state prisons, employment for eight hours a day for all able-bodied men in state prisons, the marketing of all prison-made products in this state to the state and its political subdivisions, such as counties and cities; the introduction and development of industries in our county penitentiaries and jails; the centralization of administration of our penitentiaries and jails under a proper department of the state; the abolition of idleness and filth in many of our jails; the development of the women's farm and the farm

colony for vagrants and tramps; the creation of a separate institution or separate wings of an existing institution for feeble-minded criminals, not the insane criminals—and other things too numerous to mention." R. H. G.

Prisons to Be Replaced by Penal Farms in Pennsylvania.—According to a report in the *Philadelphia Inquirer* of December 18, 1911, considerable progress has been made in Philadelphia toward the fulfillment of plans which have been formulated in that state to abolish penitentiaries and to establish in their stead a large penal farm to be located somewhere in the central portion of the state. A site has been purchased near Bellefonte. It is stated that all plans to move and rebuild both the Eastern and Western penitentiaries have been halted pending the submission to the next legislature of the plans for the penal farm. The idea of doing away with the penitentiary was first suggested by Warden John Francies of the Western penitentiary. R. H. G.

Proposed Prison Reform in Tennessee.—A night in the state penitentiary convinced Governor Hooper that reforms are necessary in the state prison system. He entered the prison one night recently to observe the condition of convicts who had asked Christmas pardons, and the next day announced he would grant several conditionally.

The governor said stripes would be taken off all convicts except incorrigibles, in the spring, and that a prison school will be started when the new chaplain takes charge. Governor Hooper is urging the adoption of the indeterminate sentence, the parole sentence, and a law which will give prisoners' dependent relatives benefits from their work in prison. R. H. G.

Parole Methods.—The following is taken from the Chicago *Tribune* for January 9th:

A long-resounding whack at parole board methods in loosing criminals while serving second or third terms for serious offenses was dealt recently by United States District Judge Kenesaw M. Landis.

Prefacing his remarks by saying he would not criticize the state authorities, Judge Landis called attention to the fact that two counterfeiters on trial before him had already served two terms in the pentitentiary and were then released on parole while serving other sentences for burglary. It appeared to be the serious nature of the crime twice repeated which inspired the court's sharp criticism of the return of criminals to freedom.

The men were Joseph Ellingston, alias Dalton, and Richard L. Manning, both still under parole. Judge Landis listened to the testimony regarding their arrest while at work manufacturing half dollars and to a brief recital of their previous incarcerations.

"I do not mean any possible criticism of the Illinois state authorities," he said, "but it is worthy of note that these two defendants were paroled from Joliet penitentiary while serving sentences for burglarizing private houses."

"I agree with you, judge," interrupted Ellingston.

"That each defendant," continued the court, "had a burglary record behind him; that each defendant had been convicted of the same crime twice before."

Ellingston was promptly sentenced to three years' imprisonment in the federal penitentiary at Atlanta, Ga., and to pay $100 fine. Manning was sen-

tenced to the same fine and to a similar term in the penitentiary at Leavenworth. They will be taken away immediately.

The length of the term was noteworthy, inasmuch as Capt. Thomas I. Porter, head of the federal secret service in Chicago, had not urged a heavy sentence. He pointed out that the men will undoubtedly be rearrested by the Illinois authorities when they leave the prison.

The pair were arrested at 447 La Salle avenue, on December 16, by Captain Porter, Operative Peter Drautzberg, and United States Deputy Marshal William Crawley. They were caught in a room where there was a pot of molten lead, dies, and various bits of paraphernalia for making bad half dollars. The leaden slug was simply coated with nitrate of silver. About one dozen bad coins were seized.

James Brady, alias "King" Brady, and John Lawson were sentenced to prison by Judge Landis for selling stolen whisky without government licenses. The men pleaded guilty. Brady was given thirteen months in the Leavenworth prison and fined $1,000 and Lawson, his accomplice, was sentenced to sixty days in the house of correction and fined $1,000. They were arrested by internal revenue inspectors a few weeks ago and charged with disposing of six barrels of liquor which they had stolen from a car in the yards of the Chicago & Erie Railroad Company at West Fifteenth and South Clark streets.

The liquor was sold by the men to Eugene Hustion, colored, who conducts a resort at 2511 South Dearborn street, and who is under charges by the federal authorities for smuggling cocaine. Hustion paid the men $250 for the liquor, and Brady and Lawson stole the property a second time from a cellar in which Hustion had stored it and sold the liquor. R. H. G.

Report of the Oneida County Probation Officer.—The second annual report of David W. Morris, probation officer for Oneida County, New York, has just been received. It covers the period from November 1, 1910, to October 31, 1911. This probation officer acted pursuant to the provisions of Subdivision 1 of Sec. 11a of the Court of Criminal Procedure Service in the County Court, the Supreme Court, the Rome City Court and courts of several towns and villages. Since boards of supervisors were first authorized in 1908 to pay salaries to probation officers appointed by county judges, twenty counties have made such appropriations. The following is an extract from the report:

RECAPITULATION OF FINANCIAL STATEMENTS.

Wages of persons on probation	$43,306.75
Estimated expense avoided by keeping them out of prison	10,979.00
Estimated expense avoided by keeping families together and the children out of institutions	16,770.00
Money collected from probationers	2,194.95
Grand total	$73,250.70

"My first report, covering a period of eight months, submitted to your honorable body one year ago, showed a total of forty-five cases on probation during that period, an average of something over five cases per month. The present report covering a full year shows a total of 130 cases, being almost exactly eleven cases per month, thus doubling the number last year. This has, of course, entailed a large increase in the work of this office and it necessarily follows that

some increase in the facilities for performing the duties of the office be provided by you. If there has been any failure to do as much supervising as is desirable it is because of the impossibility of reaching the persons as often and as quickly as ought to be made possible. Some of the counties of this state have solved the problem by furnishing the probation officer with an automobile, or at least a runabout, and it has proved to be just the thing needed to make his work more effective. On some of our roads the service is so infrequent that it is impossible to make a trip in less than a full day, and even if the trains are convenient, it is frequently the case that the person lives several miles from the station. No argument is longer required to prove the importance of this work, and I feel sure that your honorable board will see the necessity of giving the officer all necessary aid in carrying on his work.

"The large increase in the use of the system of probation in this county is the result of the very general acquiescence on the part of the committing magistrates and judges who have manifested in a high degree the humanity and kindness toward offenders without which the system could not have had a fair trial here, and to them is due in large measure the praise for any success which it has had. Perhaps the best feature of this work is that sometimes called the 'domestic relations' feature, by means of which a considerable number of families have been kept together by placing the man on probation and requiring him to pay a definite sum per week, proportionate to his earnings, to the probation officer, for the support of his family. In nearly every case the offender has made good and paid promptly as agreed. This has, of course, been a good thing in many ways and the best thing about it is that in most cases the result has been a reconciliation and a re-establishment of the home.

"Because of the fact that the probation law is new and the practice not well settled, as yet, there has, from time to time, arisen a question about this or that feature of the law and no one has felt very sure as to what ought to be done in certain cases or in some emergencies. It is with great pleasure, therefore, that I am able to make the announcement that the State Probation Commission will soon publish a manual containing all the laws thus far enacted in this state on this subject, and I have no doubt that they will see to it that all courts are supplied with copies of this very useful publication.

"It will be seen by referring to the statement as to earnings of probationers that they have been quite steadily employed. It is with a very grateful feeling that I here acknowledge my indebtedness to those who have given employment to these persons, also to those who were previous employers and so kindly reinstated them in their places. Without such coöperation on the part of employers my work would have been very hard, indeed. Several large manufacturers, both in Utica and its suburbs, have been very kind in this respect.

"The 'unofficial cases' above referred to were handled without arrest on the approval of the District Attorney and the results have been good and the families of the offenders saved the disgrace of having the persons arrested and the publicity always connected with that procedure.

"I wish that I could say here that all who have been given the benefit of probation during the year had turned out well. There have been a number of decided failures on the part of persons to make good. But the court gave them a chance, and if they were too weak to benefit by the courts' leniency, it is their misfortune and they have been, with only two exceptions, rearrested and committed and are now serving, or have served, the sentences,

the passing of which was suspended when they were placed on probation. Perfection, however desirable, is too uncommon for us to expect that it will be attained in all these cases. The large percentage, however, that have and are making good, fills us with courage for the future, and it is hoped that no one who seems deserving will be denied the benefits of probation because of the failures of others." A. W. T.

The Central Howard Association.—The latest report of the Central Howard Association was issued on January 1, 1912. The object of this association is understood, perhaps, by most of the readers of this JOURNAL. It is to render first aid to men who are disabled by terms of imprisonment. This aid consists usually in finding the man or the woman a place to work and to earn wages immediately upon his or her discharge. Every year the association helps many hundreds of unfortunates and despondents. The association sends notice to all men who are about to be discharged from prison in this and neighboring states, advising them that it is prepared to receive and find jobs for them without charge, provided they communicate with the association office. Fortunately, it has only to be known that the Howard Association stands ready to do this work when generous friends coöperate and sufficient work is offered. The records of the association for the year 1911 indicate that the total number of applicants for aid during 1911 was 1,456; number sent to employment, 1,247; number of men paroled to the association,-89; per cent of men successfully fulfilling their parole, 85; reported earnings of paroled men during the year, $37,260; number of applicants under 25 years of age, 393; number of men below sixth grade schooling, 423; number giving drink or bad company as cause of downfall, 795; number of first offenders, 887; number having trades of any kind, 592; average cost per applicant for aid and service, $5.83; cities in which the work has been presented in 1911, 214; addresses made to and in behalf of prisoners, 642; letters written to and in behalf of prisoners, 3,340.

Superintendent F. Emory Lyon and those who coöperate with him must be heartily congratulated upon the splendid result, which can be but partially and very inadequately represented in print.

Chief Probation Officer, the Hon. John W. Houston, contributes to this report an article under the title, "Probation and the Public," in which he states the provisions of the adult probation law which went into force in Illinois on July 1, 1911. With the provision of this law, many of our readers are already familiar. A defendant who has been found guilty or who has pleaded guilty may, under this law, before sentence is pronounced, but only then, request the judge to admit him to release on probation. The power of the court in such a case is limited to first offenders, and only to certain offenses, as follows:

1. All violations of municipal ordinances where the offense is also a violation in whole or in part of a state law.

2. All misdemeanors, except as limited, the limit being a money value of $200 where property is taken or injured. (Misdemeanors include all offenses against state laws not punishable by death or imprisonment in the penitentiary.)

3. Larceny, embezzlement and malicious mischief, under $200.

4. Burglary under $200 value, where the place burglarized was not a business house, dwelling or other habitation.

5. An attempted burglary, limited in the same way.

6. Burglary, where the burglar is found in a place other than a business house, dwelling house or other habitation.

These limitations were wisely made to prevent the misuse of the law by releasing the defendants who were guilty of greater offenses. The laws of Massachusetts and New York, on the other hand, permit probation in any case of crime or misdemeanor. Under the Illinois law the defendant may be placed on probation only under the probation officer who is appointed in accordance with the statute. As expressed by this law, the purpose of the legislature was to prevent and save defendants from the disgrace of having been in jail, not to place prisoners on probation who are already in jail. This opens up the way by which a first offender may be placed under distinct educational control by requiring him to make restitution in weekly or monthly payments to the person whom he has wronged. The sword of justice is always suspended over such a person and he knows that if he fails to live up to the conditions of his probation, he will have to suffer the penalty of the law.

One of the most helpful features of the law is its application to men who are guilty of non-support of their families. It is a tremendous injustice to the family to send such men to prison, and the law cures this injustice by empowering the court to require the defendant to pay so much per week and by empowering the probation officer to see that the money is paid and to smooth over the family differences for the general good. This system results in keeping together many a family that would otherwise be separated and it has been accompanied by good results, both in Massachusetts and in New York.

This is all very good, but after all it is absolutely impossible to realize the benefit which such a provision as our probation laws may bring about, unless the public will heartily coöperate. Employers of labor must be educated out of their prejudices against the man or the woman who has come under the hand of the law at least to the extent of showing in a practical way their willingness to give the culprit a chance. So far, Mr. Houston says, the law is working well. The probation officer has had about 140 probationers in two months' active work. While it is early to show results, he says that he knows of many cases where he is sure it will be the means of doing great and lasting good. R. H. G.

POLICE.

The Use of Police Dogs: A Summary.—1. All hunting dogs are unreliable for police work.

2. Police officers using police dogs will have more occasion to deal with female criminals in the future than in the past.

3. The common people will be most affected by the system of detection which employs the police dog. Every police officer should therefore exercise care to direct his dog in a considerate and tactful manner.

4. City criminals and professional criminals will give the police dogs most difficulty.

5. The peculiar odor of human beings is caused especially by the sebacic acid, which is contained in the perspiration.

6. The transfer of the redolent sebacic acid of the perspiration on the impression of the foot or the hand is effected directly when these parts of the body are not covered by clothing; when they are covered by clothing such as stockings, shoes or gloves,

(a) It is effected by the diffusion of the perspiration through the clothing to the floor or object touched by it; or,

(b) It is effected by the wearing away of a layer of the clothing of the hand or foot which has been saturated with perspiration; or,

(c) It is effected by the leaking of the perspiration, which has been stored in the clothing of the hand or foot, into the damp ground or into the damp object which has been touched.

7. Redolent particles are scattered upon the ground in walking by the motion of the trousers or skirts. The soles of the shoes also allow redolent particles to pass through.

8. A criminal frequently leaves more redolent clues at the seat of the crime than an ordinary man, that is to say, from

(a) Perspiration caused by working.

(b) Perspiration caused by fear or rage.

(c) Perspiration caused by intoxication.

(d) The contact of his clothing, which has been greatly saturated by his personal odors, with objects at the scene of the crime. The scent is especially strong in the case of declining individuals.

(e) Leaving a musty odor which lingers for a long time in retired places; to this odor there is frequently added the odor of alcohol or gin which comes from the breath.

9. On account of physiological reasons the soles of the feet give the most redolent particles.

10. The scent of the whole body may be obtained from the hand.

11. The redolent particles of the perspiration are, physically, either fluids or gases. Redolent clues are quite quickly destroyed by Nature, especially

(a) By reason of the peculiarly high grade volatility of the redolent substances of the perspiration.

(b) By atmospheric precipitation in the form of rain or snow.

(c) By great warmth.

(d) By movements of the air or wind, by means of which the evaporation of the redolent substances of the perspiration is hastened.

(e) By the ammonia and the humus of the ground.

(f) By being destroyed or hidden by its being stepped upon by other persons or by cattle.

12. The dog is less able to work out clues in very warm weather, because molecules of the scent quickly spread and are divided so much that it is difficult to perceive them when they are diluted to this extent.

13. The dew of morning and evening enlivens the clues, because slight dampness causes the redolent particles, which are locked up in a dried covering, to be unbound, to spread and to evaporate more efficaciously.

14. The redolent particles of the perspiration (sebacic acid) are not changed by contact with glass or glazed substances; glass cases are on this account the best receptacles for preserving substances belonging to the criminal.

15. A bitch frequently performs more certain service, because she is less likely to permit herself to be diverted by sexual odors than a hound.

16. It is impossible to render the feet, the hands, and the footsteps free of odors.

17. The dog works out all clues furnished by footsteps, whether they are made by bare feet, by feet which have been cleaned, or by feet which are clothed

in stockings or shoes, or even if the shoes or the feet have been wrapped up in some substance or if the individual walks on stilts.

18. If the feet are smeared with substances which retard perspiration or which destroy the odor of perspiration, or which are odorless, the dog nevertheless tries to follow the clues.

19. There are no substances which are odorless to the nose of the dog.

20. A criminal is neither able to hinder the work of the dog, nor to make it more difficult by smearing or saturating his shoes with substances which have a strong odor which is very distinctly unpleasant to the nose of the dog. The dog works out such changed clues with greater avidity and with greater certainty than ordinary clues.

21. When very strong odors are present which are unpleasant to the nose of the dog, such as the odors of decomposition, tobacco smoke, or the odors of colonial produce, the police dog is not only able to recognize a particular other odor which is exceedingly fine but is even able to take it up.

22. The police dog works even in the presence of odors which irritate the mucus membrane of his nose very much.

23. If the dog is obliged to work in a room which is filled with a strong unpleasant odor, such as the atmosphere of a saloon, a factory or a colonial market, the dog quickly becomes accustomed to this and can begin to work with success.

24. The dog also learns to search for and bring forth buried articles in badly decomposed places, even though the dog otherwise carefully avoids touching with his nose or with his paws any chemical substances which have a bad odor. This is useful in cases in which criminals bury articles of value and cover the spot with decomposed matter.

25. The dog possesses the ability to focus his organs of smell quickly and effectively upoon strong and very weak odors for the purpose of recognizing them. The dog possesses a high ability for accommodation.

26. The dog is able to follow the odor of a person in the presence of strong odors of decomposition, and even under confused and difficult conditions, or complicated conditions of smell.

27. The dog follows clues made by rubber shoes or wooden shoes as well as the clues made by ordinary shoes.

28. The dog finds and follows such clues made by rubber shoes or wooden shoes, even if he has received only the odor of the person and not the clue.

29. The dog follows clues that have been made by new or strange shoes—

(a) If he gets the scent at these clues.

(b) Not only when he has received a little suggestion of the shoes.

(c) But also in the absence of such a suggestion, if the dog has recently received knowledge of the person's odor.

30. The longer a person walks in strange or new shoes, the more will that person's own odor permeate his shoes.

31. At the end of such a clue the dog is also able to point out the person who used the strange shoes.

32. The dog works out the clues of wheels, with avidity and certainty under the following circumstances:

(a) If he is placed directly on the given scent.

(b) If he has been previously given the scent on the rim of the wheel.

(c) If he has received only the scent of the person and has no knowledge of the wheel, provided that the person has ridden away on his own wheel.

(d) He is also able to follow these clues with certainty in complicated conditions.

33. If the criminal rides away on a strange wheel and the dog has only the scent of the person's own odor, without having received the scent of the wheel, the pursuit of the scent may succeed under favorable circumstances, but as a rule success is impossible.

34. The dog also works out the clues of wagons with ease.

35. Articles may be placed unnoticed in places that are frequented by persons having criminal objects in mind, with a view to making easier the work of the dogs which may later be placed on the scent.

36. When dogs are kept in rooms which are filled with tobacco smoke it has an injurious effect upon their noses.

37. When the nose of the dog is brought into contact with a strongly smelling substance, its keenness is for a time lessened, even though it is not entirely crippled.

38. Traveling by railroad or by carriage, while on a scenting trip, has a disadvantageous effect upon the welfare of some dogs, because of the shock, which affects the digestive organs so as to cause nausea. The officer who uses police dogs must bear in mind such weaknesses of individual dogs.

39. Dust has a particularly bad effect upon the ability of the dog to follow clues.

40. Feeding the dog before it is put to work on articles having a sharp smell and taste, such as cheese, flesh, smoked fish or highly spiced food, lessens its ability to follow clues.

41. If the dog is not given a variety in his diet or if the dog is deprived of his usual fare, errors in his tastes will arise, and he will also look for articles of food on the street. An extra allowance of the regular fare renders easier the training of the dog in abstaining from taking food offered by strangers.

42. The officer using a police dog must avoid touching the articles left at the seat of the crime by the criminal, and must also prevent the dog from touching them when he takes the scent, so that subsequently the scent may be given to other dogs on the same objects.

43. Small objects which have been left by criminals are best preserved in wide-necked bottles made of glass and sealed with glass tops; in case of necessity they may be kept in carefully washed preserve jars.

44. As the human scent is preserved for weeks or mouths in such receptacles the dog can discover an accused person from among many others by taking the scent from the objects preserved in this way, even after a long lapse of time.

45. To freshen the scent of substances preserved in this way, the glass receptacle which contains this substance should be held for a few seconds over the kettle of boiling water, and the steam should be permitted to affect it, before giving the dog the scent at the opened receptacle.

46. The mere pointing of the dog to a person is not sufficient to determine that he is the criminal. There must be additional evidence. The science of the police dogs cannot dispense with the assistance of the other methods of

criminology. Therefore, the officer using police dogs must be careful not to disturb important positive documents to favor the work of the dog.

47. Only such men are suited to the duty of working with police dogs as possess, in addition to an especially good disposition for the training of dogs, good power of observation, sagacity and the power of critical observation.

48. The police dog should not be employed in trifling cases, but only in important cases.

49. In the future the criminal who has been trapped by a police dog will not confess so readily as he has done in the past when the ability of the dog astonished him. In course of time the police dog will lose in his ability to make an impression. On this account the other methods of criminology must be employed with emphasis to discover criminals.

50. In spite of all efforts on the part of criminals to thwart the police dog he will in the future certainly furnish sure and reliable assistance to the police authorities. LEONARD FELIX FULD, Ph. D., New York.

Current Police Topics.—President Sylvester's annual address to the American Association of Chiefs of Police (printed in the International Police Service Magazine) is a most interesting survey of the police profession to-day. The position which the modern police force occupies in urban life, the natural but mistaken antipathy which the ordinary person feels toward the guardians he has placed over himself, the advantages of co-operation and organization which this voluntary body of police heads offers are made very clear. In a similar way the development of juvenile courts, houses of detention, and better methods of dealing with street traffic and vagrancy are brought out. Two most important tendencies fast making their way into all American departments are the disciplining of officers by punishment duty or the demerit system rather than by fines, and by the better instruction of recruits. The benefits of organization could be greatly increased if the annual reports of all the departments were systematized and some explanatory comment added. Commissioner O'Meara of Boston has done this with all his reports since his appointment and they are thus made doubly valuable to the professional officer and to the student.

There is perhaps no subject about which the public at large knows less and believes more trash than about the "third degree." Another report has exonerated policemen from the vague and unfounded charges which were investigated upon the demand of some credulous and over-sympathetic people. This time the report was made by a United States Senate Committee. No well-defined case of "third degree" methods was found in the federal police force, although diligent search was made. It seems about time that the public should realize that skilful questioning of suspected criminals is not physical abuse, but may very well be more distasteful than physical abuse to a real criminal who is a bungling liar.

Closely allied to the legitimate "third degree" are the various methods of criminal identification. These depend as much upon the scope of the system as upon the accuracy. American departments are inferior in the former respect since only 169 departments have any system at all, and the Central Bureau of Identification at Washington is neither as large nor as effective as that in London. The finger print system of identification gives all the accuracy that could be desired once a criminal has been caught, but it does

not afford a ready means of recognizing a person upon the streets. This deficiency has been filled by the genius of evil, M. Bertillon, who has devised a facial index system. The nose, ear and eyes are classified in such a way that an officer can eliminate all but a few persons in a crowd with a single glance and when tried out the system has had almost universal success, and should be introduced into America at once.

The human eye trained to recognize faces by such methods as this is very accurate, but it is proverbially a poor thing to rely implicitly upon the testimony of eye-witnesses and the eye is also subject to limitations which the photographic plate does not have. A powder has recently been devised which will make finger prints so clear that they can be photographed for identification purposes, even when quite invisible to the naked eye. The camera has also been used to detect traces of blood upon a cloth which had been washed, to find the design of counterfeit banknotes upon a lithographic stone which had been cleansed, and to detect marks upon a body which showed that the person had been strangled before being thrown into the water. With such advances as these a criminal will have to wear gloves or leave a trail like an aniseed bag behind him, and even then it may not avail him much.

GEORGE H. MCCAFFREY, Cambridge, Mass

Our Police Station Disgrace.—Under the above title the Chicago *Tribune* for November 24 editorially comments as follows upon the work which the Chicago Women's City Club has accomplished through its investigation of conditions surrounding women delinquents and unfortunates. This investigation now is made the basis of an appeal for a large downtown detention home, the improvement of facilities at police stations and a night court.

Bad sanitation in the stations and the vicious system of herding women of all degrees of innocence or depravity, and of all ages, from young girls just above the juvenile probation age, are especially protested.

The report of the committee on stations and jails exposes a treatment of prisoners which is, indeed, "a menace and a disgrace to Chicago," and the council ought to take hold of the whole situation and under intelligent advice make an end of it. Chicago is not a cruel or unenlightened community, and does not want any such evils to exist. It is time that the stations and jails and the system of handling prisoners prior to trial or commitment to the county jail be brought up to the twentieth century standard. It is now about 200 years behind the conscience of the times. R. H. G.

The Report on Police Reform in Chicago.—The report of the City Civil Service Commission on police organization and its relation to vice conditions is a valuable document. And it is hardly less valuable for being corroborative rather than originally informative. The sorry record it makes of the vicious alliances of lawbreakers and sworn law enforcers is not remarkable for new facts, but it should drive into the consciousness of Chicago the need for drastic action.

The recommendations of the commission are sound as far as they go. But they must be worked out in detail and courageously applied.

Thus far the commission's investigation has brought substantial results. The weeding out of principal offenders and the exposure of incompetence and

dishonesty should proceed unflinchingly. This is a necessary clearing of the ground.

But clearing the ground is less than half the task. After that must come constructive work, the thorough reorganization of the police department on new lines. This will take time and a bitter fight. Success will depend largely upon the man chosen to be head of the department. But supported, as such a man, we believe, will be, by Mayor Harrison, and assured of time to accomplish his work thoroughly, he can destroy, so far as Chicago is concerned, the most persistent evil in American municipal government.

The report is reproduced in part in this issue. R. H. G.

The Man at the Top of the List.—The Chicago *News* under date of December 11, 1911, comments under the above title upon a recent order of Mayor Harrison with reference to the making of promotions in the police department of Chicago. He has advised the general superintendent of police that in each instance the man whose name stands at the top of the civil service list of eligibles shall be chosen for promotion. Such a procedure, he points out, "will aid in removing political influence from control of the police department because men will know their promotions will depend upon their own fitness and not upon any outside influence which may be brought to bear in their behalf."

Hitherto appointments have been made from among the three persons whose names stand at the top of the list of eligibles. This practice has arisen because of the conviction that it would not be possible in every case to select an entirely efficient candidate by means of the tests in vogue and consequently the head of a department was given some leeway. The plan developed disadvantages. It has not eliminated the influence of personal favor. It gives the appointing officer opportunity to secure agreements from persons about to be appointed. It prepared a field for blackmail.

When men in the police service have it proven to them that fitness instead of influence is absolutely efficient in determining promotion the results will be salutary. R. H. G.

Deputy Chief Stark of Toronto on the "Third Degree."—Deputy Chief Stark, in a strong article on "Police Methods and Their Critics," in the August, 1911, number of the *International Police Service Magazine,* assails the popular ideas on the "third degree" and those lawyers whose main ability consists in deriding witnesses, distorting evidence and even insulting their opponents with impunity. He claims that popular knowledge of the "sweatbox" is such that few could define the difference between it and a "soapbox," although they would gladly join in condemning it. Newspapers are often only too willing to dilate upon the supposed horrors of this system of obtaining evidence. I have seen the actual operation of a "third degree" case which obtained a complete confession of two criminals engaged in a variation of the "green goods" game within eight hours after the case was reported. The police worked upon the basis of two words carelessly dropped by the first two men arrested in regard to the third, who was the leader of the plot. Only once during the whole examination was a voice raised above a conversational tone, and then to forbid the prisoners talking further in a foreign tongue. In another case the confession of a stubborn juvenile was obtained only by strapping him in a surgeon's operating chair and ordering another officer to "turn the current on

slowly at first." The result was the breaking up of a dangerous gang of burglars and transom workers. I think that anybody objecting to such methods is either criminal himself or quite too soft-hearted for a police critic.

The sarcastic and glib lawyers surely ought to be squashed at every opportunity, for not only do they add to the growing contempt of the courts, but decrease the willingness, small at any time, of private citizens to testify in court, and to make still more disagreeable the task of enforcing the law which every police officer finds is approved loudly in general and as loudly scoffed at in particular. GEORGE H. MCCAFFERY.

MISCELLANEOUS.

A Correction. In my editorial in the January number of this Journal, on Judicial Discretion versus Legislation in Determining Defendants Suitable for Probation, the range of offenses to which the Illinois Adult Probation Law applies was for some reason mis-stated, although I had carefully read the law and remember its provisions perfectly as I first read them. I wish to have the provisions stated correctly in this place as follows:

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

All misdemeanors, except as hereinafter limited.

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

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

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

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

Burglary, when the burglar is found in a building other than a business house, dwelling or other habitation. A. W. T.

Program of the First Annual Meeting of the Illinois State Society of the American Institute, Thursday and Friday, May 9 and 10, at the School of Pharmacy Building of the University of Illinois, Twelfth street and Michigan boulevard, Chicago:

Annual address by the President, O. A. Harker, Dean, University of Illinois Law School, Urbana.

Crime conditions in Illinois: Evidences of the increase of crime, if any; the need of more adequate criminal and judicial statistics in Illinois; causes for crime and suggested remedies.

Paper by Professor Charles R. Henderson, University of Chicago.

Discussion by Nathan William MacChesney of the Chicago Bar, and Robert H. Gault.

Existing methods of dealing with juvenile delinquents in Illinois. Suggestions for possible improvements.

Paper by Clyde E. Stone, Judge, County Court, Peoria.

Discussion by Harry E. Smoot of the Chicago Bar; Richard S. Tuthill, Judge, Cook County Circuit Court, Chicago.

Present status of probation and parole in Illinois; the adult probation law. Should the principle of probation and parole be extended? If so, under what conditions and restrictions.

Paper by E. A. Snively, member Board of Pardons, Springfield.

Discussion by John E. Lewman, State's Attorney, Danville.

Organization of courts. What changes, if any, are desirable?

Paper by Professor Albert M. Kales, Northwestern University Law School.

Discussion by .....

Criminal procedure. What changes, if any, would result in the improvement of the existing methods of administering the criminal law?

Paper by William N. Gemmill, Judge, Chicago Municipal Court, Chicago.

Discussion by I. M. Wormser, Assistant Professor of Law, University of Illinois Law School, Urbana. CHESTER G. VERNIER, University of Illinois.

Find No Unjust Hangings.—That the people of the United States may learn to have more respect for decisions of the criminal courts, the American Prison Congress, which closed its annual convention in Omaha, in October, 1912, will carefully investigate every reported case of unjust conviction and will try to discover if the death penalty has ever been inflicted upon an innocent man. The congress already has devoted an entire year to its search for a case of capital punishment wherein there was reasonable doubt as to the guilt of the victim. So far it has discovered not a single case. This search was carried out in every prison in the United States and in Canada, a personal letter having been sent to the warden of every state prison in both countries. Each official was asked the following questions:

1. Have you personal knowledge of the execution of any person on conviction of murder whom you believe, from subsequent developments, to have been innocent?

2. Have you personal knowledge of the imprisonment on conviction of heinous crime of any person whom you believe from subsequent developments to have been innocent?

3. If either of the last two questions is answered in the affirmative, was the victim a worthy person?

To the first question, every warden in the United States and Canada answered "No" unequivocally, with the exception of Col. R. W. McClaughry, warden of the government prison at Fort Leavenworth, Kan. Col. McClaughry was not sure, but said: "I know of one or two who may, in my opinion, have been executed wrongfully." Warden Fogarty of the Indiana state prison wrote: "I have no knowledge, personally, of the execution of an innocent person; however, I have no doubt whatever that some innocent men have been executed." To the second question a number of prison officials answered "Yes," qualifying their statements by answering question No. 3 by a negative answer. Warden McClaughry answered, "Yes, a very few," adding, "In neither case could the party have been called worthy." Warden Alston, of Wyoming, says: "Yes, I am confident I know of one man in our state who was convicted and sent here who was innocent." "But," adds the warden in answering No. 3, "he was of a drunken disposition and had he been a sober man would never have been suspected or accused. Warden Russell, of Marquette, Mich., writes: "I don't think from my experience as a warden of this prison that the courts make many mistakes." Dr. Gilmour, of Toronto, answers question No. 2, "Yes,"

and adds, as an answer to No. 3, "Most worthy, and results sadder than the sad." Supt. C. C. McClaughry, of Boonville, Mo., answers "Yes" to both No. 2 and No. 3. Warden Fuller, of Ionia, Mich., writes: "During the seventeen years I have been warden I know of only one case of wrongful conviction, for offences against property. One prisoner was sent here for stealing a cow and another prisoner afterwards confessed he had committed the crime charged against the other man in order to get rid of the man, with whose wife he was infatuated. Warden Fogarty, of the Indiana state prison, writes: "I have not been convinced by subsequent developments that any man convicted and sentenced here for a heinous crime is innocent." The famous case from the Western Penitentiary, Pittsburgh, wherein a prisoner served fifteen years, was pardoned, and pensioned by Carnegie, and heralded as innocent, is treated in the following report: "Your committee had previously taken pains to write to the warden of the prison mentioned, but the information elicited did not indicate that the prisoner had been declared innocent, but was to the effect that the man had been discharged in the usual way." The writer of the report says: "The writer has for some years made it a practice to follow up with correspondence or otherwise the most widely published and sensational accounts of hardships experienced by innocent persons under judicial conviction, and has been surprised at the meager basis upon which such reports rest, though he finds that they are generally given credence by the reading public. Perhaps his (the secretary's) report may tend to establish confidence in the courts on the part of those who are not informed and who have neither the means nor the time, even if they have the inclination, to inform themselves, and it might be a good beginning in the effort on the part of the institutions to be understood by the public." R. H. G.

Prosecutions by Boards of Health and Tenement House Supervision in New Jersey.—The *New Jersey Law Journal* for December comments editorially as follows:

"The State Board of Health and the Board of Tenement House Supervision have had some seventy penal suits brought in this state alleging violations of the laws which the two boards are charged with enforcing. More than fifty of the suits are brought by the State Board of Health as a result of the pure food campaign which is being pressed with vigor by the food and diary divisions of the board. Most of the health suits in the present batch are for violations of the law regulating the supply of milk, and disposing of a mixture of olive oil and cottonseed oil as pure olive oil. Some twenty more suits are against farmers and dairymen charged with trafficking in bob veal. The preparation of the cases for trial, including the procuring of the necessary evidence and the drawing of the papers, has involved a vast amount of labor and the trials themselves promise to keep the penalties division of the Attorney-General's office busy for some time. The suits were made returnable at various dates extending between November 21 and December 22. Prosecutions for violation of the Tenement House code have thus far been only in Newark and Jersey City." R. H. G.

The Work of the Law Division of the Library of Congress.—"The Law Division of the Library of Congress is making a systematic effort to bring its collection of foreign law to a state of high efficiency. The growing interest

in comparative law manifested by legislators, lawyers and scholars has indicated the utility and stimulated the acquisition of a well-developed laboratory of comparative law, in which shall be represented the best legal literature of the important states of the world.

"A well-defined policy has been pursued in securing the information necessary for the purchase of the most useful legal literature. In May, 1910, Mr. Edwin M. Borchard, now Law Librarian, was appointed as expert in international law to the American Agency in the North Atlantic Coast Fisheries Arbitration at the Hague. Taking advantage of his presence in Europe, Mr. Borchard, at the conclusion of his mission at the Hague, visited the principal countries of western Europe in order to secure, by personal interview, information from lawyers, judges, professors and law librarians as to the important legal literature of their respective countries. Opportunity is now taken to express thanks to the following gentlemen for their valued coöperation in the undertaking:

"Mr. Woltenbeek Müller, Justice S. Gratama of the Supreme Court of Holland, Mr. Limburg and Mr. Trip, all of the Hague; Dr. G. de Level, Dr. H. de Boelpaepe, of Brussels; Dr. C. Neukirch and Dr. Kauffmann, of Frankfurt; Dr. Edouard Clunet, Mr. F. Allain, Mr. C. F. Beach and Prof. Paul Viollet of Paris; M. Paul Privat, and Profs. Martin and Reyfous of Geneva; Prof. E. Huber and Dr. Koenig of Berne; Prof. F. Meili, Dr. Schneeli, Dr. G. Wettstein and Dr. Letsch of Zurich; District Attorney Enea Noseda, Dr. E. Crespi, Dr. Luigi Ansbacher and Dr. Ernesto Tamanti of Milan; Dr. Bizio Gradengo, Dr. G. Diena and Dr. Sacerdoti of Venice; Prof. A. Catellani, of Padua; Prof. Karl von Amira, Prof. E. Ullmann and Dr. K. Veit of Munich; Dr. A. de Griez, Dr. Josef Stammhammer, Dr. A. Fischer-Colbrie and Prof. Heinrich Lammasch of Vienna; Dr. S. Salzburg and Dr. Kaiser of Dresden; Prof. Ludwig Mitteis and Prof. Karl Schulz, law librarian of the German Supreme Court of Leipzig; Dr. Georg Maas, Dr. H. Klibanski, Dr. Ernst Delaquis and Dr. Konrad Gutmann of Berlin; Profs. A. Torp and H. Jorgensen and Dr. W. Angelo of Copenhagen.

"Since December, 1910, further information has been sought in a systematic campaign conducted by correspondence with leading jurists in the countries not personally visited. The correspondence has been carried on in French, German and Spanish, which languages have been found sufficient for all practical purposes. Gratifying responses have already been received from the following gentlemen, to whom occasion is here taken to express our appreciation and thanks:

"J. F. N. Beichmann, Chief Justice of Norway, Drontheim; Prof. Knud Berlin, University of Copenhagen; Dr. Francis Hagerup, Norwegian Ambassador to Denmark; Dr. Antonio Mesquita de Figueiredo, Lisbon, Portugal; Dr. Ramon Sanchez de Ocaña, of the ministry of justice, Madrid, Spain; Senator Don Francisco Lastres, Madrid, Spain; Prof. Torres Campos, Granada, Spain; Prof. H. Lamba, Cairo, Egypt; Dr. A. Tarica, attorney, Smyrna, Turkey; Prof. José A. de Freitas, University of Montevideo, Uruguay; Dr. Von Veh, Berlin, Germany (Russian law); Prof. Karl Adler, Czernowitz University, Austria; Prof. Josef Redlich, Vienna University, Austria; Prof. Ulisse Manara, Genoa University, Italy; Prof. Gino Dallari, Siena University, Italy; Baron Hector Rolland, Monaco; Prof. Petr. J. Kazansky, Odessa, Russia; Prof. Gerardo Berjano y Escobar, Oviedo, Spain.

"Most of the countries of Latin America, the Near East and Asia are still to be heard from.

"The information thus secured is, after a process of comparison and selection, made the basis for the purchase of the most important legal works of the respective foreign countries. It has been considered advantageous, upon the arrival in the library of a sufficient number of such works, to make public the resources of our foreign law collection. This undertaking is to consist of the preparation by the Law Librarian, of guides to foreign law and critical surveys of the important literature. The first publication, a guide to the law and legal literature of Germany, is to appear in February. The surveys for Austria-Hungary, France, Italy, Spain and the other countries of Europe are to follow, it being proposed to publish two or three monographs a year. These guides are to serve as introductions to foreign law for the American lawyer and as aids to investigators in finding the law. The enterprise has met with the heartiest endorsement of the Comparative Law Bureau of the American Bar Association."—Extract from the Report of the Library of Congress for 1910-11, Edwin M. Borchard, Library of Congress.

Mr. Borchard is now preparing a guide to the law and legal literature of Germany, which will make a monograph of about 170 pages. It is his plan to publish two monographs a year, taking up the European countries in the order of their importance. R. H. G.

Picture Shows and Juvenile Crime.—One of the features of the discussion at the state conference of the New York State Society for Prevention of Cruelty to Children and Animals was the moving picture evil. The committee which had the subject in charge reported in part as follows:

"It is not a rare sight to see boys and girls engaged in mimic holdups on the streets, following all the details of the moving picture shows. Amateur burglars have robbed houses exactly as portrayed by the pictures, and one cannot estimate the evil done through mock representations of bloodshed and crime.

"The report of the district attorney of New York for cases brought in the boroughs of Manhattan and the Bronx for the past eleven months shows the following crimes traced directly or indirectly to moving picture shows:

"Unmentionable crimes, 3; aggravated assaults, 32; attempted assaults, 6; abductions, 3; indecent assaults, 3; impairing the morals, 15—a total of sixty-two cases, on which there were forty convictions and thirty-two offenses committed to state's prison."

The picture show may be made an educational factor of great value to boys and girls in the congested districts of our cities, and for that matter in other districts as well. The real problem is, therefore, not how to suppress such exhibitions, but how to supervise and control them. R. H. G.

"International White Slavery."—Under the above title *The Light* for January, 1912, publishes an address which was delivered by the Hon. James Bronson Reynolds, Assistant District Attorney for New York City, a recognized authority on the international white slave traffic, before the last Sixth International Purity Congress at Columbus, Ohio. Mr. Reynolds sets himself the problem of discussing facts regarding the warfare with this traffic in foreign lands, and to show our relations to this international struggle to anni-

hilate the traffic. It is not strictly a *white* slave traffic. All colors are involved. Our responsibility and our duty are independent of the color of the victims.

The treaty of Paris, of May 18, 1904, is officially known as the "project of arrangement for the suppression of the white slave traffic." Its ratification is an event deeply significant of the fresh confidence with which the twentieth century is grappling with the great evils which stand in the way of the social and moral progress of mankind. It is the first treaty made by the great powers of the world in relation to social morality. To it all the leading powers of Europe, from Spain to Russia, Turkey alone excepted, gave their adhesion. And with the approval of the Senate, the President of the United States, on June 15, 1908, proclaimed the adhesion of the United States to the treaty. The high contracting powers, to quote the terms of the treaty, "being desirous to assure to women who have attained their majority and are subjected to deception or constraint, as well as minor women and girls, an efficacious protection against the criminal traffic known under the name of trade in white women, have resolved to conclude an arrangement with a view to concert proper measures to attain this purpose."

That the significance of the treaty may be better understood, Mr. Reynolds summarized its most important purposes as follows:

"Article 1. Each of the contracting governments agrees to establish or designate an authority who will be directed to centralize information concerning the procuration of women and girls, for the purpose of their debauchery in a foreign country. That authority shall be empowered to correspond directly with the similar service established in each of the other contracting states.

"Article 2. Each of the governments agrees to exercise supervision of railway stations, ports of embarkation and of women and girls in transit, in order to procure all possible information leading to the discovery of a criminal traffic. The arrival of persons involved in such traffic, as procurers or victims, shall be communicated to diplomatic or consular agents.

"Article 3. The governments agree to inform the authorities of the country of origin of the discovery of such unfortunates and to retain, pending advices, such victims in institutions of public or private charity. Such parties will be returned after proper identification to the country of origin.

"The treaty, therefore, seeks to accomplish four objects: (1) to centralize information regarding the white slave traffic; (2) to provide governmental protection of girls and women traveling from one country to another; (3) to give official protection to the victims of this traffic; (4) to pursue and punish the promoters of the traffic by all the means in the possession of the respective governmental authorities."

It is through the helplessness of the foreign prostitute that the power of the "pimp" has been developed in this country. The rapid development in numbers of these male beasts within recent years in our cities is due to the helplessness of the foreign imported prostitute. Many of them control American girls, but their power rests upon the authority which they so easily exercise over the foreign-born. To prove the conditions, Mr. Reynolds states a few facts from many that have been established by careful authorities: The Marquis of Calboli, the first Secretary of the Embassy of Italy to Paris, stated in 1902 that Italian padrones conveying Italian workmen

from Italy to France included among them young Italian girls. After these had served the pleasure of their master, being then in a foreign country, they were sold by him to various customers.

"It was stated at the Conference of Amsterdam in 1901 that large numbers of women, estimated at 1,200, were embarked annually from the port of Genoa for South America, for immoral purposes. These came mainly from Austria-Hungary, Russia, Poland and France. South America provided itself with this wicked commodity, not only from the countries above named, but from Spain, Portugal and the center of France. Buenos Aires was named as the principal port arrival. Later the traffic was said to have been transferred to Montevideo and Rio Janeiro. Buenos Aires is still a prominent port of entry in South America. London, Liverpool, Southampton, Dublin and Bremen were reported to be ports of embarkation to New York and New Orleans. Austria was declared to be an important market for German and French women. In the Orient, principally in Turkey and Asia, Greek and Italian women were said to be in great demand, and the demand supplied. Constantinople, the great international depot for white slaves, furnished Austrians, Roumanians and Russians. Thirty-three per cent of the prostitutes of Smyrna and Beirut were said to be Austrians. Austria furnished three-fourths of those imported into Egypt.

"According to the statement of a former high officer in the Ottoman army, there is no country in the world where the white slave trade flourishes to the same extent as in Turkey and that to the advantage of the higher classes, and even of the Sultan himself. This statement was, however, made in the reign of Abdul Hamid. The region most exploited is Circassian Russia, covered constantly by recruiting agents; but almost equally active recruiting is done in the interior of the Turkish Empire. The unfortunates of Turkey were said frequently to be passed on to Bombay and Calcutta, thence to the Dutch Indies, landing finally at Batavia or Singapore.

"Many European girls and women are transported to South Africa, notably the Transvaal. In general, Europe is an exporter, and the movement of its traffic in women appears to be principally as follows: To North and South America, to the Orient, with Turkey, Egypt and India as the great landing stations, and finally to South Africa. According to the reports made, Austria held and still holds first place in such exportations, France the second and Italy the third."

The record of white slave traffic from our Pacific Coast to Japan and China presents a still darker page for the reason that we assume to stand before the Orient as pilots and guides to the best results of modern civilization, yet in many Oriental cities the inhabitants have been so accustomed to looking upon the splendidly-gowned American prostitute in her richly-equipped carriage that for them the term "American Girl" has become synonymous with the term "prostitute." A recent action of the American government in refusing protection to these American prostitutes has somewhat relieved the situation. This improvement was due partly to the courage and persistence of an Ohio judge in Shanghai—Judge Wilfley. Since his return to this country, the campaign against these prostitutes in the Orient has been less effective. This iniquity follows all the rules of trade and trade movements. It does not matter whether we can proclaim the existence of an organized syndicate. The statements of leading official and unofficial authorities

in Europe establish, however, that in some form these traders have social and commercial solidarity through which they achieve easy communication and a business success. They have recognized vocabularies for cablegrams and correspondence and establish way stations of the traffic. They have all those agencies which facilitate the successful handling of the business, promote its expansion and the transportation, delivery and exploitation of the goods.

"Finally, let me offer two general observations regarding the international white slave traffic. If it be true that we are opposing a commercial proposition, then it follows the rules of trade, and the law of supply and demand, and may be injured just as any other trade may be injured. If the occupation of procurer is made more dangerous through executive activity and national legislation, the number entering the traffic will as surely be decreased as in any other occupation which becomes more dangerous. If, as seems to be true, the traffic follows the laws of trade, it follows them to destruction as well as to success.

"The European situation offers also an instructive lesson for us. The fundamental reason for the adoption of an international treaty by the nations of Europe was that national legislation alone was found to be ineffective, the traffic following the lines of least resistance. English women could most safely be debauched by transportation to France; French women more safely exported to Belgium and Holland; and Austrian women to other countries. Thus the procurer and pander selected the channels through which they could safely direct their traffic. It is equally true, though not so well realized, that the necessity for the recent national legislation adopted in this country was created because the panders and procurers of our own country exported their ware from one state to another, realizing that this could be done more safely than by debauching and exploiting their victims in one locality."

When the author of this address some years ago was serving as secretary to the mayor of the city of New York, he made a thorough investigation of the white slave traffic in that city, and in a confidential report which was made to him by one who visited forty employment agencies of New York City, it was stated that the managers of these agencies were quite willing to supply girls for immoral purposes. It is significant, however, that they refused to supply girls for the local demand, but that they very willingly entered into interstate business, because they had found that state laws are ineffective to check interstate activity. We need, therefore, not only local executive activity and state laws, but national laws and executive activity as well. The business which is under discussion is interstate commerce as much as dealing in cattle and hardware, and cannot be successfully opposed without interstate as well as state laws. If this is correct, then Congress has a right and should legislate in this matter. It is for this reason that those who have in hand the responsibility of drafting laws for the consideration of our state legislature should compare their proposed laws with those already established in other states, with a view to obtaining such a degree of uniformity as will most successfully lend itself to coöperation among the states, and, furthermore, if Mr. Reynolds' analysis of the situation is correct, and he is not alone in declaring it, right-thinking people should emphasize before Congress the need of appropriate legislation to bring this traffic under interstate commerce laws.

R. H. G.