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Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.

ANTHROPOLOGY—PSYCHOLOGY—LEGAL-MEDICINE.

Psychopathic Criminals.—This is the second of a series of studies by Professor Svenson of the University of Upsala (*Gross' Archiv,* Vol. 45, 1912). He takes up the life history of a native of Sweden, who was a vagabond, thief and murderer. He endeavors to show that, like many other criminals, the cause of this man's actions were due to his diseased mentality. His ancestry showed alcoholism, tuberculosis, and excessive religious feeling. His father was harsh and stubborn, his mother extremely obstinate and opinionated. There were many apparently normal members of the family, and as a rule the whole family was above the average in intelligence. The mother, however, was much shut-in, extremely religious and sexually frigid.

From childhood N. showed himself to be of an intractable disposition, his parents and teachers being unable to make any impression upon him; he was intelligent, but would not work at his lessons. He committed his first theft at the age of seven, stealing a small sum of money from his home, an offence which he repeated so frequently as to constitute a habit, from which he could not be broken, and at the age of eleven he ran away from home with a comrade of the same age, having provided himself with money so stolen. After this he ran away several times, though never again with a companion, and on one of his wanderings he stole a horse, and stabbed it in several places, watching it bleed to death. This action he described in a letter written to the director of the prison at Längeholmen, together with other doings of the same night, stating that he wrote because another man had been accused of the crime and was in danger of being unjustly imprisoned. He never attempted to lie about his crimes, nor in fact to recognize them as such. He committed several petty thefts, for which he was imprisoned for varying periods, and at the age of [illegible] finished a term of imprisonment, for theft and assault on the officer of the law, and left the Central Prison, in which he had been confined, with the avowed intention of either becoming an honest orderly person, or of committing a crime which would bring him to execution.

After a short stay at the home of his parents, he again set out on his vagabond existence, determined to become rich by any means, and managed by begging letters to collect a small sum of money, but when this was gone made the final decision to live by "robbery, murder and plundering." In pursuance of this scheme, he procured a revolver, and boarded the steamer Prinz Carl, lying in the Harbor at Arbroga, determined to murder those on board and make away with their money and valuables. He locked the passengers in the saloons, attacked and killed the unsuspecting captain, then proceeding between decks attacked four persons there and disabled them, and finally having killed four persons and wounded eight, made off with what booty he could gather, using the life boat to reach the shore. When captured he fainted, but at the police hearing he was calm and related the details of the crime. After this, in an attempt at escape, he assaulted and wounded two warders.

Before his execution, in December, 1900, he spoke of the atonement of Jesus and liked to sing hymns, and seemed to the prison chaplain to have become repentant. The warden, however, held a contrary opinion, and believed that he would have repeated his crime if given the chance.

The author's analysis of the case is as follows: N's father, himself an intelligent man, judged him to be an unusually gifted child, he was shown to be a fairly good student by his school records which, with the prison records lead us to believe that his elementary intellectual functions were normal. He had a very vivid imagination, and was very fond of adventure, especially of adventure at sea, as evidenced by his requests for books of adventure, by his love of vagabondage, and his eight months journeying on the water. His power of comprehension of the abstract was evidenced by his fondness for writing in the sphere of the abstract, and his ability to make fine distinctions in abstract ideas. His development of anti-social feeling however was striking. His parents had no influence over him from childhood, aside from his first flight from home, he was always alone in his undertakings, and as he grew older he developed a hatred for his fellow men. Pity in him seems to have been entirely lacking, and indeed many of his writings and actions showed a purposeless cruelty. Opposed to this poor development of altruistic emotions he showed strength of the egoistic, and had expansive ideas about himself and his future. He showed no remorse or shame for his deeds, but blamed others for his unrealized dreams of greatness and wealth. He was subject to attacks of impulsive wrath, which usually preceded his impulsive crimes, in fact his activity on the whole was characterized by impulsiveness, one result of which was his love of wandering, the outcome of a psychic unrest. His sexual nature seems to have been poorly developed. He masturbated moderately in prison, but cared little for women. His criminality seems to have been due to an inherited psychic defect. He possessed ethical standards, expressing disapproval of his mother, saying that although she had done him no evil she should have done him positive good. He justified his actions by self-made standards in conformity with his own nature. He was not a "moral imbecile," but rather possessed a perverted ethical sense.

The writer concludes that his environment, and his later treatment in prison (where he spent in all six years and four months in a lonely cell), did not conduce to his improvement; and when he was last liberated the prison officials concurred in the opinion that he was a dangerous criminal. One month later he perpetrated his multiple murder.

Svenson ends by stating his opinion that although the death sentence is seldom more suitable than here, as an ending to an abnormal, dangerous and unhappy life, capital punishment is a makeshift device for the protection of society, depending for its effect upon the fear of death excited in the criminal, and, as in this case not deterrent. Besides respect for human life shown by the state has an important ethical influence. S. E. J.

Tattooing.—This interesting anomaly is discussed by W. Hauschild (*Gross' Archiv,* Vol. 45, p. 60), who reports a case of tattooing on the back of the head, which in his experience is unique.

The case was that of an artist, 26 years of age, who died of florid pulmonary tuberculosis. The whole of the back of the head, to the vortex, as well as both temples, had been smooth shaven, leaving only a narrow strip of hair

in the region of the sagittal suture, had been tattooed; the motive, as far as could be gathered, having been to earn money by exhibition of the tattooed area, as the subject because of his diseased condition had been unable to work. The writer goes on to state that opportunity for investigation of the practice of tattooing is chiefly afforded by examination of the sick and criminal. Of the latter class, serious offenders, and those recruited from the higher classes are very rarely tattooed, in his opinion the greater reason for frequency of the practice among petty offenders being that numbers of them are confined in the same room with little to occupy them, the same reason of numbers crowded together with a small amount of occupation being given for its prevalence among soldiers and sailors. Hauschild thinks that in Germany shoemakers and slaughterers are more prone to indulge in tattooing than are men following any other occupation; few women practice it, but those who do are also to be found in the lower strata of society. The age incidence is usually between 20 and 25.

Lacassagne, from inquiries made, found the process reported as painful in two thirds of the cases, and slightly or not at all in the remainder, the decreased sensibility common in criminals often leading them to be tattooed in the most sensitive parts of the body. The lack of asepsis in the procedure may result in dermatitis, gangrene, amputation, death, and more rarely arterio-venous aneurism, inoculation with syphilis, etc. Each square inch of the body surface has been used by one group of people or another for tattooing; among some peoples the entire surface is tattooed, but among Europeans it is seldom found on the exposed parts, the hands and arms being the most frequent sites. The marks often serve as a means of identification of criminals. The designs are chosen to suit the region of the body, to fit the space, or in relation to the underlying organ. The emblems may be occupational, military, patriotic or religious; mottoes, amorous, lascivious, metaphoric and fantastic designs occur the latter being the most numerous. The motive is usually imitation or idleness; the choice of design is determined by occupation, desire to indicate devotion to some person, association or ideal; many wish to be tattooed for the sake of tattooing, these latter choosing their designs as the fancy strikes them at the moment. In Europe the tattooers are always men, but in North Africa, and among many barbarous and semi-barbarous peoples women tattooers are also found. Among petty offenders designs of immoral significance are frequent, these being weakly bound by conventional ties and usages of decency.

Lombroso believed that a relation of atavistic origin existed between habitual criminals and the frequency of tattooing among them, but at present no belief is held in such a relation. S. E. J.

Some Aspects of Legal-Medicine in Italy.—In the legal-medicine division of *Archivio de Antropologia Criminale,* number 1, 1911, we find an examination of the legal provisions in case of emasculation. The Italian civil code annulls a marriage, if the *impotentia coeundi* can be established. But as the purpose of marriage is the continuation of the family, it would be more logical, if either the *impotentia generandi* or *concipiendi* were the criterion for a dissolution of the union. Because this physical disability is hard to prove, the civil code has had to accept as a solution of the problem the *impotentia coeundi.* The Catholic church accepts as ground for the dissolution organic, functional

disabilities, which make the aims of the union, impossible. A special case, where the wife demanded the dissolution of the marriage, because her husband had been obliged to submit to a surgical operation, which deprived him of his sexual glands, led the author to take up this highly interesting examination.

Biologically the author shows the vital difference between eunuchs, who were deprived of their virility very early in life and completely, and such people, on whom the operation was performed after puberty. In the latter case the sexual secretion had time to act upon the physical and mental development of the person, a reaction which can never be obliterated, even by complete loss of virility at a later period. By the removal of their sexual glands after puberty men do not lose the *potentia coeundi.* The faculty of ejaculating prostatic fluid and in some cases even spermaoid fluid is proved in several cases. From the writings of Juvenal the author cites several passages of Roman ladies, who used eunuchs for the satisfaction of their sexual instincts. The sects of the Skopzy in Russia practices castration for sanctification, while it is resorted to in the Orient and along the southern shores of the Mediterranean for commercial purposes. The law for the compensation of accidents has to consider the consequences of castration on grown up men. The removal of the sexual glands does not interfere with the worker's economic efficiency, but the author thinks that not only the material side of the question should be considered. Each case ought to be judged on its individual merit; hence he is in favor of compensation in certain cases. V. v. B.

Human Instincts and Social Reforms.—While sociologists recognize the importance for their science of the results of the science of psychology certain of them are questioning the importance of instinct as a factor in human social life at the very time when, in psychology itself, the recognition has become universal that man's whole mental life rests upon certain native reactions or innate impulses classified under the term instinct, says Prof. Charles A. Ellwood, in an article in the *Popular Science Monthly* for March, 1912, under the title of "The Instinctive Element in Human Society." Misconceptions of what instinct really is, Professor Ellwood thinks, explain the denial of the importance of the instincts in social life. The modern psychological conception of instinct is not metaphysical but biological. Instincts are inborn pathways of nervous currents, which have as their functional correlate inborn motor tendencies, and as their physical correlate inborn psycho-psysical dispositions. They are the psychological aspect of heredity and it is as inconceivable that the organic individual should exist without them as without the general bodily structure. Being characteristics of the higher and more unstable portion of the organism, they probably vary more widely than the grosser physical traits. They are more modifiable owing to the fact that only about one third of the connections in the nervous system are made at birth, the other two thirds being acquired by the individual during his lifetime. These acquired connections greatly modify the character of the original ones. But, while there can be no question but that instinctive reactions are the basis of the relationships of individuals in society it is very difficult to say what proportion of human activities may be regarded as primarily instinctive. Instinctive reactions, especially in modern civilized society, are overlaid with a mass of habits, customs and tradition, and are constantly modified or inhibited by many other social factors; but it is an error to ignore the instinctive element, even in the complex

conditions of modern life. The practical consequence of the recognition of the importance of the instinctive element in human social life is to establish a wise conservatism with reference to the reconstruction of institutions and at the same time a progressive radicalism as regards the ultimate amelioration of social conditions. Any plan of social recognization which is made without regard to man's instincts is probably destined to failure; the only sure and probably the only safe method of social reconstruction is thorough education. These principles are of great importance in the consideration of any proposed social reforms. It is probably true that many of the problems of our present civilization are due to the fact that man's instincts are not yet adjusted to a more complex environment. But it is idle to think that it is practical to secure such adjustment through the elimination of socially undesirable natural tendencies by any means of artificial selection. The great problem of civilized society is not to suppress man's instincts, for that cannot be done, but to guide and control them by a system of scientific education, so that they will discharge themselves only in paths of social advantage. E. L.

COURTS—LAWS.

Proposed Law Empowering District Judges in Louisiana to Suspend Sentence.—Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in any case in a District Court in which any person shall have been convicted of any offense, other than one punishable with imprisonment at hard labor for more than seven years, and no previous conviction shall have been proved against him, if it shall appear to the court that, regard being had to the character and antecedents of the accused, to the nature of the offense and to any extenuating circumstances under which the offense shall have been committed, it is expedient that the accused be released on probation of good conduct, the court may, instead of sentencing him at once, to any punishment, direct that he be released on his entering into a recognizance, in such sum as the Court may fix, with or without sureties, and during a period equal to the maximum term of imprisonment which might lawfully be imposed under said conviction, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behavior; *provided,* that whenever an appeal in any case shall have been taken to the District Court, such court may, subject to the provisions of this article, discharge the accused on probation and suspend the execution of the sentence appealed from; *provided,* that the court, before directing the release of an accused under this Act, must be satisfied that he has a fixed place of abode or a regular occupation.

Section 2. Be it further enacted, etc., That if at the end of said probation period the accused shall satisfy the District Court that he has not failed during said period to observe any of the conditions of his recognizance he shall be entitled to his final discharge.

Section 3. Be it further enacted, etc., That if at any time before the expiration of the probation period it shall appear to the District Judge that the order discharging the accused on probation was obtained by fraud, perjury, or by any sort of misrepresentation or suppression of facts, or that the accused has failed to observe any of the conditions of his recognizance, the Judge shall issue a warrant for his apprehension and shall remand him for sentence.

Section 4. Be it further enacted, etc., That the exercise of the discretion vested by this Act in District Judges shall not be reviewable by any other court or judge. W. O. HART, New Orleans.

Proposed Law to Provide the Method of Executing Death Sentences in Louisiana.—Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the punishment of death shall be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current shall be continued until the convict is dead; *provided,* that until such time as the proper electrical appliances shall have been installed at the penitentiary, every sentence of death imposed in this State shall be executed within the walls of said penitentiary by hanging the convict by the neck until he is dead.

Section 2. Be it further enacted, etc., That every execution of the death sentence shall take place in the presence of the warden of the State Penitentiary, or of one of his deputies, of the coroner of the parish of East Baton Rouge, or of a practicing physician designated by said coroner, of a priest or minister of the gospel, if the convict so request, and of not less than four nor more than twelve other witnesses.

Section 3. Be it further enacted, etc., That when the sentence shall have been executed, the warden or deputy warden who was present shall make a *proces verbal* of the execution, which *proces verbal* shall be attested by three of the witnesses and shall, as soon as completed, be transmitted to the clerk of the court in which the sentence shall have been imposed.

W. O. HART.

Proposed Law to Provide for the Imposition of An Indeterminate Sentence in Louisiana.—Be it enacted by the General Assembly of the State of Louisiana, That whenever any person shall, after the adoption of this Act, be sentenced to imprisonment in the State Penitentiary or at hard labor, otherwise than for life, or where the maximum penalty does not exceed one year, it shall be the duty of the District Judge to sentence such person to an indeterminate sentence, the minimum of which sentence shall not be less than the minimum term of imprisonment fixed by the statute under which such person shall have been convicted, and the maximum not more than the maximum fixed in such statute; *provided,* that where no minimum term is fixed in such statute said minimum term shall be taken and intended as being one year.

W. O. HART.

Proposed Law Against Corporal Punishment in Louisiana.—Be it enacted by the General Assembly of the State of Louisiana, That whoever shall inflict or cause of be inflicted upon any prisoner any corporal punishment shall, upon conviction, be fined not less than $10.00 nor more than $100.00, or be imprisoned not less than 30 days nor more than 90 days, or both.

W. O. HART.

Proposed Law to Establish a Method of Parole in Louisiana.—Section 1. Be it enacted by the General Assembly of the State of Louisiana, That there is hereby created a Board of Parole which shall consist of the President of the Board of Control of the State Penitentiary, the Attorney General and the Lieutenant-Governor, in which said Board shall be lodged the power to determine when and under what circumstances a prisoner sentenced to an indeterminate sentence shall be paroled.

Section 2. Be it further enacted, etc., That said Board shall, within thirty days after this Act shall have become a law, meet and organize and elect one of its members president, choose a secretary, who need not be a member of said Board, and adopt a uniform system for the marking of prisoners by means of which shall be determined the number of marks or credits to be earned by each prisoner as a condition of release on parole, and such other regulations as may be necessary for the carrying out of this Act, which system so adopted shall, however, be subject to revision by the Board from time to time.

Section 3. Be it further enacted, etc., That each prisoner sentenced to an indeterminate sentence may, a month prior to the expiration of the minimum term of his sentence, make application to the Board in writing and in such form as the Board may prescribe for his release upon parole; provided, that if deemed suitable by the Board the Board may in any particular case dispense with this rule.

Section 4. Be it further enacted, etc., That it shall be the duty of said Board of Parole, immmediately upon the filing of said application, to enter into an investigation of the conduct of said prisoner during his term of imprisonment, and if upon such investigation it shall be found that the prisoner has, under the rules and regulations of said Board of Parole, become entitled to discharge from imprisonment upon parole, this Board shall order the release of said prisoner from imprisonment at the expiration of the minimum term fixed in the sentence; *provided,* that should said prisoner's conduct not have been such as to entitle him to discharge, the Board may, in its discretion, at any subsequent period not less than six months, investigate into the conduct of said prisoner since the date at which his parole was refused, and if, in the opinion of said Board, said prisoner's conduct has, during said period, been such as to entitle him to be discharged on parole, said Board shall order such discharge. Otherwise, said prisoner shall be required to serve the minimum period of imprisonment fixed in the sentence, subject to commutation for good behavior.

Section 5. Be it further enacted, etc., That whenever a prisoner shall have been paroled his parole shall expire only with the expiration of the maximum term of imprisonment fixed in the sentence, and, upon being paroled, every prisoner shall be required to promise that he will keep the peace and be of good behavior until the expiration of his parole, and should any person, after his release on parole, be charged with any violation of the same, he shall be arrested by the sheriff and brought before the District Court in the Parish in which such violation is charged to have taken place; and if, upon the trial of said charge, the court shall decide that the paroled prisoner has in fact violated his parole, the court shall remand him to the Penitentiary from which he was paroled, there to serve out the whole time for which his parole was given, subject to the deduction of the time which he had served prior to his parole and to any commutation for good behavior that he shall thereafter earn.

Section 6. Be it further enacted, etc., That every paroled prisoner shall, upon his being discharged upon parole, be entitled to be paid any sum that may be to his credit upon the provisions of Act No..... of 1912, and shall be furnished with a serviceable suit of clothes, with transportation to such place as he may elect to go to within the State of Louisiana, and five dollars in money.

Section 7. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with the provisions of this Act be and the same are hereby repealed. W. O. HART.

The above bills failed to become law.—Ed.

Justices of the Peace and Constables in Maryland.—The following bill became a law in the last session of the Maryland legislature: AN ACT to repeal section 629 of Article 4 of the Code of Public Local Laws of Maryland, title "City of Baltimore," sub-title "Justices of the Peace and Constables," to repeal and re-enact with amendments section 205, sub-title "Constables," and 623, 624, 625, 627, 628, 629, 644 and 648, sub-title "Justices of the Peace and Constables," of said Article 4, and to add three additional sections to said Article 4 to follow immediately after said section 625, as amended, and to be known respectively as sections 625 A, 625 B and 625 C.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That section 629 of Article 4 of the Code of Public Local Laws of Maryland, title "City of Baltimore," sub-title "Justices of the Peace and Constables," be and the same is hereby repealed.

SEC. 2. *And be it further enacted,* That section 205, sub-title "Constables," and sections 623, 624, 625, 627, 628, 629, 644 and 648, sub-title "Justices of the Peace and Constables," of Article 4 of the Code of Public Local Laws of Maryland be and the same are hereby repealed and re-enacted with amendments so as to read as follows:

205. There shall be one constable for every ward of the City of Baltimore, who shall be appointed by the Mayor in the mode prescribed in section 25 of this article; said constables shall hold their offices for two years and their compensation, payable by the Mayor and City Council of Baltimore, shall be as follows: One of said constables shall receive the annual salary of $1800 as chief constable; 7 of said constables shall receive the annual salary of $1200; the remaining 16 of said constables shall receive each an annual salary of $1000, and said constables, in addition to their functions as constables, shall have the following duties:

(a) Said chief constables shall also, under the supervision of the said five justices of the peace of the People's Court, have the custody of all the dockets, records and papers of the said justices, and it shall be his duty to see that they are safely and properly kept and preserved; and upon his removal from office, or the termination of his term of office shall deliver all of said dockets, records and papers to his successor. He shall receive, collect and account for, as hereinafter provided, all fees and costs payable by law to justices of the peace and constables in Baltimore City, except fees for affidavits and acknowledgments taken by justices of the peace other than those of the People's Court and except costs, fines, and forfeitures payable in criminal cases of the justices of the peace assigned to sit at the various police station houses in said city. Said chief constable shall, moreover, supervise the performance of their duties by the remaining constables. Said chief constable shall file with the Register of the City of Baltimore on the first day of each calendar month in each and every year, an account verified by his oath or affirmation, of all fees and costs collected by him as aforesaid during the preceding month, which said accounts shall show the titling, nature and disposition of the various cases and proceed-

ings from or out of which the said fees and costs arose; and said chief constable, at the time of filing said accounts, shall pay over to the City Register the amount of said fees and costs received, to be accounted for by said Register as other moneys of the said city are accounted for. Said chief constable, before entering upon the duties of his office, shall give to the State of Maryland a good and sufficient bond, with a surety or sureties to be approved by the judge of the Superior Court of Baltimore City, in the penalty of twenty-five thousand dollars ($25,000) with conditions that he will truly and faithfully discharge, execute and perform all and singular the duties and obligations of the office of constable and chief constable, and that he will account for and pay over to the Register of the City of Baltimore, all fees and costs which he may receive or collect; and that he will faithfully and truly account for and pay over to the person or corporation entitled to receive the same, all moneys belonging to such person or corporation which may come into his hands as such constable or chief constable.

(b) Two of said constables receiving the annual salary of twelve hundred dollars ($1200) each, shall act as assistants to said chief constable in the performance of the duties aforesaid. Each of them before entering upon the duties of his office, shall give to the State of Maryland a good and sufficient bond, with a surety or sureties approved by the Judge of the Superior Court of Baltimore City in the penalty of ten thousand dollars ($10,000) conditioned upon the faithful performance of his duties hereunder.

(c) Five of said constables receiving the annual salary of twelve hundred dollars ($1200) each, shall also act as clerks to the respective five justices of the peace of the People's Court, shall keep the dockets of said justices, and, subject to the supervision and direction of the respective justices, shall prepare all writs and other papers pertaining to the cases instituted before, or to be tried before said justices. In the event of the absence of any of said constables from attendance upon the said justices of the peace, the chief constable shall designate one of the said two assistant constables to perform the duties of said constables so absent.

(d) Five of the remaining sixteen of said constables shall be designated by the chief constable as bailiff to the said justices of the peace of the People's Court, and one of them shall be in constant attendance during the sittings of each of said justices of the peace, and shall also perform the duties of a bailiff. In the event of the absence of any of said constables designated to act as bailiffs aforesaid, the chief constable shall designate one of the remaining constables to act for the one so absent.

(e) The remaining eleven of said constables shall, under the instructions, and subject to the supervision of said chief constable, serve the process of the said justices of the peace of the People's Court.

623. The Governor, by and with the advice and consent of the Senate, shall appoint twelve justices of the peace for each of the legislative districts of Baltimore City, to be selected as follows: One from each of the wards comprising each of said districts, and six justices of the peace at large from each of said districts, and shall further appoint fifty-three justices of the peace, and no more, from Baltimore City at large, who shall be appointed from such ward or wards as the Governor may elect or determine.

624. Each of said justices of the peace, before entering upon the duties of his office, shall give to the State of Maryland a good and sufficient bond, with a surety or sureties to be approved by the Judge of the Superior Court of Baltimore City, in the penalty of five thousands dollars ($5,000), with conditions that he will truly and faithfully discharge, execute and perform all and singular the duties and obligations of the office of justice of the peace, and that he will account for and pay over to the Clerk of the Court of Common Pleas and to the Register of the City of Baltimore, respectively, all fines, penalties and forfeitures and all fees or the portion thereof, which he is bound to account for and pay over to said respective officers; and that he will faithfully and truly account for and pay over to the person or corporation entitled to receive the same, all money belonging to such person or corporation which may come into his hands as justice of the peace.

625. It shall be the duty of the Governor, after the appointment of the justices of the peace provided for in section 623, to select from the justices of the peace so appointed one justice of the peace who shall be known as "Presiding Justice of the Peace of the People's Court," and four other justices of the peace who shall be known as "Associate Justices of the Peace of the People's Court." Said Presiding Justice of the Peace of the People's Court shall receive from the Mayor and City Council of Baltimore a salary of $2,500 per annum, payable monthly, and each of said Associate Justices of the Peace of the People's Court shall receive from the Mayor and City Council of Baltimore a salary of $2,100 per annum, payable monthly, and said justices shall receive no other compensation or fees whatever for the performance of any duties as justices of the peace. And said justices shall sit for trial of cases on each day (except Sundays and legal holidays) from the hour of 1 o'clock to the hour of 6 o'clock P. M., at such proper place in or near the Court House in Baltimore City as may be provided by the Mayor and City Council of Baltimore; and one or more of said justices, to be assigned by said Presiding Justice, shall be on duty from 9:30 o'clock A. M. until 12:30 o'clock P. M., for the purpose of issuing summons and performing any other duties, except the trial of cases. Cases may, however, be tried at any hour upon the joint consent of all the parties and of the justice.

627. Every writ, warrant, summons or other process issued by any justice of the peace shall be made returnable before the justice of the peace issuing the same, or before the Presiding Justice of the Peace of the People's Court; and any plaintiff or defendant shall have the right of removal to the Presiding Justice of the Peaco of the People's Court, which said justice of the peace shall have the right to try any such case or to assign the same for trial to any other Justices of the Peace of the People's Court.

628. The said justices of the peace, other than the five Justices of the People's Court, when called out of their offices for the purpose of taking acknowledgments and affidavits may receive such compensation of their services, in addition to the fees prescribed by law, as the party requiring their services may allow them.

648. If any justice of the peace in Baltimore City dies, resigns or is removed, or upon the expiration of his official term his docket and papers shall be delivered to the Clerk of the City Court within thirty (30) days thereafter; provided, however, that this section shall not apply to any of the five justices

of the peace assigned to the People's Court, whose dockets and papers shall be retained in the custody of the Chief Constable. A Justice of the Peace of the People's Court may issue process upon any docket of any justice of the peace in the custody of said Chief Constable that he might issue if the docket had been kept by himself, and may also enter "Satisfied" and judgment upon any such docket, upon the written order of the plaintiff, attested by any justice of the peace.

SEC. 3. *And be it further enacted,* That three new sections be and the same are hereby added to Article 4 of the Code of Public Local Laws of Maryland, title "City of Baltimore," sub-title "Justices of the Peace and Constables," three of them to follow immediately after section 625, as hereby amended, and to be known respectively as sections 625A, 625B, 625C, said three new sections to read respectively as follows:

625A. It shall be the duty of said Presiding Justice of the Peace to assign for trial to himself or to one of said Associate Justices of the Peace, all cases removed to him as said Presiding Justice of the Peace under the provisions of section 627 of this article, or returnable before any Justice of the Peace of the People's Court, and generally to supervise the work of the said Associate Justices of the Peace and of the constables hereinbefore provided for.

625B. Each of the justices of the peace provided for in Section 623 hereof, other than those specially provided for in section 623A, 625 and 630 to 638, inclusive, of this article, shall receive from the Mayor and City Council of Baltimore a salary of $10.00 per annum, as full compensation for the performance by them of all duties of a civil, judicial nature; but said justices of the peace shall have the right to charge and retain all fees arising from the taking of acknowledgments and affidavits.

625C. The jurisdiction of all justices of the peace shall be as it now is or may hereafter be established by law. The fees and costs to be paid for the performance of their duties to all justices of the peace and constables, including all fees and costs payable to the Chief Constable, shall be as they now are or as they may hereafter be established by law; but all such fees and costs shall be payable only to the Chief Constable hereinbefore provided for, except in the cases of acknowledgments and affidavits taken by justices of the peace not assigned to the People's Court, and except costs, fines, penalties and forfeitures payable in criminal cases to the justices of the peace assigned to sit at the police station houses in Baltimore City.

SEC. 4. *And be it further enacted,* That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

SEC. 5. *And be it further enacted,* That this act shall take effect on the 2nd day of May, 1912.

CHARLES D. REID, Executive Secretary, Prisoners' Aid Association of Maryland, Baltimore.

New Law Governing Loan Brokers in Maryland.—The following bill was made a law in the last session of the legislature of the State of Maryland:

AN ACT to add three new sections to Article 56 of the Code of Public General Laws of Maryland, title "Licenses," sub-title "Brokers," to be known as sections 21A, 21B and 21C, defining and regulating the business of petty loan brokers.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That three new sections be added to Article 56 of the Code of Public General Laws, title "Licenses," sub-title "Brokers," to be known as sections 21A, 21B and 21C, and to read as follows:

21A. Any person, firm, corporation or association applying for the same and paying the sum of $10.00 may obtain a license for carrying on the business of petty loan broker. Petty loan brokers' licenses shall be issued by the Clerks of the Circuit Courts for the counties and the Clerk of the Court of Common Pleas of the City of Baltimore, and shall expire the first day of May next thereafter, but no abatement of said charge shall be made if said licenses are issued for less than one year.

21B. Petty loan brokers' licenses shall state fully the name or names of the person or corporation and of every member of the firm or association authorized to do business thereunder, and the location of the office or place of business in which the business is to be conducted; and in the case of a corporation shall also state the date and place of its incorporation, the name of its president or other managing officer and the names of its directors for the period for which the license is issued. And no person, firm, corporation or association so licensed shall transact or solicit business under any other name or at any other office or place of business than that named in the license. Not more than one office or place of business shall be maintained under the same license, and no loans or advances shall be made at any other place than that designated in the license. But in case of a removal the clerk issuing the said license may on application indorse thereon a transfer to the new place of business. With the date of transfer and from the time of such indorsement the new place so designated shall be deemed the place named and designated in the license.

21C. No petty loan broker shall exact, demand or receive of the borrower or borrowers, or of any other person on his, her or their behalf, in addition to legal interest as defined in section 1, Article 49 of the Code of Public General Laws of Maryland, any sum or sums either in the way of bonus or commission or otherwise, or as fees for the examination or valuation of property, examination of title, preparation, registration or recording of papers, acknowledgments, affidavits, insurance or other expense of any kind connected with such loan or the procuring thereof, or with any security given therefor, excepting that upon loans not exceeding $500 bona fide secured by chattel mortgage or bill of sale covering chattels and not joined directly or indirectly with the sale of any merchandise or any other contract or transaction of any kind whatever, and repayable either in a single sum or in approximately equal installments distributed at equal intervals of time; petty loan brokers shall be permitted to make charges to cover the cost of procuring said loan, incidental expenses, examination or valuation of property or title thereto, preparation, registration or recording of papers, acknowledgments, affidavits and insurance as follows: On any loan not exceeding $10.00, a total sum not exceeding $3.00; on any loan exceeding $10.00 and not exceeding $30.00, a total sum not exceeding $5.00; on any loan exceeding $30.00 and not exceeding $50.00, a total sum not exceeding $6.00; on any loan exceeding $50.00 and not exceeding $100.00, a total sum not exceeding $8.00; on any loan exceeding $100.00 and not exceeding $500.00, a total sum not exceeding $8.00 plus 5 per cent. of the excess of said loan over $100.00. If said loans shall be made repayable within less time than four months from the

date at which said loan shall be issued, the charges shall be a proportionate part of those above set forth—that is to say, if the loan be for one month, then the charge shall be one-fourth of those above set forth; if for two months, two-fourths of those above set forth, and so on up to four months.

Interest and charges as above provided may be deducted when the loan is made. But it shall not be lawful in any manner or under any pretext whatever to divide or split up any loan, either directly or indirectly, for the purpose of exacting or receiving any charge, cost or expense of any kind in addition to or in excess of those so provided, nor shall it be lawful for any petty loan broker to hold more than one loan on which such charges or any part thereof are made from the same borrower or borrowers or any of them at the same time; nor shall it be lawful to make any charge for the renewal or extension of any loan on which such charges or any part thereof are made except lawful interest.

And a renewal fee not exceeding three per centum of the balance of loan extended or the amount of loan renewed when the period of renewal or extension is four months or more, and a proportionate part of said renewal fee when said period is less than four months; and any transaction whereby the discharge or settlement in whole or in part of any loan is accomplished by or results in the substitution or creation of other indebtedness between the same parties or between one of the parties and any person or persons in any way associated or connected with the other party, whether directly or indirectly, shall be deemed a renewal within the meaning of this section.

Every chattel mortgage or bill of sale so taken by a petty loan broker shall state fully the amount of such loan, the rate of interest thereon, the period or periods at or within which the same is to be repaid, the amount of money actually received by the borrower as a result of said loan, and the cost to the borrower.

The violation of any provision of this section shall be a misdemeanor on the part of the petty loan broker; and if such broker be a corporation or a non-resident of the State of Maryland then such violation shall be a misdemeanor on the part of any person participating therein as a representative or agent of said broker, and shall be punishable by a fine of not more than $100 for the first offense, and for the second and each subsequent offense by a fine of not more than $100 and imprisonment for not more than thirty days. In every case one-half of the fine shall go to the informer. And every loan in connection with which such violation shall have occurred shall be absolutely null and void. And the borrower shall be entitled to recover from the lender any and all sums paid or returned on account of or in connection with such loan.

CHARLES D. REID.

The Yankee Trial Justice.—In rural districts where mental culture was at a very low ebb the trial justice was considered a very important personage. I can see him now, as he was some years ago, moderator at town meetings, fence viewer, and general all round adjuster of the disputes and difficulties of the neighborhood. On a Saturday evening his rulings were discussed by the village loungers who made their headquarters at the grocery store, and arguments concerning his legal ability were waged with great vehemence. At times he would throw all law to the four winds of heaven and decide a case, not according to the evidence, but according to the reputations of the respective litigants for veracity and honesty in the neighborhood. If the reputations of the

litigants were alike, then the decisions of the cases hinged on the reputation of their ancestors. In this respect he was like a Turkish Cadi, where the president of the court is at once court and jury. His manner of deciding cases strongly resembled the practice of the judge in Rabelais, who used "big dice for big cases and small dice for small cases."

The court room was usually located near the town hall, and the town constables and game wardens were wont to sit on the court house steps and gossip about the affairs of the neighborhood. Reputations were made and blasted. The man who gave short measure of wood and cider came in for universal condemnation, and the charitable who gave the village bell or helped to lighten the mortgage had his praises chanted and was hailed as a worthy successor to either Saint Peter or Saint Paul. Here the hardfisted money lender came in for personal abuse; the cider drinking husband and shiftless could not escape from the tongues of the village gossips.

But the court room! Language cannot adequately describe it. The prisoner was brought in by town constables and was burdened with manacles and shackles heavy enough for two-ton oxen. How the constables would swell with importance when they uttered those awe-inspiring words, "The Court." The country bumpkin was filled with awe at the gravity of the proceedings, but the dignity of the trial received a severe shock by the appearance of the judge in his shirt sleeves. After a few words of explanation from the judge excusing his appearance because he had just come from the hay field, the court was open and ready for business. Hay was neglected for Blackstone, and the haying was postponed in order that the legal interests of the village might not suffer. His knowledge was never a burden to him; he knew as much about legal procedure as he did about watch making. What a wide field is open to the novelist could he only unearth some of his judgments. He mixed replevin with trover, and in the administration of his lame law both parties suffered. He has passed into history and has left us no collection of his sparkling wit and humor.

What cared he for the opinions of higher courts and tribunals of justice? He was Squire Jones of Dawson, known and respected the whole country over, a terror to evil-doers, wife beaters and drunkards, honest in his eccentric opinions, but fearless in his administration of justice.

He lives now only in fiction, but the world has never known a more picturesque, mirth-provoking character than this old New England squire, with his lame law, cow-hide boots, slouch hat and eccentricities of character, who administered Yankee justice in the early days of our republic.

JOSEPH MATTHEW SULLIVAN, Boston.

Recent Legislation in Kentucky in Regard to Crime and Criminals.—By the act of March 7, 1910, provision is made for indeterminate sentences, in so much that neither the jury nor the Court will fix the term of years for imprisonment in the penitentiary of a person convicted of felony; but simply a maximum and a minimum limit will be determined by the sentence.

Up to 1910 the Court of Appeals could not reverse a judgment of conviction, no matter how flimsy the evidence upon which the verdict was rendered, if there was any evidence at all tending to sustain the verdict. By the Act of March 23, 1910, the Court of Appeals may reverse for an error in refusing to grant a new trial, so that a judgment of conviction may be reversed, because the verdict is flagrantly contrary to the evidence.

By the Act of March 19, 1912, the procedure commonly known as "sweating" is made illegal; and no confession obtained by means of sweating can be admitted as evidence. It shall be deemed to have been obtained by duress if it be shown that the confession was made after the arrest of the party charged with crime and while he was in the custody of the law.

By Section 253 of the Constitution the working of convicts outside of the walls of the penitentiary is forbidden; but by Act of 1912 an amendment had been submitted to the people for their approval which if approved will authorize the use and employment of convict labor outside of the walls of the penitentiary in constructing and maintaining public roads and public bridges.

The law providing for parole of prisoners was so changed in 1912 as to provide that the clerk of the Court in which the trial was had shall furnish the board of prison commissioners a transcript of the record and a copy of a statement made by the judge of all facts proved on the trial which he deems important for the full comprehension of the case, together with the names and residences of the judge, jurors and witnesses. In case of application for parole or final discharge this record is to be considered as well as the defendant's record of deportment in the penitentiary.

By the Act of March 16, 1910, on the parole of convicts provision was made among other things for the creation of an office of Employment Agent to solicit suitable employment in advance of parole; to assist paroled prisoners in keeping employment and otherwise to supervise, counsel, aid and encourage paroled prisoners.

The Board of Prison Commissioners was re-constructed by the Act of March 1, 1912, and is henceforth to be appointed by the Governor with the consent and advice of the Senate instead of being elected by the legislature.

Laws as to the sale of intoxicating liquor in local option territories were made more stringent at both sessions (1910 and 1912), and by the Act of 1912 the county was made the controlling unit in forbidding sales of intoxicating liquors; so that while a precinct or a district or a city may forbid the sale of intoxicating liquor although it is permitted in the rest of the county, yet a county may forbid the sale of liquor throughout the county notwithstanding the vote of any precinct, town or district to the contrary, by act of March 14, 1912.

The sale of opium or its alkaloidal salts or their derivatives is forbidden except on a prescription; and only one sale shall be made on such prescription; but from this law certain preparations, such as Dover's Powders, are excepted.

By Act of March 5, 1912, matrons of jails in a city of the first-class are to be appointed, and station houses for the detention of female prisoners are to be designated; a jail visiting board of women is provided for; the matron is to be notified when a woman or child is imprisoned; and all searches of female prisoners are to be made in the presence of the Police Matron or her assistant.

By the Act of March 14, 1912, taking, directing or admitting to any house for the purpose of prostitution or lewdness, any female under the age of sixteen years is made a felony.

By the Act of March 18, 1912, the provisions as to pensions of policemen and the families of deceased policemen in cities of the first-class are decidedly modified.

By the Act of March 14, 1912, provision is made for exhuming bodies where it is suspected that the death resulted from poison or other unknown illegal cause and for the employment of competent medical assistance in determining it.

These are the most important legislative acts at the two sessions in regard to crimes and punishments; although numerous misdemeanors have been created, such as permitting the use of public drinking cups.

C. B. SEYMOUR, Member of the Bar, Louisville, Ky.

First Criminal Appeal Before the House of Lords.—The January issue of *Law Notes* contained the following note:

"Advocates of a flexible procedure, and especially those who, like Senator Root, believe that the judges should be vested with wide discretionary powers in prescribing rules of practice, will find much to interest them in *Rex* v. *Ball,* [1911] A. C. 47. The case is interesting in the first instance as the first criminal appeal, in the strict sense of the word, to come before the House of Lords. The right of appeal in criminal cases, as is well known, has existed in England only since the passing of the Criminal Appeal Act of 1907, although it is true that points of law were brought before the higher courts, formerly by a writ of error, and under the modern practice by a stated case. The statute of 1907 not only established a Court of Criminal Appeal, but provided that if in any case the director of public prosecutions or the prosecutor or defendant obtains the certificate of the Attorney-General that the decision of the Court of Criminal Appeal involves a point of law of exceptional public importance, and that it is desirable in the public interest that a further appeal should be brought, he may appeal from that decision to the House of Lords. When, however, this provision was taken advantage of in Ball's case, the court and counsel were confronted with the difficulty that no rules had been made governing the taking of such appeals, and the House of Lords was, of course, without any rules in respect to them. On the lodging of the certificate of the Attorney-General provided for in the act, the law lords were consulted. It was ordered that the appeals should be prosecuted subject to such standing orders as might be applicable thereto, and both sides were ordered to appear at the bar of the House on the following day, when counsel for the Crown (appellant) asked for directions as to the filing of documents. Lord Chancellor Loreburn said: 'In regard to the papers, I imagine what we want is the materials which were before the Court of Criminal Appeal, and we need not put the parties to the expense and trouble of printing.'. The papers referred to were (1) printed petition of appeal to the House of Lords embodying the order appealed from and the certificate of the Attorney-General; (2) copy of depositions; (3) copy of exhibits; (4) lists of exhibits; (5) the indictments; (6) transcript of proceedings, including the evidence and the argument at the trial before Scrutton, J.; (7) notice of appeal; (8) certificate of Scrutton, J., and (9) transcript of the judgment of the Court of Criminal Appeal. In the certificate of Scrutton, J., the point of law to be argued was concisely stated as follows: 'The question to be raised is as to the admissibility on a trial for acts of incest on specified days in 1910, of evidence of the previous relations of the parties from 1907, including acts of sexual intercourse resulting in the birth of a child in 1908.' The papers having been placed before the House, and the arguments of counsel heard, the court on the same day arrived at the conclusion that the evidence in question was admissible, and reversed the order of the Court of Criminal Appeal, which had

directed a verdict of acquittal to be entered. The dates of the various steps in the proceedings are interesting. The defendants were tried and convicted on Oct. 14, 1910. On Oct. 31 following, the arguments on the appeal were heard and on Nov. 8 judgments rendered thereon. The appeals to the House of Lords were immediately lodged, and on Nov. 28 the order for the appearance of counsel made. On the following day the directions above referred to were given, and on Dec. 15 the point of law was argued and judgment rendered. The case is perhaps even more interesting as an example of liberal statutory construction than as a lesson in procedure. The judgment of the Court of Criminal Appeal had quashed the conviction. It was thereupon held that the court had no power to keep the accused in custody or on bail pending the appeal to the House of Lords. After the reversal of the Court of Criminal Appeal by the House of Lords, an application, on behalf of the Crown, was made to the former court for an order restoring the conviction. It was contended on behalf of the defendants that the court was without power to render such an order. The court, however, was of a contrary opinion, Lord Alverstone, C. J., almost naively saying with reference to the defendants' contention: 'If that were correct the result would be serious, because the effect would be to allow a guilty person to go free. It would require very clear words to support such a contention. The language of section 1, subsection 6, seems to us to negative it. The appeal to the House of Lords under that subsection is not, as has been suggested, provided solely for the purpose of obtaining guidance in future cases. An appeal is allowed if the Attorney-General gives his certificate that the decision of this court involves a point of law of exceptional public importance and that it is desirable that a further appeal should be brought. So far as some principle may be laid by the House of Lords, no doubt the decision will be a guide in future cases, but it can only be a guide in cases where the circumstances are similar. The decision itself is a decision in the particular case. . . . In these circumstances it seems to us that the conviction has been in effect restored by virtue of the decision of the House of Lords, and we have power to give effect to that decision by directing that the original appeal be dismissed, and the conviction be restored, and we make an order directing the record to be amended in accordance with the decision of the House of Lords. The defendant who has surrendered will remain in custody, and a warrant will be issued under section 9 for the arrest of the female defendant.'"

Counsel for the defendants contended strongly before the Court of Criminal Appeal that the decision of the House of Lords was effective merely for the guidance of courts in the future. In this country efforts have been made to secure the review of decisions on questions of law made by the trial court adversely to the state in cases which result in a verdict of acquittal, such review not to cause a reversal of the verdict or subject the defendant to a second prosecution. Statistics to this effect exist in several of the states, and at the meeting of the Wisconsin branch of the Institute in 1910 the committee on trial procedure recommended the enactment of a similar statute. The constitutionality of such legislation is questionable. The Supreme Court of the United States in the case of Muskrat v. U. S. (219 U. S. 346), decided in 1910, held unconstitutional an act of Congress providing for the decision of moot questions by the court.

EDWIN R. KEEDY, Chicago.

Work of the Criminal Courts in Pittsburgh in 1911.—The annual report of the District Attorney of Allegheny County, Pa., for the year 1911, which is printed in the *Pittsburgh Legal Journal* for January 20, 1912, contains much interesting information as to the work of the criminal courts in Pittsburgh. There were 3620 criminal cases disposed of during the year 1911, of which 2190 were indictments, 420 were informations, 605 desertion and non-support, 116 surety of the peace and 289 juvenile court cases. There were 1035 trials by jury, which resulted in 437 convictions and 598 acquittals. In 847 indictments and 276 informations there were pleas of guilty, 202 indictments and 31 informations were *nolle prossed* on motion of the District Attorney. 92 indictments and 107 informations were settled or withdrawn by leave of court; 5 indictments were dismissed and 14 quashed. There were 1669 individuals involved in the 1560 pleas and verdicts of guilty. Of these 1055 were sentenced, 351 paroled, 245 placed under a suspended sentence, and 18 were still pending. The grand jury was in session 115 days and disposed of 3144 bills of indictment, ignoring 1204 and finding 1940 true bills. There were 34 homicide cases disposed of, in twenty of which the offenses were committed in Allegheny county in 1911. One defendant committed suicide in the county jail, three were found not guilty by reason of insanity, and one was declared insane by a jury specially impaneled to pass upon his sanity. All four of these defendants were committed to the insane hospitals at Woodville and Marshalsea. There was one conviction of murder in the first degree, four convictions of murder in the second degree, and six plead guilty of murder and the court fixed the degree as second. One defendant was convicted of and one plead guilty to voluntary manslaughter; two were convicted of and two plead guilty to involuntary manslaughter, and twelve were acquitted. At the end of 1911 there remained 61 cases as compared with 381 at the end of 1910. Of these 25 were December, 1911, cases; 14 were 1910 cases and only four remained from 1909, all four being against the same defendant. E. L.

Sedition, Grand Larceny, and Employers' Liability in Italian Law.—In the issue of *La Guistizia Penale* of the 1st of February, 1912, there is an interesting decision concerning what constitutes sedition under the Italian Penal Code. In the previous September, two persons had been arrested for whistling, yelling and cat-calling in the square in one of the cities of Italy while the band was playing the royal march, on the occasion of the celebration of the unification of Italy. The arrested persons were convicted and each was sentenced to ten days' imprisonment. They appealed from the decision of the lower court but their appeal was not sustained. The Appellate Court rendered the following decision: "Shouts and whistling directed by certain citizens against the royal march that was being played in public, especially when by such shouts and whistling, as in the present case, it is intended to contravene the sentiments and opinions of those who are in opposite political parties, thus making possible retaliation and disorder, constitutes sedition."

II.

A decision rendered on the 28th of December, 1911, in one of the courts of Italy is interesting to students of the English Common Law. Two men had taken away some grass that had been mown the night before by the owner of the land upon which it was then lying for the purpose of drying. They were

arrested and brought before a magistrate. The question before the magistrate was whether this was petty larceny or grand larceny. The Code provides that if the act performed by the person upon whom the wrong was committed was a necessary act, that then the larceny committed by the individual is grand larceny. Was the act of the proprietor of the land in cutting down the grass and leaving the grass on the ground after he had cut it a necessary act? It was the contention of the defendants that the owner of the property should have taken more care of it. The district attorney, on the other hand, contended that long usage had made the act of the complainant an agrarian necessity, and that, hence the act of the defendants came within the provisions of the section of the Code before referred to. This contention was upheld by the Appellate Court.

III.

On the 21st of November, 1911, a decision was rendered which has some interest to American students of the law of Negligence, and especially of the law concerning Employers' Liability. There are provisions in the Italian Penal Code which make it obligatory upon employers to provide adequate implements, adequate places to work in, and adequate surroundings to workmen, and if an accident happens to any workman, and the employer does not, within three days, notify the authorities of it, the employer is subject to punishment. In this particular case there was a question as to whether the works upon which the men were employed were important enough to warrant the application of those provisions of the court. The court held that the reason for the legislature's passing such a law concerning Employers' Liability was to protect the lives and the health of the workmen who underwent g rave risks, and that the c haracter of the works and whether they were large or small did not matter. It was the intention of the legislature to prevent accidents by outlining the kind of scaffolding and other construction necessary to safeguard the lives of the workmen, and after an accident had unavoidably happened to make it easy for the workman to get his just deserts by making it obligatory upon the employer to report. In this case the employer did not report. The authorities, however, were, within the limited three days' time provided for by the Code, informed. But this, the court held, did not exonerate the employer, since it was the duty of the employer, himself, or of an agent of the employer to notify the authorities. R. F.

Carnevale on Prosecution for Theft.—In the January-February number of *Il Progresso del Diritto Criminale,* Carnevale concludes his article on "Ancora dei Luisiti Morali Nella Repressione del Fueto." It includes his last three sections, in which he brings to end his proof of the need of a definite legislative limitation beyond which a prosecution for theft will not lie. It seems to us that the need is not one which calls for urgent action, though theoretically we cannot fail to agree with Carnevale. His proposition is that no action of larceny should be possible for the appropriation of articles of minimum value, such as an apple, a branch to make a walking-stick, etc. His proposition would only have a theoretical value in this country, but it would be valuable to have more men of the kind, who desire precision of thought in legislation and require the statute to reflect said juridicial policy of the state.

He argues that there is no "animus rubandi" generally in the appropriation

of articles of minimum value, and that, as every crime is objective and subjective, where the subjective element fails entirely, and the objective is absent to all practical purposes, no action should lie. This is Carnevale's ground. He meets the objection that often the repeated or malicious depredation of things of no value is a cause of real annoyance and loss, by holding that there should be a presumption against the "animus," which could, of course, be rebutted. He thinks that the rule is more in accord with the modern juridicial ideal, which does not sacrifice the individual interest to general security or vice versa. And, he holds that his plan lends a sure protection to property without oppressing the individual, who may be careless or thoughtless in his appropriation of fruit or a branch. He thinks that the element of profit should not be the binding criterion, as it is vague and capable—perhaps unjustly—of being extended to cover all personal use. Necessity, absolute hunger, an old defense to larceny in Continental Law, he thinks is too restricted, as it does not cover the case cited above.

The real value and interest in Carnevale's article to Americans lies in a paragraph which seems to him not of great importance. We may well quote his words in full, for his opponent advances a view which the majority of Americans are inclined to favor, which tendency in these later days is increased by the attitude of certain important popular leaders. "In fact, the report of the Committee of the Chamber of Deputies (in considering the Code), states nevertheless, it can be well doubted if the elements of larceny are found in the appropriation of objects of minimum value; and sometimes the judges refuse to allow the prosecution. So they hold that there is no 'animo lucri' to bring a branch for protection against the sun as one walks. * * * These decisions *do not deserve* save in special instances and for special reason, *any censure.* But, such a disposition is a question for the judge, and cannot be determined by a general legislative enactment. (n. ccxxx). The committee (thus) refers the question to the judge, while our plan limits him. The committee says that he can temper his application of rigid principles to human acts with kindness in some way or other; he is free in his choice. This declaration shows grave symptoms of danger."

And to us it does. If such freedom had not been encouraged in little things, if the accuracy and settled precision sought by Carnevale had been held up for administration in this country, perhaps much judge-made law might have been avoided and the consequent pit of the recall.

In conclusion, we may add that Carnevale's article is one which can be read with profit by every lawyer. It has these advantages for every reader, entirely apart from its practical interest to statutes and makers of codes: In the first place, it will force on the reader's attention the correlation of individual rights and general security. In the second place, it will show him the conviction of an enlightened and active jurist as to the need for the legislative expression of law and for more judicial enforcement of the law as written. In the third place, it will show him the intimacy of law with sociology and philosophy, by illustrating the folly and impossibility of enforcement of a statute which is against popular feeling, and lacks the elements of a crime from the point of view of that branch of philosophy which deals with justice.

J. L.

The Public Defender.—No necessity exists for a public defender if the court will conscientiously protect the rights of the prisoner. Too much intimacy exists between members of the judiciary and the prosecuting attorney and in many cases I have seen a judge lose his impartial demeanor and act as a prosecuting attorney from the bench. Then again the judge loses his bearings and takes too much notice of the government and too little of the accused and his counsel. A judge is apt to determine the length of the sentence according to the good or poor opinion which he entertains of the accused or of his counsel, or both. The legal grist continues to grind with too much speed and the prison is the receptacle for the chaff with all of its blunders and imperfections. Where there is at the term of court a prevalence of a certain kind of crime the first culprit sentenced receives a lighter sentence than the last. The last culprit receives a severe sentence as a deterrent savoring of judicial vengeance, and the public feeling subsides, the wave is ebbing, and the conditions return to their former state. The heavy sentences are preceded by a judicial warning against the criminal class, and the thief caught in this legal vortex gets a severe sentence. A public defender is liable to become hardened just the same as the prosecuting attorney and the police; the defender might become too intimate with the police and district attorney to the detriment of the prisoner; he might become perfunctory in his habits and shirk work and facilitate the sentencing of the prisoner. Then again he and the prisoner might not agree as to the defence to be used in a particular; there would be that absence of confidence which should exist between attorney and client. This would obstruct justice instead of facilitating it. It is much better for the court to select competent attorneys to defend poor people who have not the sufficient means to employ counsel. Judges are to blame in many cases for the loose phraseology which they use in their charges to the jury. In many cases the jury looks to the court to take the place of a defendant's counsel in cases where the accused is unrepresented by counsel. There is too much tendency to believe that every person charged is lying; that every alibi is fictitious; and we have yet to hear of a judge committing a government witness for perjury. It is quite common for police to "stretch" the truth while testifying in police court cases where there is no counsel to question them. It is a notorious fact that they are more careful of their testimony where the accused has the means to employ able counsel. It is much better to have counsel changed frequently rather than to give one man the enormous power to decide upon the defence of prisoners of a large community. The public defender does not meet the above requirements, and it is a dangerous matter to intrust a public defender with a power that he might abuse. A public defender would be elected by the same vicious elements which elect and control many judicial offices; it simply gives some one an easy position with a salary, irrespective of the fact that he would be answerable to no one except, of course, the court, and it would only open the door to endless clashes in our courts of justice to the detriment of the peace and welfare of the community.

JOSEPH MATTHEW SULLIVAN, Boston.

To Prevent "Straw Bail."—"In a communication to Mayor Fitzgerald of Boston, the Finance Commission details the results of its investigation of methods employed in Suffolk County for five years with reference to bail bonds in criminal cases, in which extreme laxity has been found, and calls for a new

system, which will mean the abolition of the offices of the present bail commissioners, and the prosecution of all sureties found to be straw bail.

"During the five-year period, 1905 to 1910 inclusive, 289 cases were dealt with, in which the penal sums of the bonds amounted to $110,000.00, and on which up to September, 1911, only $13,709.32, or about 12½% had been collected. The explanations that were made fail, in the opinion of the commission, to account satisfactorily for the discrepancy. In some cases a surety who had settled for less than the amount of the bond was permitted in a later case to settle for less than the amount of the bond. In other cases persons who had no property were accepted as sureties. Thus in many instances justice was defeated. It has been customary for bail commissioners to accept sureties upon the mere statement as to the amount of property in the possession of the would be surety.

"It was found, too, by the commission that money collected on executions has not been paid to the City of Boston promptly, but has often been retained for unnecessary long periods by various officials connected with the sheriff's office. The law requires that fines, forfeits and forfeited recognizances be paid to the City of Boston by the sheriff within ten (10) days after the final adjournment of the court, with an account under oath of all amounts which were received since the last preceding sitting of the court for fines, forfeits and forfeited recognizances, and the names of the persons from whom they were received and against whom they were awarded. About two-thirds of the total number of payments to the sheriff have been delayed in transmission to the City of Boston. The commission makes the following recommendations:

"1. That hereafter a more careful inquiry be made as to the property owned by persons who offer themselves as sureties upon bonds of defendants in criminal cases.

"2. That the District Attorney assign one of his assistants to examine the statements made by the sureties and to prosecute vigorously all sureties found to be 'straw bail.'

"3. That a bill be submitted to the Legislature for the abolition of the offices of the present bail commissioners in Suffolk County and for the establishment in their place of a system under which better methods of examining sureties and collecting and accounting for money on such executions shall be provided.

"4. That the District Attorney and the Sheriff take steps to procure the payment of legal interest on the amounts of money retained for an unreasonable length of time after the date of its collection.

"5. That the District Attorney keep a record in his office of all executions issued by the clerk of the Superior Criminal Court and that he require monthly reports from the Sheriff's office as to collections made upon such executions.

"6. That the deputy sheriffs make weekly returns to the Sheriff of all money collected by them on such executions, and that the Sherifl cause the same to be paid over to the city within the first ten days of each month.

"7. That no such executions be given hereafter to constables, but that all be delivered to the deputy sheriffs."

From *Boston Evening Transcript,* March 4th, 1912. R. H. G.

Commission on Remedial Procedure in Alabama.—Governor Emmet O'Neal of Alabama, has appointed, of his own motion, a commission of thirty

men composed of Judges of the Supreme, Appellate and Trial Courts and a dozen or more practicing lawyers, of whom he includes the writer, as one to carefully study Judicial Administration and Remedial Procedure in Alabama, and to report all needed changes in the administration of the law of this state. The writer has introduced a resolution that the remedy suggested by the American Bar Association be urged upon the Alabama legislature. It is as follows, to-wit:

"No judgment shall be set aside, or reversed, or new trial granted, by any court of the United States in any case, civil or criminal, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless, in the opinion of the court to which application is made, after an examination of the entire cause, it shall appear that the error complained of has injuriously affected the substantial rights of the parties."

The writer has just concluded a service of more than ten years on the bench and can say without hesitation that the "presumption of error on appeals to the objecting and excepting" party has done more to defeat justice than any other one cause, and if such rule should be adopted as that suggested by the American Bar Association and now suggested by me to the Commission for adoption in Alabama, it will go a long way to restore the respect and confidence in the Courts that of late years seems to be lacking in the mass of the people.

WILLIAM HOLCOMBE THOMAS, Montgomery, Alabama.

Abuse of Judicial Discretion.—The prisoner has the right to be protected against the imposition of excessive bail. See United States Constitution, Amendments thereof, Article 8. A prisoner's rights are also protected by the provisions of the Massachusetts Bill of Rights, Articles 11, 12, 13, 14.

Judges seem to forget that they are the guardians of a prisoner's rights to the same extent as the state. A man is entitled to bail under our laws, and the magistrate who imposes excessive bail uses his office as an instrument of oppression. Ignorance and carelessness of the interpretation of the statutes by a judicial officer will bring about a miscarriage of justice. A prisoner who is able to obtain bail seems to get more consideration from the hands of the court. There is a tendency to place too much confidence in the testimony of police, and at the same time to place too little credence in the evidence of the accused. I could never understand why every judge is permeated with the idea that every "alibi" put forward by a prisoner is false; my experience has proven that a defendant is just as truthful as the police. The presumption that every person accused of crime is innocent until proven guilty is the veriest myth; experience has demonstrated that the burden is unjustly placed upon the accused; it is for him to prove his innocence instead of the government proving his guilt. It has become a common practice to look too lightly upon the prisoner's statutory rights and to help the state at the expense of the poor and needy.

JOSEPH MATTHEW SULLIVAN, Boston, Mass.

Regulation of Examination of Persons Charged with Crime.—The following is a copy of a bill that was drawn and introduced by Edwin M. Abbott, Esq., of Philadelphia in the Pennsylvania legislature in March, 1911. Upon it the recent act of the Rhode Island legilature (see this Journal, Vol. III, No.

1. pp. 100) was based. The bill quoted below differs from the Rhode Island law in that it provides for the manner of arrest and detention of persons charged with crime and for photographing and measuring them:

An Act regulating the arrest, detention, examination, photographing and measuring of persons charged with a crime and providing a penalty for violation thereof.

Section 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same,* That hereafter any person charged with a crime shall immediately upon his arrest on the said charge be taken to the nearest lock-up or station house and shall not be removed therefrom until a formal hearing shall have been had upon the same before the magistrate, justice of the peace or alderman in whose district the said lock-up or station house shall be located; *provided,* That in cities of the first or second class where there is a central police court or hearing place the said person so arrested may be taken to that place; *and, provided further,* That in every case a copy of the charge shall be given to any person so requesting the same at either the lock-up or station house in the district where the arrest shall have been made or at the central police court or place of hearing to which he may be taken.

Section 2. That no force, subterfuge, intimidation, cruelty, threats, or other means shall be used by any detective, police constable, magistrate, justice of the peace, alderman, matron, turnkey, or other person to extract a confession or admission of guilt from any such person under arrest.

Section 3. That any confession or admission 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 was given voluntarily will be sufficient to exclude it from being used as evidence against him at the time of his trial.

Section 4. That no photograph or physical measurements shall be taken of any person accused of crime until after he shall have been convicted of the crime of which they are accused; *Provided,* That this section shall only apply to persons under arrest who have never heretofore been convicted of crime.

Section 5. That all photographs and measurements of persons accused of crime who have subsequently been acquitted and who have never been convicted of any crime shall be destroyed within thirty days of the passage of this act, together with all plates, records and copies of the same.

Section 6. That violation of any of the provisions of this act shall be a misdemeanor punishable by a fine of one hundred dollars or imprisonment for two years either or both at the discretion of the court.

Section 7. All acts or parts of acts inconsistent herewith are hereby repealed. R. H. G.

A Bureau of Criminal Statistics in Illinois.—Question of the validity of the passage of the new State Charities Act of 1909, having been raised by the decision of the Supreme Court in the University of Illinois appropriation case, Governor Deneen inserted in the call for the third special session of the forty-seventh assembly a provision for the re-passage of this act.

Re-passage meant a number of changes in the phraseology of the law and it was desired to insert some amendments relating to dependent children. The law being thus open to amendment, the State Charities Commission, following the action of the Illinois Branch of the American Institute of Criminology on this subject presented the following section, creating the State Bureau of Criminal Statistics.

"The State Charities Commission shall establish a Bureau of Criminal Statistics of which its executive secretary shall be the director. It shall be the duty of said bureau to collect and publish annually the statistics of Illinois relating to crime and it shall be the duty of all courts of Illinois, police magistrates, justices of the peace, clerks of the courts of record, sheriffs, keepers of lockups, workshops and city prisons or other places of detention, holding men, women or children under conviction for crime or misdemeanors or under charges of violations of the criminal statutes, to furnish to said Bureau annually such information on request, as it may require in compiling said statistics."

The House Committee on appropriations unanimously approved the amendment and the House adopted it without dissenting vote. The Senate, likewise, without dissent, gave its approval and the bureau has been created.

The executive secretary of the State Charities Commission has undertaken a study of the course to be pursued in establishing the bureau, realizing that the start which is made should be made right and upon such broad foundations that they will be sufficient to carry a superstructure of many years building.

It is realized that the statistics collected under this act will be of small value within ten or fifteen years. There is little accumulated experience in this country for him to draw upon in planning the work, but before it is commenced the assistance and advice of the most eminent authorities in criminal statistics will be secured.

A. L. BOWEN, Executive Secretary,
State Charities Commission, Springfield, Ill.

PENOLOGY.

Probation in Dallas County, Texas.—The study of dependency and delinquency, such as is offered by the Juvenile Court of Dallas County, has aroused public and religious organizations to greater activity. The work now being carried on in Dallas County by the City Federation of Woman's Clubs, the Presbyterian Mission Board, the Catholic Aid Society, the Methodist Settlement Home, the Jewish Society, the Episcopalian Home for Children, and others has had a decided effect in bettering the conditions among the dependent and delinquent children during the past year.

Any work to prevent an individual committing crime is a more important work than the punishment of an individual who has committed crime. Misdirected and sometimes maudlin sympathy must not be associated with intelligent, earnest effort to prevent crime. Every actual vicious criminal guilty of a repeated offence, had better be locked up for life, as the best thing for him and for society. I grant that punishment of those who commit crime is intended as a preventive measure. Wisely administered it is a justifiable method until we can find something better. Yet, the history of criminology will show that punishment of individuals is not a successful method of preventing crime. If it were we should have fewer people in jail every year. On the contrary, crime is on the increase. Each year adds to the inmates of nearly every reformatory

in the country. There is no justification for the punishment of a human being unless it is necessary to help him, or (what is more important than to the individual) unless it is necessary to protect society, that is, to best secure to all individuals security of life, property, and the pursuit of happiness—any other view would be to admit the doctrine of vengeance as just, wise and humane. What we seek is justice, administered with wisdom, humanity and charity.

I do not know how to explain what may be done with the Juvenile Court and its offices better than to tell what has been done in the court in which I have had the honor to be connected for the last four years, and to refer to some of the principles underlying the methods pursued.

Its purpose is, of course, to prevent crime before crime is actually committed. To correct, aid and assist those who might be criminals, or who might do a criminal act, to avoid falling into either misfortune. It deals only with children and those responsible for the faults of children. It shows us we can not have good men and women unless we start with good children. Because of infancy both the constitution and laws of the state and public sentiment will justify methods of dealing with children which would not be tolerated in dealing with adults. It is believed in what statistics show, that the inception of crime is in the waywardness of misdirected children. It should take care of these children; it should help to form character. All of this is easily said. It is not so easily done. However, it can be done; and is being done in some cities. It is a strenuous life. It requires men and women of intelligence, tact, skill, and enthusiasm. It is not so much the law as the work. It is not so much the statute as those who administer it. But I do not want to underestimate the importance of the law, for without it we would be fearfully handicapped.

The Juvenile Court of Dallas county has, under the direction of Judge John L. Young and the commissioner of Dallas county, made wonderful progress. They are of one belief: "Anything that can be done for a child will possibly be the means of saving that child from a future known only to criminals." So interested are they in the results of the efforts now being made to better the conditions of the dependent and delinquent children of the county that they are now spending between six and eight thousand dollars each year seeking even better results than those recorded in the past.

Just what has been done in Dallas county for the wayward boy and girl could not be told in a day, nor could it be told in a week; therefore I will briefly state a few of the facts.

Over four thousand children have been brought before the court during the last four years. Of this number it was necessary to commit to industrial training institutions only five per cent, while homes were secured and children, both delinquent and dependent, placed as follows: White boys, 271; white girls, 157; colored boys, 54; colored girls, 32. Making a total of 514 children placed in good homes.

Seventy-two children have been returned to their parents, who have reformed and taken a new hold on life and have showed to the satisfaction of the court they now have a proper realization of their responsibilities.

Three hundred and forty-seven runaway boys and girls have been returned to their respective homes in various parts of the country.

We now have twenty-three children at the detention home.

I find that about eighty-nine per cent of the children brought before the Juvenile Court are the products of parents who are either mentally, physically, morally, or financially unable to care for them.

In closing I want to say that in my opinion, the best way to reform a child waywardly disposed, is first to understand them; have sympathy and patience with their faults, just as far as you can. In dealing with children we must be firm, we must be just, or as the average boy would say, "be on the square."

To better conditions among children I would urge that some consideration be given the "Mothers' Compensation Act," which is gaining much support in the East and North. This act provides that mothers with large families of children shall be granted pensions by the state, if they have no other means of support. In this way the mothers could stay at home and care for their children, giving them the proper training and she would not be forced to permit her children to run the streets while she is at work, striving to make both ends meet. I feel in this the state would save money now expended on its institution, and I am confident it would do away with a great part of juvenile delinquency.

Juvenile detention homes should be established in every city in Texas, and no girl or boy should ever be placed in a jail. Some action should also be started to make the Young Woman's Christian Association a statewide movement. The working girl must be protected.

W. G. LEHMAN, Probation Officer, Dallas Tex.

Punishment in Prisons.—Growing out of the fact that prisoners in state penitentiaries are entirely under the control of the wardens of such institutions, abuses have possibly crept into some administrations, not always, perhaps, because of the intention of the warden himself, but because being a very busy man with many cares, he delegates some of his powers to other officers, and the result has been that possibly in some cases prisoners have had to endure punishment without due investigation.

In order to prevent the possibility of this, Warden J. K. Codding of the Kansas State Penitentiary, sometime after he came into office established the prisoners' court in a dual form. When prisoners request to see the warden in regard to business matters or treatment while in the prison, their names are taken by the cell-house officer and reported to the warden, who sees them once each week, listens to their requests and passes judgment.

This is one branch of the court. The other, and more unusual branch, is the court for prisoners under report for violation of the prison rules. The discipline of the institution is delegated by the warden to the deputy warden, and reports of the violations of the prison rules are made by the officers to the deputy. These are generally made in the evening at the close of the day's work or in the morning before the day's work begins. Since all prisoners are locked up at night, nothing more is done about the prisoner under report, except that when the other men go to work they remain in the cells. The deputy warden then takes up each case, having the written report of the officer before him, calls each prisoner before him and questions him in regard to the facts.

Sometimes the officer making the report is present, also. The proceedings of this court are taken down by a stenographer and afterward typewritten and sent to the warden, together with the judgment of the deputy warden. The

warden reviews and confirms or suggests different treatment. By this means every case where punishment is inflicted, or where a report is made is brought before the warden.

In many cases where there have been violations of the prison rules, but not flagrant, the deputy warden finds that a reprimand and some advice is all that is required, and the prisoner returns immediately to his work, feeling that he has had a hearing, that his word was listened to and that he has been treated as a man and not as a felon.

THOMAS W. HOUSTON, Chaplain, Kansas State Penitentiary, Lansing.

Conduct of Prisoners and Maximum of Their Sentences.—The growing favor with which the parole system is regarded has affected principally the minimum of the sentence received. This is natural, but the belief that there should be no minimum fixed by the court, but that this should be left entirely to the hands of the power that grants the parole, is rapidly gaining ground. On the other hand, there is a small body of prisoners not affected at present by the parole laws, who cause much trouble to those who are striving to improve conditions of penal servitude. These are prisoners excluded from the provisions of the parole laws because of the nature of the crime that has been committed, or because of previous convictions, or those to whom the parole law might apply but who are prevented from parole by their own violations of the prison rules. These expect no favors, being concerned only in serving their time and getting released on expiration. During the term of their servitude some of them are entirely amenable to reason and control, but a few of them, knowing that the time of their release is practically fixed and will not be affected by their conduct, sometimes refuse to work, and sometimes violate the prison rules unless restrained by actual force.

The presence of a small number of such prisoners in a large body of men who desire to be manly, prevents all from enjoying certain privileges which they might otherwise have, and when these few are discharged by expiration of their term they go out with anti-social ideas and are liable to further violations of the laws.

If the sentences could be made indeterminate both as to maximum and minimum, these exceptional cases could be handled more wisely. When an attempt is made to force such men to work, by punishment, the effect generally is to make them stubborn, and they are reduced to subjection only by suffering and weakness. The result has been in past times that some have been broken in body and have died or become insane.

If the laws could be so adjusted that the warden could say to such men: "You are expected to work in confinement for so many days and if you do not choose to work now you may be kept by yourself in healthy confinement, and you may stay there as long as you please, but the time so spent will be added to your maximum sentence." If he could say to those who wilfully violate the rules: "Such a violation calls for solitary confinement for a certain number of days; you will be so confined and the time so spent will be added to your maximum sentence." If a prisoner who made a wilful attack on a fellow prisoner or an officer, or otherwise violated the statutes of the state while within the prison, could be taken out and tried before the courts and given a second sentence to be served at the close of the current sentence—if these

policies could be instituted and carried out, these few among prisoners who will not respond to liberal treatment could be dealt with without physical punishment or treatment which would injure their bodies or minds.

THOMAS W. HOUSTON.
Kansas State Penitentiary, Lansing.

Convict Parole Unconstitutional.—Judge Salzberger, in an opinion filed recently declared unconstitutional the act of 1909 under which convicts are released on parole. Unless this opinion is reversed by the Supreme Court it will render nugatory an act of the legislature which appears to have met general public approval and which has proven in many cases to be a humane and efficient measure. The judge found the law in conflict with the constitution on the ground that its title is defective. It has been the means since enacted of reducing the population of the eastern penitentiary very materially, the number now serving time there having been decreased from 1,500 to about 1,300. Since labor has no longer been permitted to be carried on in state's prison because of having been objected to by laboring men as competing unfairly with them, the penitentiary has become practically a large play house. This hardly seems fair or right because prisoners could be made by their labor large self-sustaining. As it is the taxpayers are compelled to go down in their pockets and pay for keeping the vast army of prisoners in idleness.

Pennsylvania might better adopt the Mississippi plan of putting her prisoners out on farms at work. This has proven highly satisfactory in the state mentioned. We do not know why it should not work well in Pennsylvania. We believe that our next Pennsylvania legislature should give this matter attention. There is no reason why able-bodied men serving out sentences in state's prison should not be made to earn their own living and thus remove the burden of their support from taxpayers.

F. B. C.

POLICE.

St. Louis Police to Have "Merit System."—Upon the suggestion of A. A B. Woerheide, the board of police commissioners of St. Louis, of which he is president, adopted the following plan for selecting and maintaining the efficiency of the police force of the city: Civil service examination for all applicants for position of probationary patrolman; training of all probationaries and the establishment of a school of instruction; a system of efficiency marks to determine promotion; the creation of a medical division; and the establishment of a gymnasium. The outline of instruction includes a training in the rules and regulations of the police department, the law of evidence and preparation of evidence, elementary criminal law and the rights of officers in making arrests."—From *National Municipal Review,* Vol. I, No. 2. R. H. G.

The Front Office Man.—The detective or "plain clothes man" is supposed to be an expert criminal investigator and an expert in uncovering crime and matters of secrecy. The headquarters man is an officer who works his way up from the ranks and after years of police experience and routine. They report for duty at police headquarters every morning at nine o'clock and look over the arrests of the day before. A fly cop is supposed to know all the crooks whose pictures are in the rogues gallery, the fallen women, the thieves, and all crooked people in the town who are living by their wits.

The detective in our large American cities is supposed to know the extradition laws of the different states, the records of the top-notch crooks, the "big-mitt" men and "sure thing gamblers," pickpockets, flim-flam workers, and all other classes that compose the dregs of society. He must be able to play the "good fellow" and pretend to help out crooks in order to get information; do an occasional favor for a thief in order to get evidence to convict other crooks, and to hold a "sword of Damocles" over his "stool pigeons" because if they don't come across" with the information he can put them into court on some complaint and "settle" them on "general principles."

A thorough knowledge of the "slang" language, and the obscure and vague dialect of the thief, yeggman, pickpocket, burglar, shoplifter, is essential to the successful conduct of the work of a headquarters man, and a knowledge of the resorts for thieves is of the utmost importance in the preservation of the public safety.

JOSEPH MATTHEW SULLIVAN, Boston.

STATISTICS.

Austrian Criminal Statistics for 1908.—Osterreichische Statistik, lxxxix Band, 4 Heft. Wien, 1911: from *Osterr, Zertsch, f. Strafrecht,* 3-4 Heft., 1912.

It is a matter for regret that in Austria as elsewhere all too frequently the authorities charged with compiling and publishing official statistics are so slow that the figures lose much of their prime interest and require an undue amount of correlation to make them of any wide use. However, in spite of their being four years old these Austrian statistics are of interest. The most significant fact they lay bare is the notable increase in criminality from 1907 to 1908, though the high figures of 1901-05 are only equaled in one or two minor instances. The following table will indicate the general movement:

CONVICTIONS PER 10,000 OF THE POPULATION OF LEGALLY RESPONSIBLE AGE.

	1901-5.	1906.	1907.	1908.
A.				
Felonies (Verbrechen uberhaupt)	19.10	18.69	17.61	18.98
Serious bodily injury	2.98	2.99	2.63	2.75
Theft and Accessory	8.64	8.52	8.30	9.23
Embezzlement	0.45	0.45	0.44	0.49
Fraud	2.02	1.72	1.49	1.60
B.				
Misdemeanors (Vergehen uberhaupt)	4.73	5.32	5.10	4.33
Bankrupt	0.78	0.86	0.82	0.67
C.				
Trespasses (Ubertretungen uberhaupt)	314.2	301.9	290.6	294.7
Wilful bodily injury	48.33	51.69	48.50	50.52
Theft	60.69	48.42	49.25	49.73
Embezzlement	4.22	3.81	3.41	3.79
Fraud	5.58	5.31	5.31	5.71

Professor Alexander Löffler points out that the favorable figures for 1907 correspond to a period of economic prosperity, especially to abundance of employment. Towards the end of 1907 and throughout 1908 economic depression ruled. The only apparent contradiction of the conclusion that unfavorable eco-

nomic conditions register themselves in increased criminality occurs in the figures for bankruptcy. But as Professor Löffler suggests the prosperity of the year 1907 and immediately preceding probably so strengthened the position of the tradesmen that they were able to weather the depression of 1908.

Another interesting fact is revealed by these statistics: brutal crimes show a not insignificant increase. It is frequently asserted that brutal crimes decrease in times of economic depression. As far as I have been able to construct Lombroso's position out of the many conflicting statements in his "Crime, Its Causes," etc., this is the general conclusion he maintains. Yet here, evidently, the principle fails.

Much more serious is the marked rise in youthful criminality revealed by the figures for 1908. From each 10,000 males 14 to 20 years of age, the following convictions are registered:

	14-16.	16-18.	18-20.
1907	17.45	38.26	58.
1908	18.42	42.69	63.40

These are by far the highest figures since 1902. The increase is specially marked in theft and its accessories. But in general the increase in male offenders 16-18 years old from 1907-08 was nearly 14 per cent. Professor Löffler concludes that youthful offenders in large cities tend more to crimes against property; those in rural communities and small towns to brutal crimes against the person and against morals. However true this may be as a general rule the figures offered to confirm the conclusion in this particular case are in such shape that they lend themselves to no valid interpretation whatever. Such statistics are more than a waste of good paper. They trifle with the time and temper of the student and offer easy materials for vain and fallacious conclusions.

A. J. Todd, University of Illinois.

Statistics from Belgium.—In order to set before us the kind of statistics we need to judge the efficiency of our methods, I will give a summary of the latest report from Belgium where statistics are carefully kept and reported. Statistique judiciare de la Belgique, Ministère de la Justice, 1911. Larcier éditeur et Société Belge de Libraire. Pp. 445.

This report covers the Belgian statistics of administration of criminal justice and of criminals, statistics of prisons and prisoners, of mendicity and vagabondage, of conditional release, of police of strangers, of the insane, and of civil and commercial justice.

The criminal statistics are divided into two parts. The first part relates to the administration of justice; the other (criminal statistics) presents in figures certain aspects of criminality considered as a social phenomenon and not merely as an object of activity of the magistracy.

The report examines successively the divisions of the judicial organization in the order in which they are treated in the Code of Criminal instruction.

In the courts of first instance in 1910 there were 208,335 complaints, accusations and reports, or 277 per 10,000 inhabitants. The number has increased steadily from 72.95 per 10,000 in 1870. The report says that this fact does not indicate an increase of criminality but of new legislation. The new law of public intoxication (1887), of adulteration of food (1890), of measures relating to mad dogs (1905-1908), have notably increased the number of actions in the

primary courts. The granting of "rehabilitation" to convicts has become more common.

The number brought before police courts in 1910 was 157,831 (153,920 in 1905); 11.60 per cent were acquitted. The sentences given by justices of the peace are often brief, 93 per cent of those convicted without suspension of sentence were imprisoned less than 4 days; very few (2.59 per cent) were given the benefit of suspension of sentence to prison; while 56.96 cases of fine were suspended; 6,497 mendicants and vagabonds were "placed at the disposition of the government," that is, were sent up for colony treatment.

The law of 1891 (Nov. 27)) provided that accused youths (under 16 years) may not be sentenced to fine or imprisonment, but must, if they have acted without "discernment," be reprimanded or placed at the disposition of the government; in 1910 there were 2,810, of whom 66 were so treated.

CORRECTIONAL TRIBUNALS.

These courts dealt with 44,388 new cases in 1910, and 14,675 holding over from the previous year; 14,219 were left to be disposed of at the end of the year. The whole number of accused who were tried was 59,207; of whom 9,599 (17.4 per cent) were acquitted; sentenced to imprisonment 21,830 (39.5 per cent); to fine 23,034 (41.7 per cent). Of those convicted 19.1 per cent were sentenced to terms of 8 days to 1 month, and 25.3 per cent for 1 month to 6 months; 1.5 per cent from 6 months to 1 year; 2.7 per cent one year or more. The previous record of delinquency increases the length of sentence.

Under the law of May 31, 1888, permitting suspension of sentence (conditional conviction), 4,735 out of 21,873 sentenced to prison and 11,566 of 24,331 sentenced to pay a fine received the benefit of the law. It is claimed that the courts have made free use of this law. Of supervision of those conditionally released and of efforts to prevent their recidivision, nothing is said. We think probation officers are an essential factor in a fair trial of such legislation.

A conditional sentence is nullified if the convicted person does not commit any crime or misdemeanor during a period of time fixed by the court, which may not in any case exceed five years. The favorite limits are three years and five years,—79 per cent of all in 1910. The courts differ radically in their customs on this point; there is no regularity. In 1910 those who "fell" were 10.08 per cent of the conditionally liberated.

Courts of Appeal.—The number of cases carried up has increased from 1,955 out of 31,341 in 1885 to 4,007 out of 44,326 in 1910; but the ratio of crimes under the penal code has diminished 128 per cent.

Courts of Assize.—In 1900 these courts tried 69 criminal affairs.

Courts of Cassation.—In 1910 rendered 664 decisions (413 in 1901).

Second Part: Criminal Statistics.

Here are presented both the number of individual convictions and the number of individuals convicted. The number of individual convictions in 1906 was 60,364; in 1910, 58,611. The number of individuals convicted was 54,597 in 1906, and 53,420 in 1910.

The statistics of crime by sex show in 1905, per 10,000 inhabitants, 117 male and 36 females; in 1910, 102 males and 34 females. The ratios do not vary widely from year to year.

Alcoholism is shown to be a great cause of crime; of 100 convictions in 1910, 11.59 per cent were first offenders and 44.46 recidivist offenders against the law against intoxication. 36 per cent of crimes and misdemeanors against public order were committed by drunkards.

Age.—The maximum of masculine criminality is reached between 21 and 25 years. The age of greatest recidivism is from 25 to 35 years. The maximum of feminine criminality is reached between 30 and 35 years. The figures show that the earlier crime begins the more apt it is to be repeated; precocity is an indication of criminal nature or of depressing surroundings, or both.

Number of individual offenses, divided by localities and months.

The statistics of individual infractions of law exhibit the intensity of criminality with first offenders and recidivists, and the relative height of criminality in the densely populated and smaller communes, the influence of seasons on criminality and the relative importance of each species of offense. The number of individual offenses tried in 1910 were 70,256, committed by 53,420 delinquents. First offenders were responsible for 34,359 offenses and recidivists for 35,877.

The number of offenses per 10,000 inhabitants in 1910 was: 123 in cities of 100,000 and over; 134 per 10,000 in communes of 25,000 to 100,000; 118 in communes of 10,000 to 25,000; 75 in communes of less than 10,000 inhabitants. Since 1906 the number has fallen from 104 per 10,000 to 95 per 10,000 in 1910.

Convictions for drunkenness were 22,052 in 1910.

Statistique Pénitentiare.—The figures are given in two groups, one relating to the activities of the administration, the other relating to the prisoners.

Organizations of prisons.—The prisons are divided into the central prisons, which receive only convicts, and secondary prisons which keep not only convicts, but various categories of persons held under control of judicial or administrative authorities.

There are two central prisons, one at Louvain, the other at Ghent. The institution at Louvain is entirely cellular; that at Ghent has seven divisions on the "Auburn" system and only one cellular ("Pennsylvania" system). The departments in common are reserved for convicts who are regarded as unsuitable for the cellular régime on account of their state of health, and for life men who, after cellular treatment of 10 years choose the life in common, a choice being given by the law of 1870; convicts for shorter sentences who cannot be subjected to cellular treatment without danger to health; and short term convicts who cannot be kept in certain localities from want of cells.

There are 27 secondary prisons, all cellular except at Brussels (Minimes) and Audenarde. But these exceptions are to disappear, and all the secondary prisons are to be cellular. There is no central prison for women; the few women prisoners are held in the secondary prisons.

A special quarter, entirely distinct from those reserved for adults, is established in the central institution at Ghent for offenders under 18 years of age. Each sleeps in a cell at night, and all work together during the day. A quarter is also reserved for boys who cannot be managed in the reform schools.

Capacity of prisons.—There were in Belgian cellular prisons in 1910, 4,092

cells for men and 580 for women, in addition to infirmaries, disciplinary chamber, and debtors' cells. On the Auburn plan there are 1,262 places for men and 78 for women. The average population of the central prisons in 1910 was 740; of the secondary prisons 3,305 men and 328 women. In quarters of discipline and juvenile convicts 136.

During 1910, 108 children (51 boys and 57 girls) were incarcerated for "paternal correction," usually for short terms.

Antecedents.

		Males, 1,034.	Females, 121.
Not recidivists—	1st previous conviction	397	33
	2d " "	260	17
	3d " "	195	13
Ricidivists—	4th " "	170	6
	5th " "	135	..
	6-10th " "	422	12
	11-15th " "	195	13
	16-20th " "	120	2
	More than 20 " "	170	7

Parentage.

	Males.	Females.
Children legitimate or made legitimate	3,011	216
Illegitimate	86	12
Foundlings	1	...

Literacy.

	Males.	Females.
1st degree, not able to read nor write	628	40
2d degree, able to read or write and read imperfectly	1,764	135
3d degree, able to read and write well	518	52
4th degree, superior instruction	188	1

Cost of maintenance during 1910 per day was 1 fr. 60 c. (about 29 cents), found by dividing net expenses by total days of detention.

Persons condemned to cellular prisons for life may, at the end of 10 years, choose between the cellular and the common (Auburn) plan. During 1910, of 7 convicts (6 men and 1 woman) who were given this choice, 4 men and one woman chose to remain in the cell; 2 men chose the congregate life. 34 prisoners were transferred from cells to congregate prisons for physical unfitness, and 52 for mental unfitness, on the advice of physicians; but 8 were sent back on the same advice after a time. These transfers are significant in showing the value of a central administration which can remove a prisoner from one institution or department to another as changing conditions require. The medical direction is also a notable feature.

A careful record of the life history of each convict is kept which forms the basis for statistics.

Kind of offenses against the person—1501 men, 128 women.
" property —1597 men, 128 women.

Nature of penalties:

	Men.	Women.
Death penalty	120	14
Life terms	140	6
Hard labor for a term	253	15
Reclusion	79	12
Correctional imprisonment	2,505	180
Police incarceration	1	1

The crimes are classified by the place where they were committed.

Ages at the time of conviction:	Male.	Female.
Less than 16 years	2	..
16-18 years	56	3
18-21 "	307	15
21-30 "	1,266	67
30-40 "	867	68
40-50 "	381	47
50-60 "	163	24
60-70 "	50	4
70 and more	6	..

Conjugal Status:		Male.	Female.
	Unmarried	1,879	86
Married	(Having children	828	85
	(Without children	240	21
Widowed and	(Having children	97	29
Divorced	(Without children	54	7

Institution Work:	Men, 599.	Women, 119.
A. For individuals	359	13
B. For Public Administration	287	24
C. Simple occupations	2,851	165
D. Apprentices	124	...
Total employed	4,220	321
Prisoners excused from labor for sickness, punishment, etc.	426	40
Prisoners unemployed from lack of work to be done	39	3
Total not busy	465	43
	4,685	364

The gross value of products in 1910 was fr. 474,086.31
Paid to prisoners employed in industries fr. 172,589.93
Paid to prisoners employed in institution work fr..... 25,614.58

Convict Labor.—Labor is obligatory for those condemned to criminal penalties (forced labor, reclusion); those condemned to correctional incarceration are also obliged to labor unless excused by the government; labor is optional for police offenders and all others in detention. Labor is regulated by the law of Sept. 30, 1905. Prisoners are employed chiefly on state account. When there is not enough work of this kind contracts are made with manufacturers. The contracts must be approved by the administrative commission and the minister.

The prices are by piece or by day. Of the price received, the state retains three-tenths for expenses; of the seven-tenths remaining, one part goes to the prisoners in the following proportions;—five-tenths for the correctional prisoners, four-tenths for those in reclusion, three-tenths for those at forced labor; the surplus goes to the State. Prisoners who are not obliged to labor receive all the price of the work, less three-tenths for administrative expenses.

On the last work day of 1910, the employment of prisoners was as follows:

Schools.—In the central prisons attendance in school is obligatory for all prisoners, unless excused for good reasons by the director. In the secondary prisons attendance is required of those confined for 6 months and more who have not attained their 40th year, and of all young offenders. Of 733 incarcerated in the central prisons on December 3, in 1910, 506 (69 per cent) attended school; 393 (78 per cent) received advantage from the instruction; 113 (22 per cent) made no progress.

Disciplinary Punishments.—The total number of days of punishment in the central prisons was 1,498 or 0.55 per cent of the days of incarceration. In the secondary prisons the 15,516 men lost 1.29 per cent days of total detention term, and of the 570 lost 0.45 days. The 426 youths lost 0.86 per cent days.

Sickness.—In the central prisons the men lost from sickness 4.14 per cent of the days of incarceration (not, however, deducted from sentence); in the secondary prisons the loss was 2.27 per cent for men and 10.22 per cent for women; in the department of discipline, 1.54 per cent; in the department of youth, 0.28 per cent.

Deaths.—In 1910 the death rate in the central prisons was 1.22 per cent; in the secondary prisons, men 0.45 per cent, women 0.62 per cent; in the departments of discipline and youth 0.74 per cent.

In the central prisons there were in 1910 one suicide and 6 attempts at suicide. In the secondary prisons 12 on trial and 1 detained, and 1 convicted committed suicide; with 16 attempts.

Insanity.—It is frequently declared that the cellular system of Belgium produces insanity. In the central prisons 2.56 per cent of the prisoners were pronounced insane; in the secondary prisons, men 2.72 per cent, women 2.74 per cent; none in the quarter of those under discipline. But not all are declared to be so seriously insane as to be treated apart; if we take in milder cases the per cent rises to 3.85.

Conditional Release.—Of 4,589 prisoners conditionally released 3,823 (82 per cent) secured a definite discharge by good conduct, and 245 (5.3 per cent) were recalled; 594 (12.7 per cent) were still on probation. Apparently the results have been favorable; but the application of the measure is restricted; in 1910 only 202 requests were granted. C. R. H.

(From a paper read before the annual meeting of the Illinois Branch, May, 1912.)

Decrease in the Prison Population of Prussia.—According to official statistics of penal institutions for the year 1909 (cited in *Blätter für Gefängniskunde,* vol. 45, 1911), the number of commitments to the penal institutions under the Prussian state shows a relative decrease since the year 1882. While in the year 1882, the number of persons thus committed per 100,000 of the civil population of over 12 years of age was 759.8, it was only 602.2 in 1908, which is equal to a decrease of 20.7 per cent. Since the year 1902 there has been a

decrease also in absolute numbers. Whether the cause of this condition lies in satisfactory economic conditions or general social improvement or bears relation to the attacks made on definite prison sentences by the new school of criminal law is open to question. The fact is that the prison population shows a diminution. This is most pronounced in the penal institutions, corresponding to our state prisons. In 1882 there were 13,417 commitments to these institutions, equal to 42.3 per 100,000 of population, as against 7,780 commitments in 1908, equal to 17.6 per 100,000 of the population. This is a decrease of 58.4 per cent.

The ratio of decrease of state prison inmates in Prussia (Zuchthausgefangene) per 100,000 of population of 18 years and over was in

1880-81—5.82
1890-91—4.09
1900—3.04
1908—2.01
1909—1.86

What has brought about this decrease, whether there has been an actual diminution in the commitment of graver crimes or whether the judges are inclined to take a less severe view of offenses than formerly, is not disclosed by the statistics. It seems to be the fact that the judge rarely sentences persons to "Zuchthauss," unless the offenders have repeatedly been sentenced to loss of liberty. There also appears to be a decided attempt to keep the younger criminal elements out of the mayor prisons. Out of 3,874 persons (male offenders) sentenced to Zuchthauss, no less than 3,366 had previously been sentenced to loss of liberty, and of these, 802 from 3 to 5 times; 1,079 from 6 to 10 times; 854 from 11 to 30 times, and 31 times or more, no less than 75. It is of especial interest to note that the number of prisoners who are recognized as mentally inferior shows an increase year by year. One reason for this is found in the fact that officials, especially the medical, pay greater attention to mental conditions and know more about them. Experiments are being carried on to segregate the mentally inferior and subject them to special treatment.

JOHN KOREN, Boston.

MISCELLANEOUS.

The National Charities Conference.—The thirty-ninth conference of the National Conference of Charities and Correction will be held in Cleveland, Ohio, from June 12 to 19. A delegation of over 200 from Chicago and Illinois is expected to attend. Sherman C. Kingsley, director of the Elizabeth McCormick Memorial fund, is chairman of the section devoted to children's welfare work.

One of the notable features of the conference was a joint meeting between the committee on needy families and the committee on children on Friday, June 14. Mr. Kingsley will preside and the Funds to Parents act will be discussed, Judge Merritt W. Pinckney of Chicago favoring the law and Frederic Almy of Buffalo pointing out its difficulties.

Another important meeting will be the general session on Sunday evening, June 16. Mr. Kingsley will report on "Community Recognition of Children's Rights and Needs"; Miss Jane Addams will speak on "The Child at the Point of Greatest Pressure"; United States Senator William E. Borah of Idaho will talk on "Community Responsibility for Child Welfare"; and Miss Julia Lathrop

of Chicago, director of the Federal Children's Bureau, will lead the general discussion.

At the first general session on Wednesday, June 12, Raymond Robins of Chicago will be among the speakers on the topic "Immigration." On the following day Mrs. Joseph T. Bowen of Chicago will lead the discussion on "Housing and Recreation." At section meetings on Monday, June 17, Miss Sophronisba P. Breckinridge, James Mullenbach of the United Charities, and Miss Grace Abbott of the Imigrant's Protective League, all of Chicago, will be among the speakers, the topic being "Housing and Recreation." At another session to discuss "Standards of Living and Labor," Mrs. Medill McCormick and Mrs. Raymond Robins will speak.

At the section meeting, "Courts and Prisons," on Tuesday, June 18, Milton Goodman, John J. Sonsteby, and Benjamin M. Kaye, all of Chicago, will make addresses. At another conference on "Families and Neighborhoods," Mrs. William E. Gallagher and Louis F. Post, both of Chicago, will take part in the discussion.

The closing general session on the evening of June 19 will have Dean Walter T. Sumner of Chicago as principal speaker. The general topic will be "Sex Hygiene," and Dean Sumner's subject will be "Some Aspects of Progress in Sex Problems." R. H. G.

Junior Republics in England.—As a result of a meeting held in London, England, rather more than a year ago, when a small committee was formed with power to add to their number, to suggest a scheme for founding a self-governing community in England on the lines of the George Junior Republics in America, the undersigned have formed themselves into an Executive Committee for that purpose.

Last year the committee received from the Earl of Sandwich the lease of a farm, rent free, in Dorsetshire, which will be available at next Michaelmas. A Preliminary Fund was raised to enable the prospective superintendent, Mr. Large, to visit the Republics in America, and to inquire into the problems, both psychological and administrative, that present themselves. As a result of Mr. Large's report, the undertaking can now take definite shape.

The general object is to found self-governing communities for delinquent boys and girls who at the present time are either sent to a reformatory or an industrial school, or put on probation. Voluntary cases will be accepted from parents or others in authority, of boys and girls who, although they may have eluded the police-court, are in reality indistinguishable in type from those who have come under its jurisdiction. Though, as far as possible, admittance will not be refused to the physically unfit, it will be obviously impossible to include cases which come under the character of epileptic or feeble-minded.

The success of the methods adopted by the George Junior Republic is proved by the fact that since its inception fourteen years ago seven others have been started on similar lines in America; the promoters of the movement in England therefore are satisfied that the time is ripe for a similar effort to be made in the Mother-Country. The principal results have been the formation of character, and the sense of citizenship acquired by the boys and girls at the Republics, and these qualities have been found to endure in after life. This is due to the system, which contains elements totally different from those of any other attempting to deal with the same problems. These are:

(1.) Government by the citizens in all matters relating to the Republic itself, the laws being actually enacted by the citizens, based upon, and supplementary to the United States laws, with full judicial and executive powers.

(2.) A wage system, commensurate with the quality of the work performed, out of which a boy or girl pays for his or her maintenance.

Thus it will be seen that, with the solitary exception of the fact that there is always work available, the Republics are an *exact counterpart of the outside world,* while it is *a natural rather than an artificial community,* inasmuch as both sexes are included.

The immediate results of a self-governing and wage-earning system are: (1.) To evoke enthusiasm on the side of law and order; (*a*) because the initiation of rules and regulations lies with the citizens themselves, and they are not imposed by superior authority; (*b*) because, as soon as the citizens earn their wage they at once exhibit the very natural desire for its security at the hands of the community, and therefore cease to have sympathy for the lawbreaker. (2.) To introduce early into the life of a lawless child the maxim that "if any will not work neither shall he eat."

As may be imagined, it not infrequently occurs that a new comer refuses to go to work, with the result that, even if he does no worse, he soon becomes a vagrant and a nuisance to the community; in this case he is prosecuted by the citizens themselves.

A Scheme for England.—The existing farmhouse received from the Earl of Sandwich will become the nucleus of what will ultimately be in appearance a small village. Cottages, and the necessary buildings incidental to the life of the community will gradually be built, as the numbers increase, and funds allow. The maximum number of citizens in one community should not exceed eighty.

So far from attempting to copy American plans in detail, it is proposed, while retaining the fundamental principles necessary to the success of the scheme, *to adopt only those methods which harmonize with English life and English traditions.*

One of the essential elements for success is the grouping of the citizens in cottages in numbers sufficiently small to create the idea of home-life rather than barrack-life; under these conditions a boy or a girl has the best chance of becoming a personality rather than part of a machine. Good school education will be provided in addition to farm work, and workshops will be built for teaching suitable trades. Both boys and girls will have equal opportunities of learning that which is most suitable to their capacity.

The aim of the promoters will be first and foremost the training of individual character, to direct into good channels the natural energy which through bad environment or love of adventure has hitherto been misdirected, and, by means of the advantages of self-government coupled with a wage system, to create not only a sense of personal responsibility, but an appreciation of the value of membership in the community.

It is proposed at the outset to begin operations with a very small number of citizens, realizing that future success depends on a good start, and on the tone created in the initial stages. The citizens will be occupied with dairy farming and later, possibly, as their numbers increase with intensive cultivation of the soil.

The cost of the whole undertaking will be approximately a capital sum of £15,000 for the cottages and other necessary buildings, including furnishing, stocking the farm, equipment, etc., and £4,000 a year for maintenance.

The above statement, which is in the form of a circular letter is signed by the following named persons:

George Montagu, chairman; Bertram Brooke, Cecil Chapman, Mary Elcho, Janet Johnson, Percy Machell, T. Mott. Osborne, Isabel Somerset, Harold Large, ex-officio; Evelyn Grey. R. H. G.

Mr. McDermott's Report on Expert Testimony.—Following is the report of Lieut. Gov. E. J. McDermott on "Work of the Committee on Expert Testimony," which was given recently before the Kentucky State Bar Association:

"To the State Bar Association: At the meeting of the General Assembly this year, I introduced several bills to promote reforms in legal procedure. Senate Bill 190, to regulate expert testimony, passed the Senate by a vote of 28 to 2 and was reported favorably by a committee in the House, but never reached a vote there. Senate Bill 197, to require a special plea of insanity when that defense was to be relied on, was defeated in the Senate. Senate Bill 240, to regulate the grounds on which postponement might be asked in criminal cases when first called for trial, was defeated in the Senate. Senate Bill 241, to provide for a non-salaried commission of lawyers to recommend to the next General Assembly such amendments of the Civil and Criminal Codes as seemed to need amendment, was passed in the Senate by a vote of 30 to 0 and was reported favorably by a committee of the House, but never reached a final vote.

"The Civil and Criminal Codes were prepared by a commission established in 1871, two years before England, in 1873, completely altered its legal procedure. Our present Codes were passed in 1876 and took effect January 1, 1877. Though conservative England, from which we borrowed our cumbersome, over-refined, technical procedure, radically reformed that antiquated procedure, we made our new Codes more technical than they had been twenty years before.

"In 1877 cautious Germany also radically and scientifically reformed its legal procedure, and its Codes have been highly praised by such great lawyers and scholars as Maitland and James Bryce. Maitland said:

"'This people, of pedants and dreamers, of antiquaries and metaphysicians, after discussiong the history of every legal term and every legal idea, has made for itself what is out and away the best Code that the world has yet seen.'

"But we have not yet made any systematic efforts to follow the reforms adopted in England and Germany, though experience there has shown that such changes greatly promoted the speedy and fair administration of justice. This association should, in my opinion, encourage a reform of this kind. It is a great undertaking. The foundations ought to be laid at once.

"Senate Bill 249, to simplify indictments, was defeated in the Senate. Senate Bill 251, to reduce the number of peremptory challenges allowed the defendant in criminal cases, passed the Senate by a vote of 27 to 3, and was reported favorably in the House, but never reached a final vote. Senate Bill 252, regulating admission to the bar, passed the Senate by a vote of 25 to 5, and was reported favorably in the House, but did not reach a final vote there. Senate Bill 257, which was intended to simplify, and practically to render unnecessary, bills of exceptions where official stenographers are appointed to take down all

the proceedings in court, passed the Senate by a vote of 23 to 3 and was reported favorably in the House, but never reached a final vote there.

"My duties, as president of the Senate, were so onerous and exacting that I was not able to pay much attention to these bills in the House. I believe they should have been passed, and that the substance of these bills should be presented to the next General Assembly in 1914, for consideration, and that this association should make a systematic effort to perfect the necessary bills and to procure such support for them from the lawyers of the State as to make their passage successful when the General Assembly meets again.

"The whole country is aroused to the need of reform in legal procedure. The attacks which are being made upon the courts, in the magazines, in the newspapers and on the stump, are often unreasonable, and sometimes go beyond all proper bounds; but this agitation against the courts and the lawyers will continue and increase in acrimony, unless the lawyers, themselves, promote and carry out necessary reforms. I found that the Circuit and Appellate Judges approve these reforms, mentioned above, in the main, but there are some lawyers of influence who, from inertia or from a dread of all change, continually obstruct every effort to obtain for us the improvements which have been so successfully made, not only in England and Germany, but in some of the more progressive States of the Union.

"Judge Hobson wrote a bill to provide for a permanent commission of non-salaried lawyers to consider and to recommend to each session of the General Assembly such statutory amendments or new statutes as were needed to perfect our statutory law. This was a good suggestion, and the bill ought to have passed. I left my place in the Senate to advocate it, and finally, as there was a tie, I cast the deciding vote in its favor in the Senate, but it did not pass in the House. Such a commission, with the help of a secretary on a small salary, could be of great service to the bar and to the State, in gradually perfecting the statutes and the codes.

"As the session of the Legislature is limited to sixty days, there is not time to consider carefully the innumerable bills that are offered and to pick out and to pass bills of real merit. As many bills will affect other statutes, many inconsistencies and obscurities and errors creep into the almost innumerable provisions of our Kentucky Statutes and Codes. Any reforms of real value must be studied and advocated sytematically by able and public-spirited lawyers here as in England and Germany.

"The American Institute of Criminal Law and Criminology, aided by a Committee on Criminal Statistics, is intelligently and earnestly advocating the collection of necessary criminal statistics in each State by State officers, so that our students, lawyers, courts, prison officers and legislators may better understand how to deal with the crime problem, how to make the law clearer and more efficient, and how to handle the criminal classes after conviction. Mr. John Koren, of Boston, the chairman of that Criminal Statistics Committee, who is also engaged in the work of the United States Census Bureau, has made clear the need of such reliable statistics for the information of the public and our lawmakers.

"I attach to this report a copy of Senate bill No. 190, on expert testimony, so that it may be published with your proceedings and be studied by the bar of the State before the next General Assembly meets. Its provisions may be

briefly summarized as follows: The Circuit Court may prepare a list of qualified medical or surgical experts, and may, for its aid in that task, receive recommendations from the State Board of Health or any reputable body of physicians, surgeons, etc.

"Whenever expert testimony is to be used, reasonable notice should be given by the party intending to use it, stating briefly the nature of the evidence, and the court may appoint one or more experts to investigate the matter and be prepared to testify if called upon. Not more than three experts may be called without the permission of the court. If the experts named by the court are called on to testify, the party calling the witness shall pay such fee as the court may allow.

"A party may call experts not designated by the court, but, in that case, he must file, before the trial, a written statement showing the tenor of the expert evidence to be given and the name and residence or office address of the expert to be called; and the expert may be required to state what agreement has been entered into for a fee or payment made to him, and he shall not receive any larger sum or any other compensation than the sum so stated. A contract for a contingent fee shall be void.

"The subject of expert testimony is being discussed in all the civilized countries of the world. I have prepared a paper on this topic, at the request of the officers in charge of the eighth International Triennial Congress on Applied Chemistry, which meets in Washington and New York from September 4 to September 13 of this year. This organization has been in existence twenty-four years; but the meeting this year is the first ever held in America. The chemists are interested as much in expert testimony as physicians and surgeons. The evils of the present system in America are apparent to everybody. There are, however, two classes of objectors to State reforms on this subject:

"(1) Those who think that the legal practice now is as good as we can make it, and that any reasonable dissatisfaction is due to the inefficiency or ignorance of lawyers that examine or cross-examine experts, or to the lack of proper moral or professional standards in the callings of the experts, and that the medical and surgical and other professional societies must simply persuade all their associates to be good.

"(2) Those who think that expert testimony—especially the testimony of medical, surgical or other similar experts—is of very little value anyhow, and is given little weight by juries, and cannot be materially improved by legislation.

"These views are inconsistent and both are unsound. The ablest doctors and lawyers of our country are now eager to modify the present system. It is plain that many experts will uphold any theory for a tempting fee, but the lawyers who use such testimony are as blamable as the experts who give it. So long as experts merely prove the axioms or settled principles of their profession there is little cause of complaint, but when they undertake to apply their theories to the facts in any case the abuse becomes at once apparent. We cannot follow the rule in Germany of excluding cross-examination of experts because cross-examination is, after all, the best safeguard against falsehood and error.

"It is for the court to decide, in the exercise of a sound discretion, what experts are competent, but the standard is very low, and almost any man can prove, by his own flattering description of himself, that he is an expert. He may have abandoned his profession, or he may have only a theoretical knowl-

edge, but he is still admitted as a competent witness. An expert witness, by the terms of his employment, is, under the present system, a partisan witness, and the partisan witness is always bad. In selecting ordinary witnesses the range of selection is necessarily limited.

"Few know the facts involved in the case, but, in the selection of experts, the range of selection is almost unlimited. A party will try one expert after another until he finds some one for a tempting fee who will, like Procrustes, distort or mangle his theories to make them fit his iron bed. Ordinary witnesses are allowed scant compensation, and it is possible to punish them for perjury, but there is no practical means of punishing an expert for swearing falsely as to his opinions or his theories. Under no circumstances ought an expert to be allowed to have a contingent fee, nor should he be allowed ever to have so large a fixed fee as would be likely to tempt him to distort his opinions or the principles of his science. Doctors will differ as lawyers will differ, because the science of neither is so exact as to forbid honest differences of opinion.

"The number of experts should be limited, because a rich or reckless litigant will otherwise have an unfair advantage over a litigant of ordinary means. Notice of the intention to use expert testimony should be required so that there may be no surprise to the injury of an opponent.

"The Judge, when given ample opportunity and when having a chance to consult competent and honest men in the practice of medicine, surgery or chemistry, can more easily discover the relative merits of experts than a jury in the excitement and heat of a trial.

"At present, a skilled, high-toned physician or surgeon does not want to be put in competition with a shrewd, but unscrupulous expert, who frequently appears in court to earn a fee because his opinions can be readily adjusted to suit any emergency. The ablest physicians and surgeons of the country rebel against the system that brings upon their profession an odium that is due to the combined efforts of untrustworthy experts and over-zealous lawyers in a desperate case.

"I am told that, a few months ago, two experts testified for a female plaintiff in a damage suit, and stated that they had removed all of one ovary and part of another, and also the Fallopian tubes, and that she could never become a mother. Of course she suffered greatly over such a painful doom. That was in March. She recovered damages. In June, however, the predictions of her physicians were disproved by the appearance of real evidence—by the birth of a baby. Of course, the indignant defendant is asking for a new trial. This is not an uncommon sample of the sort of testimony on which juries must act.

"Any regulation on this subject should, of course, be well considered, but the need of reform is great and the demand is urgent, and we should do our part to pass such an act as will give reasonable protection to all litigants; that will give reasonable protection to honest experts, and that will protect the lawyers and the courts from the evils of the present corrupting system."—From *The Times,* Louisville, Ky., July 11, 1912. R. H. G.

Proposed State Branch of the Institute in Michigan.—The following is an informal report of a meeting held in Detroit, on August 9th, for the purpose of organizing a state society of the American Institute of Criminal Law and Criminology:

On the invitation of Mr. H. M. Bates, Dean of the Department of Law of the University of Michigan, and a member of the Executive Board of the American Institute of Criminal Law and Criminology, and of Mr. Clarence A. Lightner, of the Detroit bar, a conference of men interested in the formation of a state society of the institute was held at the University Club in Detroit, Friday, August 9, at 1:00 P. M.

Among those present were the Honorable H. H. Hulbert, Judge of the Probate Court, and in charge of the Juvenile Court work in Detroit; Mr. Tracy McGregor, of the McGregor Institute; Mr. David E. Heineman, city controller of Detroit; Mr. G. D. Pope; Mr. W. H. Venn, probation officer; Mr. E. W. Pendleton, of the Detroit bar, and Mr. Harry Nimmo, of the Detroit *Saturday Night.*

Messages from many judges of the state, clergymen, and others interested in social work, were sent through Mr. Lightner.

Mr. Nathan W. MacChesney, of the Chicago bar, and president of the American Institute for the year 1911, very generously took the time to attend this meeting and to outline the scope and purposes of the national organization and the work already accomplished. This was supplemented by an informal statement by Mr. Bates.

After a general discussion, it was decided to authorize Mr. Bates, as chairman of the conference, to appoint a committee of fifteen members to issue a call for a meeting to be held early in the fall for the purpose of organizing a state society. This committee will be appointed at once, and it will make up a list of men and women in different callings, who are likely to be interested in such a movement, and will invite them to the meeting to be held probably either in Detroit or at the University of Michigan in Ann Arbor.

HENRY M. BATES, Dean of the Department of Law, University of Michigan.

The Pennsylvania Branch of the American Institute.—On May 22, 1912, the second annual meeting of the Pennsylvania Branch of the American Institute of Law and Criminology was held in Price Hall, Philadelphia. This Society is one of the pioneers among state societies, and at this meeting the programme was outlined for the year's work. Resolutions were passed appointing committees to arrange for meetings in connection with kindred societies in the autumn, and the date of the next annual meeting was fixed for May, 1913. Edward Lindsay of Warren, Pennsylvania, was elected president; Judge Ralston, of Philadelphia, and Professor Lichtenberger, vice presidents; John Lisle, secretary, and A. P. Richardson, treasurer.

We may add that the recognition and development of state societies aids the national society greatly in its work by furnishing data and by arousing interest in matters which are local in their application though universal in their bearing upon reform, both in substantive and in practice. J. L.

National Probation Association Conference.—An interesting program on probation and the administration of juvenile courts was observed by the annual conference of the National Probation Association held in Cleveland, from June 11 to 15, inclusive. The list of speakers was representative of various parts of the country. The subjects discussed included these: The need of a Federal probation law; the judicial and probationary treatment of domestic relations

cases and of drunkards; the collection of restitution and instalment fines from adult probationers; the organization and administration of juvenile courts; the temporary detention of children brought before such courts, and methods of dealing with juvenile probationers. There will also be a meeting on mental and psychological examination of defendants, and one on judicial records, reports and statistics.

The conference met under the presidency of Judge George S. Addams of Cleveland. The report of the standing committee on juvenile courts and probation was made by Bernard Flexner of Louisville, and that on adult probation by Frank E. Wade of Buffalo. The meetings were held in conjunction with those of the National Conference of Charities and Correction.

A. W. T.

The Problem of Combating Suicide.—(Prof. Dr. Giulio Q. Battaglini, *Schwizerische, Zeitsch. für Strafr.,* 24th year, No. 2.) The problem of this article is, Can the criminal law act effectively against a person who attempts suicide or one who aids in the attempt or has previous knowledge of it?

The practice of confiscating property to deter was abandoned because ineffective and obviously unjust to the relatives of the suicide. Fining or imprisonment of would-be suicides would have practically the same effect. The attempt in England and America to make attempted suicide a misdemeanor has been ineffective. The Italian law does not attempt to punish suicide or the attempt at suicide, but holds guilty the one who aids or has previous knowledge without an attempt to prevent.

The threat to punish can have no deterrent effect on the suicide, because he is planning to get beyond the state's power to punish, consequently it is not an act for legal consideration. It is rather a question for morals or social ethics. The writer argues for the right of the individual to departure from a given habitation by suicide as well as by migration. A country cannot well compel a man to stay in it. Consequently no legal reaction should follow an act of suicide or the suicidal attempt.

On the other hand, the legal attitude ought to be one of attempting to relieve conditions leading to suicide as far as possible. Among such opportunities for preventive action the writer mentions the suppression of the suggestive details in the press reports of suicides. There is no longer any question in regard to the power of suggestion over the mind already half disposed to self destruction. Such repression has been advocated by private bodies in several countries. The legal prevention of the sale of poisons, except on the order of a physician, accomplishes little on account of the wide commercial use of poison in the form of insecticides, etc. The prohibition of the sale of dangerous weapons accomplishes little as long as men work with dangerous tools. Society cannot well prohibit the sale of rope or the building of two-story houses or prevent the use of illuminating gas. The thousand and one opportunities offered by the country itself and the forms of industry make suicide easy to the man who has determined to die. The state can only prevent to the extent of relieving itself from the charge of negligence. Education could do much and the state might help materially in affording abundant opportunities for healthful recreation and social diversion. The suppression of suggestive literature would certainly be a legitimate field for state action.

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