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Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.

ANTHROPOLOGY—PSYCHOLOGY—LEGAL-MEDICINE.

Kurt Williams on Statistical Investigations of Jail Psychoses.—"The author investigated the psychoses of the insane prisoners received at the Bonn Asylum from 1904 to 1909—232 in number, from which figure he deducted twelve cases on account of not being able to obtain sufficient data with regard to them. The 220 cases considered, he divides into six groups, (I) Those already insane when arrested, 14 cases. (II) Those sent to the Asylum for observation as to their mental condition, 78 cases. (III) Cases of insanity developing in jail but not differing in clinical picture from that which is usual in such cases, 18 cases. (IV) Cases of insanity whose clinical picture was influenced by the imprisonment, 39 cases. (V) Prison psychoses arising upon a basis of degeneration, 30 cases. (VI) Persons previously sound who suffered from prison psychoses, 41 cases. It is noteworthy that the total number is equally divided between cases which were evidently not due to imprisonment and those in which this presumably played a role. Since the first group furnishes no information as to prison psychoses, the author limits his consideration almost exclusively to the last three. The 39 cases of group IV were made up of 8 imbeciles, 14 precocious dements, 1 chronic alcoholic and 16 epileptics. Excluding the single alcoholic, the modifying symptoms were of two kinds, stuporous and paranoid. The stuporous symptom-complex occurred especially in those kept in collective confinement (17 collective to 6 in solitary confinement), while for the paranoid symptom-complex the opposite was the case (8 cases solitary to 1 of collective confinement). Group V, psychoses developing upon a basis of degeneration during imprisonment, was divisible again into the stuporous and paranoid groups containing 16 and 14 cases respectively. Here also the stuporous cases preponderated in collective, the paranoid in solitary confinement, in the proportion of nearly two to one. The stupor usually begins suddenly with a period of violence and aggressiveness, which soon passes into a condition of entire loss of reactiveness, the patient lies with open, expressionless eyes and does not speak. There is mainly reduction of sensibility, the pulse is usually rapid (to 120) and there is often Romberg's symptom, increased reflexes and fibrillary contractions of the tongue. There is usually disorientation for time and place due to an amnesia beginning with the moment of excitement and slowly improving. After a period varying from one day to ten months the patient by degrees clears up mentally and the physical symptoms recede. The last residues are often headache and some concentric narrowing of the visual field. The paranoid symptoms also begin as a rule with a period of excitement and destructiveness, after which there develop ideas of persecution, delusions of grandeur and there is entire disorientation as to person. The VI group contains stuporous and paranoid forms with Ganser's symptom-complex as an intermediate link. There were 18 stuporous, 6 Ganser, and 16 paranoid cases. The author concludes that the material considered is hardly sufficiently large to justify the assumption that there is any special prison psychosis, although this seems probable. It would appear, however, that there are two forms of prison psychosis, par excellence, the stuporous developing

especially in those undergoing collective confinement, the paranoid form in those in solitude. As exciting causes, trial, the shock of some bad news, punishment, etc., seem sometimes to play a role. In general the prognosis of these disturbances is not unfavorable, though the time needed for recovery varies very greatly."—Summary from the *Journal of Nervous and Mental Diseases,* July, 1912. C. L. ALLEN, Los Angeles.

Sighele on Adulteration of the Positive Doctrines in Collective Crimes.—In the February issue of *La Scuola Positiva* there is a very interesting note by Scipio Sighele on "Adulteration of the Positive Doctrines in Collective Crimes." Collective crimes are crimes committed by mobs or by people in groups. The author begins by explaining that a Russian writer in 1909 attacked his position upon the subject of collective crime. The Russian writer believes that crimes committed by individuals of a mob should be more severely punished. It is the contention of Sighele in his book upon the subject, and in this note, that the person who commits crime under the influence of the exciting causes of mob action should be treated more leniently because the actors are involved in a complex of external suggestion rather than driven to crime by their own wills. Mob-criminals should more properly be called improvised delinquents. They do not premeditate crime; neither do they meditate upon it. They are simply drawn into the whirlpool often against their own wills, and almost always with their wills unconcerned, by the strong forces of imitation. If the criminal were perverse, then it would be advisable for society to fear him and to punish him severely. But surely, mob-criminals are not perverse, nor are they to be feared by society. A child, a man of the people, a curious individual in a crowd, in a demonstration in the Plaza has suggested to him by the environment something which causes him to shout, to throw a stone, to strike somebody with a cane or with a knife—these persons are not to be held responsible for their acts in exactly the same way in which they would be under conditions of more isolation and tranquillity, since they are neither morally abandoned nor habitual criminals; they yield to the impulse which urges from without, and when they have come to themselves again they deplore what they have done.

The author says that he would not devote so much time to battering down such weak opposition to his ideas, were it not for the fact that the Appellate court in Trapani very recently decided in conformity with the ideas of the opposition, thus running counter to a long series of decisions which upheld and applied the doctrines of the author. On the first of July, 1911, the Prefect of Trapani ordered an individual to be transported to the hospital for treatment because his wife had died a few days before of a contagious disease. The city doctor, accompanied by the carabinieri, came to the home of this individual to execute the orders of the prefect. There he found a large crowd which opposed with shouts and threats the execution of the order. There was some disturbance, and some stones were thrown. Finally the carabinieri overcame the superstitious multitude and the individual was carried to the hospital. Fifteen people were arrested, almost all about the age of twenty, and some under the age of twenty, including a boy of fourteen years and one of thirteen. These persons were taken to the court and charged with violence, assault and resistance to public officials.

This was a typical case of the delinquent mob; that is, of improvised crime decided by ignorance and superstition which did not allow the crowd to understand the reason for the order of the Prefect, which was based upon the foundations of hygiene and legitimate care for the public health. It seems to the author that this was a case where this ignorance and this superstition ought to have excused in part, at least, the attitude of the mob. The mob was not composed of bad men at heart. They were deluded people. Instead of being sentenced to jail they ought to have been given an education which would have convinced and persuaded them of their mistake. They were not even violent people, because even if they did descend to the throwing of stones, they did not reach the point of going to excess—a point which they could very easily have reached considering their number and the excitement of the moment; everything ended in a short time and no harm was done except some slight bruises. The Appellate court, instead of treating the delinquents scientifically, took the position that the fact that the individuals were acting as members of a crowd made their crime the more grave, and in coming to this opinion they misinterpreted the doctrines of the Positive school and indeed, stood upon these doctrines to uphold their own opinion. All the old arguments were brought up again—the old arguments that have been overturned, over and over again, and that had, the author had supposed, been finally crushed out of existence by the series of decisions contrary to this decision.

Sighele believes that the light sentence which would have been the result of taking into account the ignorance and the prejudice of the mob would not have favored the individuals illegitimately and would not thus have incited other people to crime of the same kind, but would rather have been much more beneficial than the severe sentence. Prejudice and ignorance are not conquered, but rather are they made more sharp and bitter by years or months in prison. The judges should have taken into consideration, in judging the indicted people who were almost all very young, that not a little portion of responsibility falls upon society, which leaves the multitudes in a deplorable intellectual state. R. F.

Psychology in a Juvenile Court.—"Believing that if the state is to be intelligent in its treatment of boys and girls who are going wrong it must procure accurate analyses of the social, mental, and physical factors contributing to each child's waywardness, the Juvenile court of Seattle, Washington, has added to itself a department of research. What was accomplished during its first six months is told by Dr. Lilburn Merrill, director of the department. It is interesting to note by way of preface that A. W. Frater, judge of the court, regards the deparment as one of his most valuable and practical aids in administering delinquency cases. He writes:

" 'It is our purpose (in the new department), so far as possible, to have every delinquent child, who may be brought into court, first placed under observation in this department. When possible or convenient, the examination is made in the presence of his parent or guardian. Here he is studied sympathetically from the viewpoint of the physician and psychologist who have specialized in the care of this class of children, and a written report of the social, physical and mental factors which may have contributed to the child's delinquency is presented to us when the case comes on for hearing. This report

is available to the parents, who will thus be apprised of any existing physical or mental defects. Corrective treatment is provided, so far as possible, for every case.'

"Director Merrill has been closely allied with juvenile courts and child-welfare work for ten years. In his report he states two objects with which the department will be concerned during the coming year:

"First, a survey of community conditions contributory to the development of juvenile delinquency, so that we may minimize such social factors.

"Second, a preliminary consultation with every child who is brought into court, and an intensive individual study of those who are actual or potential recidivists. This we shall attempt to do, so far as we may, by a study of the child's

1. Family history,
2. Developmental history,
3. Physical condition,
4. Mental condition.

"For the purpose of this research the consultation room provided for the department has been supplied with suitable instruments of precision for making neurological tests and measuring vision and audition. Fortunately, much of the material we are using is inexpensive, and the cost of the entire equipment need not exceed one hundred dollars. * * * Aside from the use of these few instruments, the study of the children is made by ordinary diagnostic methods.

"The most encouraging feature is the uniform appreciation expressed by the parents of 200 children who have already passed through our hands. An anxious father or mother is not slow in appreciating that we are making a sincere attempt to assist in the diagnosis and treatment of his child who is going wrong. And in several cases we have been gratified in obtaining satisfactory results which could not have been had but for the assistance which this department provides."—From *The Survey*, Vol. XXVIII, No. 14, July 6, 1912.

COURTS—LAWS.

Proposed Law Governing Domestic Relations.—The review of Judge Goodnow's annual report by Mr. William H. Baldwin, published in our last issue, pages 400 ff. makes it pertinent to recall the following draft of a law relating to domestic cases, which was proposed by Mr. Baldwin at the National Conference of Charities and Corrections at Boston, in June, 1911, relating to desertion or non-support of wife or children, and providing punishment therefor; and to promote uniformity between the states in reference thereto.

SECTION 1. Be it enacted by, etc.: That any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (legitimate or illegitimate) child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment in the ..... (1) with hard labor for not

exceeding one year, (2) or both; and should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife or to the guardian, curator, custodian or trustee of the said minor child or children.

SECTION 2. Proceedings under this Act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person, against any person accused of either of the above-named offenses. Juvenile courts shall have original and concurrent jurisdiction in all cases arising under this Act. Justices of the peace, police, city and..... courts may try any case arising under this Act, and if, in the opinion of such justice or court, no greater punishment ought to be imposed, may render judgment therein, in the case of justices of the peace for imprisonment not exceeding ..... and in case of ..... for imprisonment not exceeding ..... subject to the right of the accused to appeal as provided by law in other cases. (3)

SECTION 3. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for the support of the deserted wife or children, or both, *pendente lite,* and may punish for violation of such order as for contempt.

SECTION 4. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a certain sum periodically to the wife, or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee, and to release the defendant from custody on probation, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall further comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise in full force and effect.

SECTION 5. If the court be satisfied by information and due proof under oath that the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of a recognizance, and the enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children.

SECTION 6. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, than is or shall be required to prove such

facts in a civil action. In no prosecution under this Act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent and compellable (4) witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children shall be *prima facie* evidence that such desertion, neglect or refusal is wilful.

SECTION 7. An offense under this act shall be held to have been committed in any county in which such wife, child or children may be at the time such complaint is made. (5)

SECTION 8. It shall be the duty of the sheriff, warden or other official in charge of the ..... (1), in which any person is confined on account of a sentence under this act, to pay over to the wife, or to the guardian, curator or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal to fifty cents (6) for each day's hard labor performed by said person so confined.

SECTION 9. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 10. Repealing clause.

SECTION 11. This Act shall take effect the.....day of.....A. D. 19...

In the final consideration of the form adopted by it on Aug. 26, 1910, for the Uniform Act relating to family desertion and non-support, the Commission on Uniform State Laws left some points indefinite because of a reluctance to indicate great changes in existing laws, leaving it to the different states to work the matter out as might seem best. This was particularly true as to the grade of the crime and the question of hard labor; but it was explained that the Act is intended as a general form of the law, which may be made definite in respect to the two points mentioned, both of which are of very great importance, or may be subject to minor modifications where experience has shown them to be necessary or desirable.

Except in removing the uncertainty as to those two points by fixing the offense as misdemeanor punishable always by hard labor, as it should be, and in suggesting some minor changes by which the Act is made more effective, the form here submitted by Mr. Baldwin, who has given a great deal of attention to the subject, is the Uniform Act recommended by the commission.

R. H. G.

(1) The place of imprisonment will be governed by the local laws.

(2) While there may be no objection to making the term of imprisonment two years, as in the Uniform Law, in states where this does not make the offense felony, and for this reason or some other deprive the lower courts of jurisdiction in the case, experience shows that the power to imprison for one year with hard labor, especially if the possible fine must be worked out in addition, is ample, and the Modified Form has been worded accordingly.

(3) It is quite important that delay and additional expense be avoided by having the lowest courts empowered to pass sentence and enforce the law in non-support and desertion cases. In some states these lower courts do not have jurisdiction of crimes involving imprisonment for a year, and without such au-

thority could only bind over to a higher court instead of trying the case. Such a provision as this is therefore necessary in such states, and it should be worded in accordance with existing laws in each state as to the jurisdiction of the lower courts. The lower court can always bind over in cases involving a heavier punishment than it is able to inflict. The Connecticut Act of July 6, 1905, is an example of this.

(4) It is of the greatest importance that the wife should be a compellable witness and the Uniform Law is defective in not protecting this point.

(5) This provision is taken from the Ohio law, where it was added to remove any doubt as to the right to bring the suit in the place where the desertion had occurred, and has been found to be quite desirable. It does not seem to have resulted in any injustice or hardship to those accused, but there the law relates to children only.

(6) This amount has been inserted in the belief that it is as nearly right as possible. The charge against the institution should not be too high, and this is a fair percentage of the average order made by the court under suspended sentence.

An Act Regulating the Employment of Minors in Louisiana.—Declaring it unlawful to allow or permit minors under seventeen years of age to enter, or be employed in any place where pool or billiard games are operated, or to allow such minors to take part or engage in any game of pool or billiards in such places, or to use or play upon pool or billiard tables therein; declaring such acts as contributing to the neglect and delinquency of children and as misdemeanors, and providing a penalty for the violation hereof by fine or imprisonment or both; and repealing all laws or parts of laws in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana; That, it shall be unlawful for any person, whether as proprietor, agent, manager, employee, lessee or otherwise, conducting or carrying on any place where pool or billiard games of any sort are operated, for pay or otherwise, to allow or permit minors under the age of seventeen years within such places, or to be employed therein, or to allow or permit such minors to engage or take part in any game of pool or billiards in such places, or to allow or permit such minors to use or play upon any pool or billiard tables therein.

Section 2. Bt it further enacted, etc., That whoever shall violate any of the provisions of this act shall be regarded as contributing to the neglect and delinquency of children and shall be guilty of a misdemeanor, and upon conviction for violation of any of the provisions of this Act shall be fined not less than twenty-five dollars nor more than one hundred dollars, or shall be sentenced to be confined in the parish jail or prison for not more than three months, or may be both fined and imprisoned as above set forth, in the discretion of the court.

Section 3. Be it further enacted, etc., That any laws or parts of laws in conflict herewith, are hereby repealed.

The above Act was approved June 25th, 1912.—From *The New Advocate*, July 5, 1912. W. O. HART, New Orleans.

An Act Regulating the Employment of Convicts.—Prohibiting their use or employment outside of the prison walls, or of the camps or penal farms the state for private or personal purposes; and providing penalties for the violation of the provisions of this act.

Section 1. Be it enacted by the General Assembly of the state of Louisiana; That it shall be unlawful for any person convicted of any crime and serv-

ing a term in the state penitentiary to be allowed any rights or privileges not enjoyed by any other convict in the same class or category; that no such convict shall, under the name or guise of "trusty," be permitted at large without the regulation garb.

Section 2. Be it further enacted, That no convict shall be employed, engaged or worked for private or personal purposes outside of the walls of the penitentiary, camps or penal farms of the state of Louisiana.

Section 3. Be it further enacted, etc., That the state board of control of the state penitentiary shall, immediately, upon the passage of this act, provide a code of rules and regulations classifying all convicts under their control; fixing a maximum and a minimum average of daily, weekly or monthly hours of "hard labor" to be rendered by those in each class and that all such convicts so classified shall be required to perform the labor indicated by their classification, not less than the minimum nor more than the maximum, the same to be determined and fixed by said board of control, except such as may be physically unable to perform such labor and in each such case the certificate of a physician shall be required; hard labor under the terms of this Act meaning any form of actual service that the board of control may deem best suited to any such convict.

Section 4. Be it further enacted, etc., That all violations of the provisions of this Act are declared to be malfeasance in office, and the perpetrator thereof, upon conviction before any court of competent jurisdiction shall be punishable with a fine of not less than one hundred nor more than $500.00, and in default of payment, by imprisonment of not less than 30 days, nor more than six months in jail, or both, at the discretion of the court, for each and every such offense.

The above Act was approved June 26th, 1912.—From *The New Advocate,* July 5, 1912. W. O. HART, New Orleans.

The New York Law Relating to the Prevention of Procreation.—(Chapter 445 Laws of New York.) The people of the state of New York, represented in senate and assembly, do enact as follows:

Section 1. Article eighteen of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as renumbered article nineteen by section five of chapter one hundred and twenty-eight of the laws of nineteen hundred and eleven, is hereby made article twenty thereof, and sections three hundred and fifty and three hundred and fifty-one of such chapter are hereby renumbered sections three hundred and sixty and three hundred and sixty-one, respectively.

Section 2. Such chapter is hereby amended by inserting therein a new article, to be article nineteen thereof to read as follows:

Article 19. *Operations for the Prevention of Procreation.*

Section 350. *Board of Examiners; Compensation and Expenses.*—Immediately after the passage of this act, the governor shall appoint one surgeon, one neurologist, and one practitioner of medicine, each with at least ten years' experience in the actual practice of his profession, for a term of five years, to be known as the board of examiners of feeble-minded criminals and other defectives, which board is hereby created. The compensation of the members of such

board shall be ten dollars per diem for each day actually engaged in the performance of the duties of the board, and their actual and necessary traveling expenses. Any vacancies occurring in said board shall be filled by appointment of the governor for the unexpired term.

Section 351. *General Powers and Duties of the Board; Persons to be Operated Upon.*—It shall be the duty of the said board to examine into the mental and physical condition and the record and family history of the feeble-minded, epileptic, criminal and other defective inmates confined in the several state hospitals for the insane, state prisons, reformatories and charitable and penal institutions in the state, and if in the judgment of the majority of said board procreation by any such person would produce children with an inherited tendency to crime, insanity, feeble-mindedness, idiocy or imbecility and there is no probability that the condition of any such person so examined will improve to such an extent as to render procreation by any such person advisable, or if the physical or mental condition of any such person will be substantially improved thereby, then said board shall appoint one of its members to perform such operation for the prevention of procreation as shall be decided by said board to be most effective.

The criminals who shall come within the operation of this law shall be those who have been convicted of the crime of rape or of such succession of offenses against the criminal law as in the opinion of the board shall be deemed to be sufficient evidence of confirmed criminal tendencies.

Section 352. *Appointment of Counsel to Person to be Operated Upon.*—The board of examiners shall apply to any judge of the Supreme court or county judge of the county in which said person is confined, for the appointment of counsel to represent the person to be examined. Said counsel to act at a hearing before the judge and in any subsequent proceedings and no order made by said board shall become effective until five days after it shall have been filed with the clerk of the court and a copy shall have been served upon the counsel appointed to represent the person examined and proof of service of said copy of the order to be filed with the clerk of the court. All orders made under the provisions of this act shall be subject to review by the Supreme court or any justice thereof, and said court may upon appeal from any order grant a stay which shall be effective until such appeal shall have been decided. The judge of the court appointing any counsel under this act may fix the compensation to be paid him. No surgeon performing an operation under the provisions of this act shall be held to account therefor. The record taken upon the examination of every such inmate signed by the said board of examiners shall be preserved by the institution where said inmate is confined and one year after the performance of the operation the superintendent or other administrative officer of the institution wherein such inmate is confined shall report to the board of examiners the condition of the inmate and the effect of such operation upon such inmate, and a copy of the report shall be filed with the record of the examination.

Section 353. *Unauthorized and Illegal Operations.*—Except as authorized by this act, every person who shall perform, encourage, assist in or otherwise permit the performance of the operation for the purpose of destroying the power to procreate the human species or any person who shall knowingly per-

mit such operation to be performed upon such person unless the same shall be a medical necessity, shall be guilty of a misdemeanor.

Section 3. This act shall take effect immediately.

The above law was passed on April 16, 1912, three-fifths being present, and received the approval of the governor.

F. W. ROBERTSON, M. D., New York City.

Supplemental Report of the Committee on Intermediary or Municipal Court.—To the president and members of the Pennsylvania Bar Association:

Your committee having filed a report recommending the establishment of a County court for Philadelphia, begs leave to file this supplemental or substitute report.

That, as the resolution creating this committee authorized a full investigation of the conditions in all counties containing cities of the first and second class with regard to the need of an Intermediary or Municipal court, together with the submission of an act of assembly for the creation of such a court, and

As this resolution applied only to Philadelphia, Allegheny and Lackawana counties, and

As Allegheny county now has its County court, and Lackawana county has not expressed any desire for such a court, and

As Philadelphia is the county vitally interested in the report of this committee, and

As the Law Association of Philadelphia has appointed a committee of nine, of which three members of your committee are members, which said committee is to fully investigate the subject and report to the Law Association of Philadelphia not later than December next, your committee therefore recommends the passage of the following resolutions:

1. *Resolved,* That the committee of the Pennsylvania State Bar Association be continued.

2. *Resolved,* That the committee of the Pennsylvania State Bar Association co-operate with the committee of the Law Association in securing such relief as may be found most expedient and desirable for Philadelphia county, and

3. *Resolved,* That the committee of the Pennsylvania State Bar Association shall assist in securing the passage by the legislature of 1913, of such legislation as will be found most expedient and desirable by the Law Association of Philadelphia to secure the relief desired.

Respectfully submitted,

Theodore F. Jenkins, Francis Shunk Brown, William A. Blakeley, Everett Warren, Dunner Beeber, Edwin M. Abbott, Chairman.

Change of Venue by the State.—About ten or twelve years ago, Col. Sam N. Wood, one of the early pioneers of prominence in Kansas, was killed in a county seat fight in a sparsely settled western county of the state. So few were the qualified voters, and so well known the facts, and so strong the feeling, that it was not possible to secure an impartial jury in the county to try the case. So the murderer escaped trial. To remedy this gross miscarriage of justice, Senator F. Dumont Smith, in the legislature of 1903, offered a resolution, (Senate Concurrent Resolution No. 8) to amend Section 10 of the bill

of rights of the state constitution, permitting the state to take a change of venue in criminal cases under certain restrictions. It seems from the original records that the resolution passed both houses, properly. But there was some uncertainty as to whether what each house passed was exactly the same resolution—there having been some amendment made during its course. Because of this doubt, the attorney general in 1904 advised the secretary of state not to submit the amendment to the people to vote upon. Accordingly it was not submitted nor voted on. Some years later the committee of the state bar association, on Revision of the Criminal Code and the Crimes Act, favoring change of venue by the state, examined the legislative proceedings of 1903, and believed, in the light of decisions of the Supreme court since the opinion of the attorney general in 1904, that the resolution was properly passed. The attorney general this year presented the Supreme court an application to mandamus the secretary of state to place the amendment on the ballot this fall. The Supreme court, however, on June 8, 1912, decided that the amendment must be voted on in 1904 or not at all; that the constitution's requirement to submit its amendments at "the next election" is mandatory. (Kansas v. Sessions, 87 Kans. 497.) J. C. RUPPENTHAL, Judge 23rd District, Kansas.

The People's Court of Baltimore.—"The magistrate and constable system in Baltimore has been bad largely because both justices and constables have been dependent entirely upon the fee system. Any intelligent measure of reform would, therefore, involve, in the first instance, the substitution of fixed salaries paid by the city for the fees paid by the litigants themselves to officials.

"The new People's court consists of five justices of the peace, appointed by the governor of Maryland from among the body of magistrates appointed by him. This device was adopted in analogy to the prevailing system, by which the police magistrates and the magistrates for juvenile causes had already been appointed. The presiding justice of the people's court will receive an annual salary of $2500, and the four associate justices will each receive the same salary. All magistrate cases will either be made returnable before the presiding justice or may be removed by any party to the presiding justice whose duty it is to apportion all cases for trial before himself and the associate justices, in such manner as will best expedite their trial and promote the ends of justice.

"All other justices than those of the People's court will receive a salary of $10, and no more, per annum, for the performance of all civil judicial duties. All fees are required to be paid to the chief constable and by him covered into the treasury of Baltimore. As a consequence, all civil justices cases will inevitably be tried in the People's court. The necessity for resorting to these devices arises out of the fact that the constitution of Maryland seems to provide for not fewer than twenty-four justices of the peace for Baltimore, a considerably greater number than is needed. The payment of adequate salaries to all of those would impose a heavy burden upon the taxpayers. The five justices of the People's court will, it is believed, be able to try all civil magistrate cases.

"The minimum number of constables apparently permitted by the constitution, twenty-four, is provided for in the new law; one of these, the chief constable, with a salary of $1800, is constituted the clerk of the People's court. Two assistant constables at salaries of $1200 each compose his office force.

Five assistant constables at salaries of $1200 each act as court clerks to the respective justices of the people's court. Five additional assistants receiving $1000 each as court bailiffs and the remaining eleven assistants at the same salary, serve the processes of the court.

"If the arrangement above outlined proves satisfactory, it is believed that it will not be difficult to secure an amendment to the state constitution abolishing the magistrate and constable systems, and permitting the establishment of an effective municipal court. In any event, the new court cannot fail to be a decided improvement over the obsolete system which it succeeds."

HORACE E. FLACK in *National Municipal Review,* July, 1912.

The Trial of Camorra in Italy.—The Camorra of Naples is a phenomenon of habitual and associated criminality, very interesting to students of criminal science. I say very interesting for I speak in a foreign review, but in regard to my own country I ought to say grave, sorrowfully grave. In Italy there are as it were two Italies. South Italy presents the problem of a notable inequality in the production of wealth, a great poverty and, therefore a lesser degree of civilization. This inequality of structure in its component parts is doubtless a cause of weakness in the life of the state: it is like an organism which has not all parts sound and so the harmonic coexistence of the whole is thereby injured. However, that has occurred and occurs not only in Italy. Ireland, for instance, in regard to Great Britain is very nearly in the same conditions as the south to the rest of Italy, except, of course, the question of religions, dualism and home rule.

Habitual and associated criminality has found favorable ground in Naples, especially from climatic and historical causes. Even abroad people know that the climate of South Italy is enchanting and tends to idleness and the "dolce far niente." This is wrongly considered as a constant characteristic of such a country, whilst, on the contrary, little by little it is rousing itself from its lethargic sleep and, it is to be hoped, getting the dominion over its impulses and a steadiness in working, by which only a man or a people can become strong. The Neapolitan character is personified in the "Pulcinella," about which Goethe said (*Italienische Reise,* Neapel, zum 19 Märs): "ein wahr haft gelassener, ruhiger, bis auf einem gewissen grad gleichgültiger, beinahe fauler und doch humoristischer Knecht" (a really placid and peaceable boy, up to a certain point indifferent, very nearly lazy and yet humorous).

The climate indeed nourishes and maintains slothfulness and hence the need of having recourse to the crime in order to get the comfort of life, that cannot be got from honest work. But this argument of climate is to be taken, as they say, *cum grano salis.* Even under different climates a similar criminality is possible. I may cite one example only, the Black Hand in America. The Black Hand is a form of habitual and associated criminality that displays its baneful activity in an environment, where, on the contrary, there is a life of honest and fruitful activity. However, it is also to be considered that a similar kind of criminality shows itself under different climatic conditions, and this does not deny that climate can be an important factor in it. Also in the common life a similar effect can result from different causes: one man gets a nervous disease by too much work, another by doing nothing.

The most favorable ground, however, for the Camorra has been prepared by the historical environment. When the countries of upper Italy were prospering as free people or under the dominion, not always tyranical, of native sovereigns, Naples and Sicily remained under the yoke of foreign conquerors, who extorted as much as they could and as rapidly as possible from the conquered people. "When the government postal authorities," writes Lombroso (*Incremento del delitto,* p. 14), "robbed the correspondence, when the police arrested honest patriots, and negotiating with thieves, allowed liberty to every kind of excess in brothels and prisons, it necessarily contributed to protect the Camorrist as being the man who was able to send a packet with security, to save a person from being stabbed in his cell, or to ransom for a good price a stolen thing, or to give decisions on little disputed questions, perhaps just and certainly less costly and delayed than the decisions, which the tribunals were able to give." These considerations may explain the rise of the Camorra of Naples, but cannot constitute a principle of universal value. We have in history also examples of bandits, who have made themselves administrators of justice in a country where it was badly administered by the public authorities. In Lardinia I have been told the story of a famous criminal, whom the judges were powerless to condemn, because his good actions surpassed his bad.

I believe associated criminality is a phenomenon that will exist as long as criminality, because it is as old as criminality. It has its root in the corporate tendencies of man, *who is inclined to unite himself with his fellows who may have the same aspirations.* The physicians are associated, the lawyers are associated, the workmen are associated in order to attain better their ends, and so the criminals also are associated. This is the natural universal explanation of the phenomenon: only the causes change, that more or less favor it.

At Viterbo (a little and quiet town of Latium) a trial is actually taking place, which has attracted the attention of all the world to the Neapolitan Camorra. The facts are as follows: On the evening of the 5th day of June, 1906, Gennaro Cuocolo and his wife were assassinated at the same time, the former near Naples, the latter in Naples. Cuocolo was *basista.* In the language of Camorra *basista* is one who plans a theft, introducing himself into a comfortable home with the appearance of an honest man and thus getting the confidence of the proprietors: in short he is the Camorrist, who gives to the men who actually commit the crime the *basis* (hence *basista*) for the theft. Cuocolo was condemned by the tribunal of the Camorra for *infamita* (infamy), namely for having denounced to the police some people who were affiliated with the Camorra. His wife was also killed, because she knew all her husband's secrets and thus it was considered necessary to get her also out of the way.

The Cuocolo trial began before the Corte d'Assise (like the French "Cour d' assise" and the German "Schwurgericht," it is a court in which the trial is conducted before a jury) of Viterbo, the 11th day of March, 1911, and it also maintains the fame of legal delay in Italy, because it is not yet near the end. Four days were spent in constituting the jury in this trial. A month was spent in hearing the individuals (of whom thirty-seven are accused of association in order to commit criminal trespasses), amongst whom there is a representative of the clergy, and after their long examinations they were again confronted with their accuser, Abbatemaggio (another Camorrist), as had been already done in the first inquiry.

DUTIES OF PROBATION OFFICER IN RHODE ISLAND

An interesting juridical question has been started in the trial of the Camorra relating to "preventive detention." As the trial is so delayed, it has occurred that none of those accused of association in order to commit criminal trespasses, have passed in preventive detention the maximum time of punishment which the judge may inflict, before the trial has finished. Indeed sect. 248 of Italian Penal Code decrees for the crime of association in order to commit offences (*associazione per delinquere*), without aggravating circumstances, the punishment of imprisonment ("reclusione") from one to five years. The question was started in the sitting of the 14th day of last February by the prosecuting attorney ("Pubblico Ministero") Cav. Saptoro, who maintained that there was no legal cause for the continued imprisonment of some of the accused. "It is certain," remarked the prosecuting attorney, "that when the legal cause has ceased, the preventive imprisonment of an individual, not yet declared guilty by a sentence of condemnation, is no longer legal and becomes illegal." Our Code of Criminal Procedure actually in force does not contemplate this case. It is, on the contrary, expressly foreseen by the Draft Criminal Procedure Code of On. Finocchiaro Aprile, actual minister of justice, which will perhaps become positive law within this year. Thus it is our misfortune, because it is a hasty legislative work, which does not remedy at all the lamented inconveniences of our procedure. Sect. 378 of Draft Criminal Procedure Code of 1911 (an amelioration of Draft 1905) provides indeed: "On any case, the accused has to be set free without any obligation, whenever he has expiated the maximum of punishment established by the law for the offense for which he is being tried." However, although the case is not expressly foreseen in the code in force, the President of the court uttered an ordinance, by which, accepting the point raised by the prosecuting attorney and defence, he set free some of the accused. And really this solution was very just.

Will the jury of Viterbo be mild or severe against the representatives of the Camorra? We don't know. It is certain that the repression of Camorra will be attained by moral and civil education more than by the verdict at Viterbo, because the former makes every one feel the superiority of a living gained from honest work over a living gained from the profits of crime. A good service of police is also an important means of repression. However, one has to bear in mind that no degree of civilization can as yet suppress criminal associations.

GIULIO Q. BATTAGLINI, Professor of Criminal Law and Procedure in the Royal University of Sassari, Italy, Associate Editor of *"La Giustizia Penale."*

An Act Relating to the Duties of the Probation Officer in Rhode Island.
It is enacted by the General Assembly as follows:

SECTION 1. Chapter 352 of the General Laws, entitled "Of the state probation officer and his custody of females," is hereby amended by adding thereto the following sections, viz.:

"SEC. 4. Whenever it shall come to the knowledge of the state probation officer that the family of the prisoner serving sentence for non-support is in destitute circumstances he may, with the approval of the board of state charities and corrections, contribute to the support of such destitute family during the duration of such sentence.

"SEC. 5. Whenever any person who has been placed in the custody of the probation officer by any court in this state, has left the state while in such custody, the state probation officer in his discretion, with the advice of the attorney-general, is hereby authorized to bring such person back to this state.

"SEC. 6. The sum of twenty-five hundred dollars is hereby annually appropriated to pay the necessary expenditures incurred under the provisions of sections four and five of this act; and the state auditor is hereby directed to draw his orders on the general treasurer in favor of the state probation officer for amounts shown by proper vouchers to have been expended under the provisions of this act."

SEC. 7. For the purpose of carrying the provisions of this act into effect the sum of twenty-five hundred dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, and the state auditor is hereby directed to draw his orders on the general treasurer in favor of the state probation officer for amounts shown by proper vouchers to have been expended under the provisions of this act.

SEC. 8. This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

The above act is to amend chapter 352 of the general laws entitled "Of the State Probation Officer and His Custody of Females." R. H. G.

Governor Foss on Penal Reform in Massachusetts.—"The supervision and management of our penal institutions, both state and county, require immediate and thorough renovation.

"The board of prison commissioners is theoretically in control of our penal system, but in fact it has delegated the larger portion of its duties to the chairman. It should sit on questions of parole, but in fact it does not visit the institutions where prisoners are proposed for parole, nor does it hold hearings as a board in this connection. These duties are mainly delegated to the chairman and secretary.

"The industries in our five states and twenty-one county institutions are legally under the supervision of the prison commissioners, but these industries are conducted with little regard either to the interests of the inmates, or to avoiding unnecessary competition with free labor.

"This condition has come about by the gradual shifting of the duties of the board to the chairman; a condition which ought not to be tolerated anywhere. As a result, the board now gives perfunctory attention, or none at all, to a mass of work which is of fundamental importance to the commonwealth.

"The financial operations of our penal institutions are now over a million dollars a year; and, with the present organization of our prison commission, these sums are not, and cannot be, administered as they should be. Consequently our entire penal system has fallen into a rut, and the fundamental purpose of the whole system, which is to reform and help the criminal class, is in abeyance.

"I am told on high authority that our reformatories no longer reform, and that it is difficult to effect the reform of any inmates of these institutions after six months, or a year of residence therein. I have become convinced that the moral atmosphere of these institutions is that of a jail; that the inmates are

not properly classified, and that a first offender, having been committed for some minor offense, leaves such an institution infected with the moral poison of prison life.

"I am confident that our present method of administering the criminal department of the state is not of the kind which will ever reduce crime, or provide adequately for reforming those who are committed to our penal institutions. Having studied the existing conditions, and realized the difficulty of changing them, I now advocate the following modification:

"The board of prison commissioners should continue as a board of supervision. The administrative duties which it has in fact laid down should be delegated by law to a general superintendent and two or more deputies. Among these administrative officers should be apportioned the duties of general superintendence and of managing the prison industries, and conducting the general business affairs of our penal institutions.

"I advocate restoring to the board the responsibility, as well as the power, of parole, and directing it to visit each of the state penal institutions at least once a month as a board, there to hold hearings upon applications for parole, and to inspect adequately the general condition and management of the institution. I make these propositions for the purpose of effecting necessary changes with the least practicable disturbance of the existing organization, believing that some measure of progress may thus be accomplished.

"I now call your attention to the fact that in this state each year many thousand persons are being sent to jail because they do not have the money with which to pay a fine. Whenever a court imposes a fine or, in default of its payment, a jail sentence, it is clear that the ends of justice would be met by the payment of the fine. Yet last year twelve thousand persons went to jail simply because they did not have the money with which to pay their fines. In fact, they were thus sent to jail for debt. I do not believe that the public conscience of Massachusetts, if directed to this evil, would tolerate it; for the offenses which lead to these jail commitments may show absolutely no criminal intention, but only the ignorant or careless violation of some minor statutes. Such commitments to jail place the prisoner at an unjust disadvantage compared with the man who is able to pay his fine. He remains an object of suspicion, and his life is to some extent degraded in public opinion.

"To correct this abuse, I urge a change in the present law to provide that, in all cases where a fine is imposed, time shall be granted for its payment. All persons punished by a fine, but unable to pay it, should be placed under the supervision of a parole officer and released from parole when the fine is paid.

"Hereto I attach a draft of a legislative act which I think would help to correct some of the existing defects in the administration of our penal system.

EUGENE N. FOSS.

SECTION 1. The chairman of the board of prison commissioners shall appoint, and may remove, two deputy commissioners, who shall receive a salary of $..... each. The appointment and removal of said deputies shall be subject to the approval of other members of the board.

SEC. 2. They shall be executive officers of the board; shall perform their duties under the direction of the chairman, and shall make to the board such reports as it shall require. The board may depute to either of them any of

its powers and duties relating to contracts, to purchases and sales made for institutions under its care and control; to the inspection and approval of the bills of said institution; to the employment of prisoners therein and in county prisons; to the visitation of county prisons and the inspection of their books and affairs; to the transfer of prisoners, excepting to and from the state prison; and to the work of the agents of the board and the care, assistance and supervision of discharged prisoners. They shall perform such other duties as the board shall direct. In the exercise of the powers and in the performance of the duties delegated or deputed to them by the board, the chairman and the deputy commissioners shall be subject to such rules as the board shall make.

SEC. 3. The state prison, the Massachusetts reformatory; and the reformatory for women shall each have a parole board, consisting of the chairman and two other members of the board of prison commissioners. Said parole boards shall meet at least once a month at the institution to which they severally belong, and shall see all prisoners who are eligible for release. The powers of the board of prison commissioners to issue permits to be at liberty to prisoners in the state prison, the Massachusetts reformatory and the reformatory prison, and to revoke the same, are hereby transferred to, and hereafter shall be vested in, said boards of parole. Two members shall constitute a quorum for the transaction of business. Permits to be at liberty shall be signed by one or more members of the board.

SEC. 4. The prison commissioners shall designate the houses of correction to which men having sentences of one year or more may be committed, shall fix the date on which this section shall take effect, and shall send notice of such designation to district, police and municipal courts, the chief justice of the Superior Court and district attorneys. From and after said date it shall not be lawful to commit any male person having a sentence of one year or more to any house of correction other than those designated as aforesaid, or to any jail.

When a male person is sentenced to a house of correction for a term of one year or more, the clerk of the court shall, without charge, transmit to the master thereof an attested copy of the complaint or indictment under which he was convicted, and the names of the witnesses who testified for and against him at the trial. The probation officer shall send to the prison commissioners a statement regarding the offense of said prisoner; his previous convictions and imprisonments, if any, and such other facts as will be of value to said commissioners in considering his case.

SEC. 5. In making removals of prisoners for the purpose of classification, under the provisions of section 16 of chapter 225 of the revised laws, the prison commissioners shall, so far as practicable, place those who have sentences of one year or more where they will have opportunities for mental and manual instruction.

SEC. 6. The prison commissioners shall establish and maintain in each house of correction designated as aforesaid, a school for the mental and manual instruction of prisoners. When said commissioners have voted to establish any such school, they shall notify the state board of education, which shall thereupon devise plans for the organization and administration of said school and shall have the supervision thereof. The teachers and instructors in said school shall be appointed and may be removed by the prison commissioners.

The cost of carrying out the provisions of this section shall be paid by the commonwealth.

SEC. 7. If a person is sentenced to a house of correction in a county other than that in which he was convicted or is removed from a house of correction in one county to a house of correction in another county, on an order of the prison commissioners, to promote the classification of prisoners, said commissioners shall fix the amount to be paid for the cost of his support. It shall also decide what part of such cost shall be paid by the county from which he was removed or sentenced, and the remainder of such cost shall be paid by the commonwealth. The county commissioners of either county may appeal to the Superior Court for a revision of such action of the prison commissioners, and said court sitting in either county shall determine the question.

So much of sections 108 and 110 of chapter 225 of the revised laws as is inconsistent with the provisions of this section is hereby repealed.

SEC. 8. The prison commissioners shall make such rules regarding the purchase of supplies and materials for the state institutions under their control as shall secure publicity and competition. Any person dealing in any such supplies and materials who shall file with the warden or superintendent a memorandum, giving his name, address and business, shall be notified when advertisements are published soliciting proposals to sell articles in which he deals.

No purchase of supplies or materials in excess of $500 for either of said institutions shall be made, excepting as provided in this section, unless the commissioners shall give written authority to do otherwise, and in such case they shall enter upon their records the reasons for their action. The warden or superintendent shall, by public advertisement, invite proposals therefor, and shall furnish to bidders carefully-drawn specifications giving the quantity and quality of the articles wanted and the time and manner of delivery, with samples, if practicable. The advertisement shall contain notice of the time when proposals will be opened at the office of the commissioners. All proposals shall be in writing and sealed. They shall be opened by the warden or superintendent in the presence of the commissioners, who shall cause them to be entered in a book and compared, and shall preserve all proposals for at least one month. The person offering the lowest terms, with satisfactory security for the performance, shall be entitled to the contract, unless it appears to the commissioners that it is not for the interest of the commonwealth to accept his proposal, or to accept any proposal. In such case they shall enter upon their records their reasons for their action.

SEC. 9. If all bids are rejected, the commissioners may direct that new proposals be invited, or may authorize the warden or superintendent to purchase in a way which shall be for the interest of the commonwealth. Every contractor shall give bond in a reasonable sum, with satisfactory surety for the performance of his contract.

The above is a copy of a message and a draft of a proposed law presented to the House of Representatives at Boston on February 9, 1912.

A. W. T.

"An Act to Prevent Lynching and Mob Violence in Kentucky."—The following is a copy of a bill which was introduced in the Kentucky Senate on February 1, 1912, by Mr. Moody. It is known as Senate Bill No. 236:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. It shall be the duty of the sheriff, jailer, constable and all other peace officers, who have notice or reason to anticipate lynching or mob violence of any kind to person or property in their bailiwick, to summon the power of the county and use all the means at their command diligently to protect such person or property. Any officer failing in his duty as herein provided shall be liable on his official bond to any person for all damages sustained thereby.

SEC. 2. Any collection of persons assembled for an unlawful purpose or intending to do injury to anyone or his property without authority of law, shall be regarded as a mob, and any act of violence wilfully done by them to any person shall constitute a lynching.

SEC. 3. It shall be the duty of any officer named in the first section of this act, who has custody of any prisoner, to use diligently all the means at his command to protect such prisoner from mob violence; and if any prisoner shall be taken from the custody of any such officer and lynched by a mob, it shall be prima facie a misfeasance in office by such officer, and it shall be the duty of the Governor to suspend him at once from office and appoint another to discharge the duties of the office, while he is suspended. It shall be the duty of the commonwealth attorney immediately to file in the circuit clerk's office any information against such officer, charging him with said misfeasance in office. The case shall be set for the second day of the next term of the court beginning not less than ten days after the summons is served, and shall have preference over other business. If the officer shall show that he used all the means at his command with due diligence and care, as provided by this act, and notwithstanding this, was unable to protect the prisoner, he shall be acquitted and his suspension from office shall terminate. But if he is found guilty the office shall be declared vacant.

SEC. 4. All laws or parts of laws in conflict herewith are repealed.

W. B. MOODY, New Castle, Ky.

Illinois and Massachusetts Probation Laws.—A law providing for a "System of Probation," and legalizing the ultimate discharge without punishment of persons found guilty of certain defined crimes and offenses, became operative in the State of Illinois during the past year.

A somewhat similar law has been in operation in Massachusetts since 1878, and for more than twenty years the appointment of a probation officer in every municipal, police and district court has been mandatory.

A comparison of the provisions of these two laws is interesting and serves as an illustration of the different methods by which communities approach the solution of similar problems.

For instance, the Illinois law limits the offenses for which a person may be released on probation, while, on the other hand, in Massachusetts "the court may place the person so convicted (of any crime or offense) in care of the probation officer." The Illinois law with other limitations therein mentioned provides that those guilty of "larceny, embezzlement, and malicious mischief, when the property taken or converted or where the injury does not exceed $200 in value," and "burglary, when the amount feloniously taken does not exceed $200 in value," may be placed on probation. It would seem that the limitations named in the law are as reasonable as any that could be devised,

but as one examines the law it seems that no good reason appears for this discrimination.

The intent in the mind of the one committing a crime is the important factor in deciding the action which should be taken by the community. A man forms the intention of picking a pocket. Whether the victim has $199 or $201 in his pocket at the time is a mere accident, but it is fair to assume that the intent on the part of the thief is to take all that he finds therein. Hence, it would seem that for the purpose of determining the action of the court a consideration of the intent is better than the determination of the value of the property taken.

The Illinois law defines the terms and conditions of probation, while in Massachusetts the court may place a person on probation "for such time and upon such conditions as may seem proper." The Massachusetts court determines in advance the ordinary conditions of probation, but may vary these conditions or the length of the probation period in each individual case.

In Illinois an excellent form is provided for the discharge of probationers at the end of their probation period. The Massachusetts law is silent on this very important matter, but the practice in most courts is to formally discharge the person if his conduct has been satisfactory, a report to this effect being made by the probation officer at the end of the probation period.

Police officers may be appointed probation officers in Illinois, but if appointed "shall receive no additional compensation because of such appointment." The Massachusetts law provides that "probation officers shall not be active members of the regular police force," and thus makes them ineligible for appointment as probation officers.

The Section of the Illinois law which defines the duties of the probation officers is admirable and a valuable addition to probation practice. While the duties therein described are those generally performed by Massachusetts probation officers, the Massachusetts law does not attempt to clearly define such duties.

Probation officers in Illinois are appointed "for the period of one year, unless sooner removed," while in Massachusetts they "shall hold office during the pleasure of the court which makes the appointment."

"Probation," as defined by the American Institute of Criminal Law and Criminology, "is a judicial system by which an offender against penal law, instead of being punished by a sentence, is given an opportunity to reform himself under supervision, and subject to conditions imposed by the court, with the end in view that if he shows evidence of being reformed no penalty for his offense will be imposed."

The main purpose of probation seems to be the reform of the individual, and the most effective law must be the one which leaves to the presiding justice of the court the greatest discretion in order that the probationary conditions may include the proper remedy in each case.

The International Prison Congress declares that "No person, no matter whatever his age or past record, should be assumed to be incapable of improvement." With this declaration in mind, our effort should be to have a law with provisions so broad that the court, in the exercise of a wise discretion, may apply its beneficent features to every deserving person.

EDWIN MULREADY, Deputy Commissioner on Probation, Boston.

PENOLOGY.

Assault by a Life Prisoner Made Capital.—"A California statute provides that 'Every person undergoing a life sentence in a state prison of this state who, with malice aforethought, commits an assault upon the person of another with a deadly weapon or instrument, or by any means or force likely to produce great bodily injury, shall be punishable with death.' This is constitutional and does not deny the life prisoner the equal protection of the law, says the Supreme Court of the United States, in *Finley v. People.* The question is to be tested by considering whether there is a basis for the classification made by the statute. Applying that test, the statute is valid. The classification of the statute in question is not arbitrary, but is based upon valid reasons and distinctions. Life termers, while within the prison walls, constitute a class by themselves—a class recognized as such by penologists the world over. Their situation is legally different. Their civic death is perpetual. Manifestly there could be no extension of the term of imprisonment as a punishment for crimes they might commit, and whatever other punishment should be imposed was for the legislature to determine." From *American Law Review,* July-August, 1912, Vol. XLVI, No. 4

Convict Parole Unconstitutional—A Correction.—At page 461 of the September number of this Journal is a note to the effect that the parole law of Pennsylvania is unconstitutional. Mr. Edwin M. Abbott writes that the statement is misleading. Pennsylvania had an Indeterminate Sentence and Parole Act passed in 1909, which act was declared by Judge Sulzberger in July of this year, as unconstitutional. This decision, which has been appealed by the commonwealth, will undoubtedly be upheld by the Appellate Court of the state. The act, says Mr. Abbott, was clearly unconstitutional in many ways, but the court declared it unconstitutional because it had a defective title. This, however, does not do away with probation, parole, and indeterminate sentences in Pennsylvania. Since Mr. Abbott secured the passage of the act in 1911, it has been practically declared constitutional, and it is under this act that the court of the state now operates successfully.

The judges in the state of Pennsylvania, in many instances, refuse to sentence under the act of 1909, for the act simply made them automatons, but under the act of 1911, they are following the mandates of the provisions and everybody is satisfied except a few who think that the judges should not sentence in in any case. This act has been having beneficial effects in the state prisons.

R. H. G.

Rules Governing Parole in North Dakota.—*Sec. 1.* No inmate shall be paroled until he has served the minimum term provided by law, and has been in the first grade for a period of at least six months, and has fully complied with Article No. 9 of the Revised Codes of 1905.

2. No inmate shall be released on parole until satisfactory evidence has been furnished the board of experts in writing, that employment has been secured for such inmate from some responsible person, certified to be such by the judge of the county court of the county where such person resides.

The application shall embrace a certificate from the Prosecuting Attorney of the County from which the inmate was sent, showing that there is no other

indictment against him, a certificate under oath from the publisher of one newspaper in the county from which the inmate was received, showing that notice had been given by publication of the intention of the inmate to make the application for parole.

3. No inmate shall be released on parole until he shall have deposited with the warden twenty dollars, and the person furnishing employment shall retain twenty-five per cent of his monthly wages and deposit same with the warden of the penitentiary, until the total amount deposited shall reach the sum of one hundred dollars. The sum so deposited shall be returned to the depositor after the final release of the paroled inmate, providing his parole has not been previously revoked by a formal order of the board of experts. In the event that the terms of the parole are violated, and the parole revoked for cause, the entire amount of money deposited shall be forfeited to the institution.

4. No inmate shall be paroled until the board of experts are satisfied that he will conform to the rules and regulations of his parole.

5. Every paroled inmate shall be liable to be retaken again, and confined within the enclosure of the North Dakota state penitentiary, for any reason that shall be satisfactory to the board of experts, and at their discretion, and shall remain there until released by law.

6. It shall require the affirmative vote of all members of the board of experts to grant a parole.

7. No argument will be allowed at the sessions of the board of attorneys or others in the interests of inmates when they have made application for parole, but such argument may be presented in writing so as to be filed with the application of the inmate to whom it refers.

8. The regular meetings of the board of experts in January, April, July and October shall be known as parole meetings, and no application for parole will be considered at any other meetings of the board.

9. No alterations or amendments shall be made to these rules and regulations, unless at least three members of the board of experts have voted therefor.

10. The parole provided for in Article No. 9 R. C. 1905, shall be in the following form, signed by the president of this board and the warden of the state penitentiary: (*See form below.*)

11. Provided, that all persons paroled under the suspended sentence act shall comply with these rules, and that a copy of these rules shall be furnished to each district judge in this state.

Form of Parole. Know all Men by These Presents: That the board of experts of the North Dakota state penitentiary, desiring to test the ability of ..... an inmate in the said institution, to refrain from crime, and lead an honorable life, do, by virtue of the authority conferred upon them by law, hereby parole the said ....., and allow him to go on parole outside of the buildings and enclosures of the said institution, but not outside of the State of North Dakota, subject, however, to the following rules and regulations:

He shall proceed at once to the place of employment provided for him, viz:....., and there remain, if practicable, for a period of at least ..... months from this date.

In case he finds it necessary or desirable to change his employment or residence, he shall first obtain the written consent of the board of experts.

He shall, on the first day of each month, until his final release, according to law, forward by mail to the warden a report of himself, stating whether he has been constantly under pay during the last month, and if not, why not, and how much he has earned, and how much he has expended, together with a general statement of his surroundings and prospects.

He shall in all respects conduct himself honestly, avoid evil associations, obey the law, and abstain from the use of intoxicating liquors.

As soon as possible after reaching his destination, he shall report to ..... showing his parole, and at once enter upon the employment provided for him.

He shall, while on parole, remain in legal custody and under the control of this board.

He shall be liable to be retaken and again confined within the enclosure of the state penitentiary for any reason that shall be satisfactory to the board of experts, and at their sole discretion, and shall remain there until released by law.

The field or parole officer, under the direction of the warden, has special charge and care of persons on parole from the penitentiary. He will visit each paroled person as frequently as possible, and his counsel, advice, and order must be strictly obeyed. He will make a full written report to the management of the penitentiary of every visit, of the condition of, and friendly interest in, the subject of this parole, and he need not fear freely to communicate with the warden in case such paroled person shall lose his situation, or becomes unable to labor, by reason of sickness or otherwise.

Signed by the president, board of experts and the warden, state penitentiary.

Granting of Parole. The regular meetings of the board of experts in January, April, July and October, shall be known as "parole meetings," at which meetings only will applications for parole be considered. Judgment by the board of experts as to the worthiness of the applicants for parole will be based on the following considerations, arranged in the order of their relative importance:

1. The record of the character of the applicant, as established in the institution.
2. The nature and character of the crime committed.
3. His previous record and environment.
4. Information gained from a personal interview with the applicant.
5. Probable surroundings if paroled.
6. All other facts bearing upon the advisability of parole, that this board may be able to obtain.

It may be well to observe that while a good record in the institution is the first requisite and of prime importance, it is not the only consideration in determining fitness for parole, as inmates and their friends sometimes suppose.

No inmate shall be released from the penitentiary from any other than the first grade.

If an inmate's record is that of general obedience to the rules when he becomes eligible for parole, with minor act or acts or omission still charged

against him, the warden may submit such charges with the circumstances to the board of experts, who may authorize him to remit the same.

When an inmate is released on parole, he shall be furnished transportation to the county whence he came, or where he is promised employment, also with a suit of clothes, and five dollars in money, if he has not to exceed that amount in earnings for labor in the institution.

On failure to obey the law, or the conditions of his parole, while on such conditional release, the inmate will be re-arrested and returned to the penitentiary, where he will enter the third grade and remain there until the expiration of his sentence, and his discharge by due process of law.

What Constitutes Eligibility to Parole. Before an inmate can come before the board of experts as an applicant for parole, he must fully comply with all of the provisions of law, and conform to the rules and regulations governing this institution. The affirmative answer to the following questions must be made in writing and signed by the applicant, before the application will be considered:

Has the applicant served the minimum term provided by law for the punishment of the offense of which he was convicted?

Has the applicant been in the first grade, as provided by the rules of this institution, for at least six months next preceding the time he made application?

Is his record clear for at least three months next preceding making application?

Has the prosecuting attorney certified that there is no other indictment pending against him?

Is his employer's agreement on file?

Has his application for parole been properly advertised?

All inmates of the penitentiary who have met the conditions imposed by law, and the general rules, will be considered applicants for parole, and will be given a personal hearing.

§4. *Board of Experts.* The warden of the state penitentiary, the prison physician, the chaplain of the state penitentiary, and one other person, to be chosen by the board of trustees of the state penitentiary, shall constitute a board of experts, whose duty it shall be to pass upon the application for discharge of the inmates of the penitentiary who may have been sentenced under the indeterminate sentence provided by law, and also to pass upon the application of the inmates of the penitentiary who may make application to be paroled, as provided by law. The board of trustees shall elect a member of the board of experts at their first meeting (held in April) after this law takes effect, and thereafter at the April meeting on each odd-numbered year. The term of this member of the board of experts shall be two years, commencing immediately after the April board meeting in an odd-numbered year. The chairman and secretary of the board of trustees of the state penitentiary shall certify to the governor and the state auditor all the names of the members of the board of experts as soon as they are elected or constituted members thereof. The board of experts as above constituted shall determine and fix the date when an inmate may be released on parole or discharged after the expiration of the minimum term of sentence, and shall keep a complete record of all the findings and orders of the board. It shall be the duty of the board of experts to provide books of record, application blanks, and to formulate rules and regulations governing the conduct of the in-

mates, and the manner in which they may become eligible to become applicants for discharge or parole, to meet once in each month, and to keep a complete record of all inmates discharged or paroled, and to make a biennial report to the board of trustees of all rules adopted and of inmates paroled and discharged, and of all statistics pertaining thereto.

Article 9—Parole of Inmates. §10371. *What Inmates May Not be Paroled.* The following described persons shall not under any circumstances be paroled from the penitentiary:

1. A person convicted and sentenced for the crime of murder either in the first or second degree.

2. A person finally convicted, in any jurisdiction, of a felony other than that for which he is being punished.

3. A person who has not served the minimum time of imprisonment prescribed by law for the crime of which he was convicted.

4. A person who has not maintained a good record at the penitentiary for at least six months previous to his parole. (1891, ch. 92, No. 1; R. C. 1895, No. 8557.)

§10372. *Requirements Precedent to Parole.* No parole shall be granted to any person confined in the penitentiary unless:

1. The warden in writing recommends his parole to the board of trustees.

2. At least four members of the board of trustees approve and indorse said recommendation.

3. The governor approves and indorses such recommendation.

4. The friends of such person have furnished satisfactory evidence to the board of trustees, in writing, that employment has been secured for him with some responsible citizen of the state and certified to be such by the judge of the county court of the county where such citizen resides.

5. The board of trustees is convinced that he will conform to the rules and regulations adopted by said board. (1891, ch. 92, §§ 2, 3; R. C. 1895, §8558.)

§10373. *Grounds for Recommending Parole.* It shall not be lawful for the warden, the board of trustees or the governor, or any or either of them, in considering or recommending the parole of any person confined in the penitentiary to receive, hear or entertain any petition or any argument of attorneys, but the only ground for such recommendation shall be such person's general demeanor and record of good conduct at the penitentiary. (1891, ch. 92, §3; R. C. 1895, §8559.)

§10374. *Breach of Parole. Order of Recommitment.* Any person when on parole from the penitentiary shall be deemed to be in custody, and under control of the board of trustees and subject at any time until the expiration of the term for which he was sentenced, to be taken into actual custody, and returned to the penitentiary. The board of trustees is hereby fully empowered to enforce the rules and regulations made by it for the paroling of persons committed to the penitentiary, and, at any time, when satisfactorily informed that any person out on parole has violated any of such rules and regulations, may order that such person be taken into actual custody, and recommitted to and confined in the penitentiary as provided in his sentence. The board shall enter such order in the record of its proceedings and a copy of it certified by the secretary of the board may be delivered to any sheriff or other peace officer of the state, for

of the state, for service and return, and it shall be the duty of any such officer to receive the same and to apprehend and immediately return and deliver to the warden at the penitentiary any such person named in such order, and the warden shall receive and re-imprison such person as upon his original sentence. (1891, ch. 92, §1; R. C. 1895, §8560.)

§10375. *Execution of Order. Fees and Payment.* The officer executing any such order of the board of trustees shall indorse thereon a return of his doings thereunder and the said certified copy and return, delivered to the warden with the person named therein, and the warden shall give to such officer, to be retained by him, a certificate acknowledging the receipt of such person, and such certified copy of the order and his return. The fees of any officer for executing any order of the board of trustees for the return of any person to the penitentiary shall be the same as provided by law for the commitment of a person to the penitentiary under a sentence of the court, but in no case shall the fees exceed the sum of one hundred dollars. The board of trustees shall provide in its rules and regulations that any person before being paroled from the penitentiary shall deposit with the warden a sum of money not exceeding one hundred dollars to defray the expenses of his return, and the manner of auditing and paying such expenses; provided that any money so deposited and not so used shall be returned to the person so depositing it at the expiration of the term of sentence of the person, or upon his final discharge from the penitentiary. (1891, ch. 92, §1; R. C. 1895, §8561.)

Amendments and Supplements to Rules Governing Parole, as Approved by the Board of Experts on January 11th, 1912. Sec. 1 of rules governing parole; amended as follows:

"No inmate shall be paroled until he has served the minimum term provided by law, and who shall at the time of the granting of his parole be in the first grade, according to the rules and regulations governing the state penitentiary."

Sec. 8. Rules governing parole; amended to read as follows:

"All the regular monthly meetings of the board of experts shall be known as parole meetings, and no applications will be considered at any other meetings of the board."

"The first paragraph under the heading 'Granting of Parole' on page 8 of the Book of Rules and Regulations; amended to read as follows:

"The regular monthly meeting of the board of experts shall be known as 'parole meetings,' at which meetings only will applications for parole be considered. Judgment by the board of experts as to the worthiness of the applicants for parole will be based on the following considerations, arranged in the order of their relative importance; provided, that in case where sentence is suspended by the judge, that the person whose sentence has been suspended will be accepted by this board, and the initial deposit of $20.00 waived, provided the judge suspending the sentence shall expressly stipulate that the deposit of $20.00 is waived. Provided, further, that if the judge in suspending sentence shall find that it be wise and proper to allow the person to engage in business on his own account, then this board will accept such person as a charge of the board provided the judge shall name as a guardian for such person some person designated as his next friend, who shall stand in the same relation to this board

and the person whose sentence is suspended as the employer regularly provided in these rules heretofore. R. H. G.

Executive Clemency.—Lieut. Gov. McDermott, when he was the acting Chief Executive of Kentucky took, within the past summer, an admirable stand on the question of pardons. In an interview he is quoted as saying:

"It is not proper for the Governor to overrule the verdict of his jury, merely because he would have rendered a different verdict if he had tried the case. He should interfere with such a verdict only when he is convinced by the record that a fair trial has not been had, or that the verdict is flagrantly against the evidence, or that evidence, discovered since the trial, clearly shows a mistake or a judgment, though correct according to general legal rules, is nevertheless inequitable or wrong by reason of special or exceptional features.

"It is so important to the state that the carrying of concealed deadly weapons should be discouraged, and that manslaughter should be diminished by a strict enforcement of the law against murder or manslaughter, that I cannot give my consent to set aside a judgment where the punishment has not been excessive.

"It is hard to resist the appeal for mercy by the convicted man and his family or friends, but there has been much complaint of the courts for failure to convict a person guilty of manslaughter or murder, and, when a jury and a court have convicted the accused after hearing the evidence, the duty of upholding the courts and the law for the protection of life and property must rest heavily upon the Chief Executive of the state.

"The pardoning power allowed to the Governor by the Constitution imposes upon him a grave duty under his oath of office. I feel the weight of that obligation, and I cannot lightly ignore or weakly discharge it, merely at the prompting of sympathy or at the request of the friends and family of the man condemned by the court and the jury."

From the *Courier-Journal,* Louisville, July 24, 1912.

Million Earned by Men Out on Parole.—"State Parole Officer Ed. H. Whyte, in his monthly report to the California state board of prison directors, has submitted some forceful figures to support the theory of parole. He finds that 1,197 men paroled from San Quentin earned $748,679.85, and saved out of that amount a total of $190,499.12. A total of 400 men paroled from Folsom earned $254,524.02 and saved $60,984.78. The grand total is $1,003,203.87 earned and $251,483.90 saved.

"A quarter of a million dollars put into bank accounts by men who were once supposed to be useless, fit only to be confined in cells and kept from the ordinary walks of life because they could not be trusted.

"Parole officer Whyte's report for the month on this same subject is illuminating, as showing the workings of the parole system, which requires of each man thus liberated a monthly report of his conduct, his cash account, his manner of earning a living, his associates.

"The earnings of all the men on parole in the month of May were $16,848.28; their expenses were $12,532.16; their savings, $4,316.12. This statement refers to 465 men on parole at the beginning of the month—342 from San Quentin and 123 from Folsom. They are at work. The terms of their parole demand that they be continuously employed. Idleness breeds crime.

"Whyte in the course of his month's work must get a report from every man under his supervision. His report tells that he has received visits at his office from 170 and has himself called on 143.

"Almost as illuminating as the record of the paroled men's wage-earning ability is the record of violations. Whyte in his report goes back to the year 1893 and shows that of the 1,637 men released on parole 1,388 'made good.' That is, 84.8 per cent. kept the faith with the prison directors and fully justified the confidence reposed in them.

"Since 1893 only 249 men violated the strict conditions of their parole—that is, entered saloons, left the state, failed to report or neglected the smaller rules set up for their own protection, as well as the safeguarding of society at large. Of this number 153 were returned to the penitentiaries. Of these 249, too, only 22 committed new crimes. That is, out of 1,637 paroled men only 22, or 1.3 per cent., went back to a life of lawlessness.

"The success of the parole law is therefore wonderfully demonstrated by a ratio of 1.3 per cent, of disappointing ones to 98.7 per cent. of men who, once gone wrong, took advantage of the opportunity to keep out of further trouble."

From *The Review,* Vol. VI., No. 8. August, 1912. R. H. G.

Seventeenth Annual Report of the New York State Commission of Prisons, 1911.—The following is abstracted from the latest prison commission report in the state of New York:

"In our report last year the relationship between probation and parole was fully discussed. Under existing law, prisoners on probation and prisoners on parole are treated as distinct classes and are under separate and independent jurisdiction. Prisoners are paroled from the Elmira and Napanoch reformatories and from the Houses of Refuge for Women by the boards of managers; and from the state prisons by the State Board of Parole. Persons are put on probation by the judges of the several courts before whom they are convicted.

"We are not recommending any new method of procedure for the parole of prisoners or for the placing of persons on probation. It has, however, seemed to this commission that the supervision over both classes after parole and after probation is practically identical; that is, the duties of the parole officer and the duties of the probation officer in relation to the person under his care are substantially the same. In the one case the officer reports to the judge, and in the other to the authorities of the prison from which the convict was released. In each case the officer has charge of a person who has been convicted of a crime, and his function is to endeavor to keep such person from committing any further offenses, to aid him toward reformation, to find him employment, to give him advice, and to report at stated periods how such person is conducting himself. A careful and personal oversight is the essential thing in both cases. It would seem, therefore, that the same officials appointed to look after persons on probation could also supervise prisoners on parole, and that it would be a matter both of economy and efficiency to have this work done by the same officials whenever practicable.

"The present conditions make it necessary that every institution paroling prisoners should have parole officers covering the entire state; and under the probation system it is necessary to have a similar corps of probation officers covering the whole state.

"It is the judgment of the commission that the supervision of probationers and the supervision of prisoners on parole is an administrative function, and that some method should be worked out for a co-ordination and, to some extent, a combination of the two systems.

"The report recommends that the general supervision of both probation and parole should be conferred on the State Probation Commission, subject to the existing powers and duties of the Board of Parole and boards of managers of institutions. The commission strongly indorses both probation and parole. * * *

"During the year ending December 31, 1911, about 14,600 persons were put under probationary oversight in the state; and there were about 580 men and women holding appointments as probation officers, about 125 of whom were under salaries.

"The extension of the parole system in this state has been advocated and approved by this commission. Doubt is expressed whether the limitation of the law to first offenders is wise. The question whether or not the second offender should receive a determinate or indeterminate sentence might safely be left to the discretion of the court before which he is convicted; and the question whether or not he should be released on parole might also be safely left to the discretion of the authorities having jurisdiction to grant such parole. It is now the accepted doctrine that the principal objects of imprisonment are the protection of the community and the reformation of the criminal. When these objects can be accomplished as thoroughly by paroling a prisoner as by keeping him longer in confinement, he should be released and allowed to earn his own livelihood to the relief of the taxpayers, and engage in some lawful pursuit for the maintenance of his family.

"The report contains a table showing the number of prisoners paroled during the last three years. The number last year was 832; the number paroled but not discharged at the close of the year was over 1,000. During the year the board considered 1,398 applications; since 1900 the board has considered 8,174 applications and paroled 3,894 prisoners, of whom 3,166 complied with the terms of parole. These figures show that except for parole, our prisons would be congested beyond reason.

"The report shows the number of persons committed during the year for public intoxication and disorderly conduct, and for being drunk and disorderly, was 29,774 males and 7,649 females, an increase of about 2,000 males over the preceding year; the number of females was practically the same. Some of these persons on conviction are sentenced to pay a small fine or a very short term of imprisonment; in other cases heavy sentences are imposed sometimes for a year; and occasionally in addition to that a considerable fine is added, keeping the prisoner in jail for one day additional for each dollar of fine. Some of these punishments are out of all proportion to the offense committed.

"The report again recommends that the county judges or some other designated tribunal be clothed with authority to review and modify the judgments of committing magistrates and to release upon probation and parole any offender committed by any inferior court. This is really an important matter, as in many counties one-half of the commitments to jails and penitentiaries are for public intoxication and kindred offenses; and it is not unusual to find that 75 per cent of the inmates of the county jails have been committed for

these offenses. We believe the present method of treating these offenders in this state to be unwise. It does not reform the prisoner and occupies a vast amount of time of the police officers and magistrates, and costs a great deal of money. Some other effective remedy should be devised. The probation law has furnished some relief, but it does not reach the cases of those who cannot control their appetities and have become to a greater or less extent confirmed inebriates. These need hospital treatment or something in the nature of such treatment.

"The legislature two years ago passed a permissive law for the city of New York, and later for all cities of the first class, authorizing a hospital and industrial colony for the care of inebriates. That institution has not yet been put in operation, but we trust it soon will be and that the same method may be extended to the state at large. Some relief will be afforded by the tramp farm colony authorized last winter. More or less of the men who will be sent to this colony owe their downfall to the drinking habit. The report recommends that this proposed institution receive liberal treatment at the hands of the legislature, in order that it may be put in operation at an early date.

"The report again urges the legislature to establish a state reformatory or industrial and agricultural school for boys convicted of misdemeanors. We believe that the proper treatment of boys when they first begin to go wrong would be a matter of economy to the state. At present, if they are sent to prison at all, they must be sent to jails and penitentiaries where they are more apt to be converted into permanent criminals than to be cured of criminal inclinations, with the result that they soon graduate into the state prisons and spend their lives either in preying upon the community or in some prison at the expense of the taxpayer.

"The number of boys committed during the past year to the penitentiaries, jails and New York City workhouse between the ages of 16 and 20 was 7,381. Adding the number 21 years of age would make 8,857. Boys committed to the "Tombs" and City Prison of Brooklyn are not included in the above, except those who were later sent to the workhouse on Blackwell's Island. During the year there were 2,952 between the ages of 16 and 21 committed to the "Tombs," and 4,361 to the City Prison of Brooklyn. It may be assumed that one-third of the boys committed to county jails were awaiting trial; making that deduction, it would still appear that there were 7,156 boys between the ages of 16 and 21, inclusive, sentenced to jails, penitentiaries and the New York City Workhouse. * * * * *.

"At the meeting of the State Association of Magistrates, it was stated by a number of magistrates that under existing law they could not accept cash bail when a prisoner was held on any charge, whether for a felony or misdemeanor. It is, of course, well settled that a committing magistrate cannot accept bail on a felony charge, but it would seem that he should be allowed to accept cash bail in all cases where he is now allowed to accept a bond. When a man is prepared to put up cash bail, there is no good reason why he should be humiliated by incarceration in a police station or a jail until the matter of bail can be adjusted by some other official.

"The report recommends an amendment of the law, so that cash bail may be accepted in such cases.

"Another matter brought up in discussion at this conference is recommended

for the consideration of the Legislature. When any person is brought before a committing magistrate for any offense which he has jurisdiction to try, he can accept a plea of guilty, and immediately render judgment of sentence. If it is not an offense which he has jurisdiction to try, even on a plea of guilty, he can only hold the offender for the grand jury or for some other court. Unless he gives bail he is then sent to jail, where he remains until his case is investigated by the grand jury. If an indictment is found, it is put on the calendar for trial at some subsequent term of court having jurisdiction.

"It has been found in practice that after this long delay and expense, when the case is reached the defendant often pleads guilty, his plea is accepted and he receives his sentence. In a good many counties the intervals between the meetings of the grand juries are long; in some cases six and even eight months; so that the man is held in jail, sometimes for almost a year before his case is reached for trial, and he then pleads guilty.

"These delays are a hardship to the prisoner, and it would seem that under this method of procedure a vast amount of useless time is consumed and a great deal of cost incurred by the investigation of the grand jury, subpœnaing of witnesses, the preparation for trial by the district attorney, and the maintenance of the prisoner in jail.

"The Commission recommends this matter to the consideration of the Legislature, with the suggestion that a proper provision of law be made so that when a man is charged with an offense less that murder he be allowed to plead guilty at once before any court having jurisdiction to try the offense, with the consent of the court and the district attorney, and receive his sentence; and that he be allowed to do this without the intervention of a grand jury, thereby saving the waste of time, labor and expense mentioned above. The present method keeps the jails filled with prisoners who are willing to plead guilty and begin at once the term of sentence which the court finally imposes. * * * * *

RECOMMENDATIONS.

"The following is a brief resume of the principal recommendations contained in the report:

"1. Expedite the work of relieving the present insanitary and congested condition of Sing Sing prison.

"2. Establish a State industrial and agricultural school for the reformation, education and industrial training of male misdemeanants between the ages of 16 and 21, exclusive.

"3. Enlarge the New York State Training School for Girls at Hudson.

"4. Make the necessary appropriations for progressing the work of establishing labor colonies for tramps and vagrants.

"5. Establish State workhouses to take the places of the present penitentiaries. This is especially urgent, in view of the proposed discontinuance of the Albany penitentiary.

"6. Provide necessary custodial institutions for the proper treatment of feeble-minded delinquents.

"7. Authorize the Probation Commission to supervise both probation and parole.

"8. Provide for increased compensation for the keepers and guards in the State prisons and reformatories.

"9. Make necessary appropriations for the carrying forward to completion the various improvements now in progress at Auburn and Clinton prisons.

"10. Make necessary appropriations for further equipping the State Farm for Women.

"11. Make the Queens County jail a city institution under the care of the Commissioner of Correction.

"12. Authorize county judges or other designated tribunal to review and modify the sentences of inferior courts.

"13. Amend criminal law so that committing magistrates and police officials may accept cash bail in any case where they can now accept a bail bond.

"14. Seriously consider giving authority to any court having jurisdiction to try the accused, to accept a plea of "guilty" with the consent of the court and the district attorney and pronounce sentence without the intervention of a grand jury. If deemed advisable, propose an amendment to the Constitution authorizing such procedure."

The report is signed by Henry Solomon, president, and Geo. McLaughlin, Secretary.