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Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.

ANTHROPOLOGY—PSYCHOLOGY—LEGAL-MEDICINE.

Sterilization of Criminals and Defectives.—The question of "sterilization" has passed nearly through its academic stage. It is no longer to be regarded merely as the aberration or idiosyncracy of some "crank" warden, doctor, or alienist. I was told last summer by the conservative secretary of a Western State Board of Charities, that the only trouble with sterilization is that it is not used often enough! But when we begin to find serious notice taken by European scientific workers of American applications of sterilization we may safely presume that the principle has arrived! The German publication, *Juristisch-psychiatrische Grenzfragen,* (Vol. III) last year contained two notable articles on this subject. One from Dr. Hans W. Maier, on the North American laws against the inheritance of crime and insanity and their application; the other from Dr. Emil Oberholzer, on castration and sterilization of the insane in Switzerland. Dr. Löffler, editor of the *Osterreicische Zeitschrift für Strafrecht* (Heft. 6, 1912) notes these articles and gives a very fair resume of the problems involved. Other recent treatments of the sterilization question from different angles are to be found in *Archiv f. Kriminal-Anthropologie,* etc., XXXIX, 32; *Zeitschrift f. die gesamte Strafrechtswissenschaft,* XVIII, 446; *Monatschrift f. Kriminalpsychologie und Strafrechtsreform,* V. 734-743. Dr. Ernst Rosenfeld, in writing of his impressions as a delegate to the last International Prison Congress, (*Blätter f. Gefängniskunde,* 45:286-9) concludes unfavorably on the practice of sterilization at least as he saw it in Indiana. *Auf mich hat der Vorgang einen abscheulichen Eindruck gemacht,* he says. But another distinguished foreign delegate, Dr. Gennat, Director of Prisons at Hamburg, recently expressed himself as favoring "emasculation," at least of men convicted of crimes against decency. We need not multiply examples. Enough has been said to warrant the criminologist or the lawyer in treating the sterilization question seriously in formulating his science or his project for legal reform. ARTHUR J. TODD, University of Illinois.

Report of Physician and Psychologist on the Reformatory Population at St. Cloud, Minn.—The following report to General Superintendent F. L. Randall, bears the date of May 16, 1913. It covers a year's work by Dr. Green for the population of the State Reformatory, at St. Cloud.

To the General Superintendent:

Mental examinations have been made in the cases of 250 inmates up to this time, and I am submitting herewith a report of my findings.

In making these examinations the Binet-Simon tests were used, supplemented in some cases by tests devised by Dr. William Healy, of Chicago, and used by him in the Juvenile Court. The Binet-Simon test, as you know, consists of graded mental tasks, increasingly difficult to perform proportionate to advance in age. The advantage possessed by this system of measuring the intelligence is that the tests are standardized to various ages from 3 to 12 years, eliminating the personal factor of the examiner in great part, which is very desirable. These tests were originally devised for measuring the intelligence of children. In applying them to adult subjects it becomes very neces-

sary for one who reviews the results to remember that the man whose chronological age is 25, but whose mental age is 10, has had 15 years of experience and training, more than one whose mental and chronological age is 10. From a superficial observation the former would naturally appear to be entitled to a higher mental grade, which is only apparent for the reason stated, and not real.

In the 250 cases examined, I have found:

Mentally average, or above	89
Morons (Mental age 8 to 12)	147
Imbeciles (Mental age 5 to 7)	14
Total	250

The English Royal Commission of 1904, formulated the following definitions, which have been adopted by the American Association for the study of feeblemindedness.

Morons: Those feeble-minded persons whose mental development is less than normal but exceeds that of imbeciles, and who are capable, under favorable circumstances, of earning their own living. Of this class, you will note, we have 147.

Imbeciles: Those feeble-minded persons whose mental development exceeds that of idiots, but who are incapable of earning their own living. Of this class we have 14.

This partial survey takes into account a little more than half of the population, but I believe final results will show the percentage of defectiveness practically unchanged. These cases were taken numerically; no selection was practised, except in cases where I received a special request from you for an examination to be made.

An attempt was made to find out from those examined the existence of insanity or feeble-mindedness in their parents or families. The difficulty met with here is obvious. Those who are mentally subnormal would have little knowledge of the mental defect in members of their families, unless such persons had been taken to the asylum or school for feeble-minded.

In some cases too, I feel assured that for other reasons information of this kind was denied. Under such conditions of inquiry, however, 10% of those examined admitted having insane or feeble-minded parents or relatives. Five have suffered at some time with fits, epileptic in character, and 20 are admitted masturbators.

I am led to believe by the large percentage of mentally subnormal, the nature of their crimes, and in many cases repetitions, that most of the crimes for which men are committed here should be credited to a lack of intelligence. In other words, their criminal acts seem to be due more to a lack of mental development, and not to acquired viciousness.

I regret that this report is necessarily so incomplete, but other work engaging my time, you will understand, has made it impossible for me to do more in the way of making mental tests up to this time.

Respectfully submitted.

(Signed) E. F. GREEN, Physician.

Psychological Problems of Penal Jurisprudence.—Under the above title Andreotti Alfredo has in the May-June number of *Il Progresso del Diritto*

Criminale, an article entitled *Lulla comunicabilita della causa honoris ai compliai extranei al delitto d'infanticidio,* which deals with one of those exemptional laws peculiar to continental jurisprudence and so foreign to English law, that they are inevitably a shock to a common law lawyer, who equally inevitably congratulates himself on his broad-mindedness, when he overcomes his first surprise and accepts them even in theory. Article 369 of the Italian Penal Code provides that when an infant is killed under certain conditions in order to conceal an illegitimate birth by its mother, her husband, brother or sister, lineal ascendant, or adopted parent, the ordinary punishment for murder is reduced to imprisonment of from three to twelve years. This article came before the Roman Court of Cassation, who handed down the following opinion in part that Art. 369 was, of course, restricted in application to the person therein named, and that "whoever takes part as an accomplice in the killing of an infant, committed by one of the persons named in Art. 309, Penal Code, must be held guilty as an accessory in voluntary homicide." This opinion, of course, may not appeal to American lawyers, for it gives us accessories, guilty, where there is no principal, but our author, being a continental jurist, is not worried on such a score. He takes up "the critical examination of the arguments upon which the theses of the communicability or incommunicability of this *causa honoris* rests." We must, however, before everything else, note the point of view of the Italian court, which has not considered the opportunity as a reason for increasing the punishment as a deterrent, but looks upon the incentive as a reason for decreasing the punishment, because the greater the incentive the less criminality is, *ceteris paribus* involved in the crime. This determined the opinion of the court. The exemption was personal. It was allowed out of regard for the psychological state of certain persons. It was incommunicable in fact, and law must follow fact. However much one may vicariously suffer for the disgrace of a friend, the psychological state is very different from that caused by one's own disgrace, even if such disgrace lies not in one's own shame but in that of a near member of one's family. The exemption should not, therefore, be extended, as the reasons for it do not extend in fact. An accessory is such by reason of his help in an objective fact. A *quid juris* so marks him, that the fact, by reason of the principles, age or provocation is given in his regard to different *nomen juris* and cannot affect him. Thus, the Italian Court held though A, who killed the infant, is for sufficient personal reasons of a psychological nature held guilty of crime. B, who helped him, to whom, however, the said sufficient personal reasons of a psychological nature did not apply, could be guilty of crime because the *quid juris* was the same. This reasoning is perfect. Its wisdom cannot be doubted. It goes to show, as so much of modern Italian law does show, the accuracy and advantage of canon law, as developed by modern science, aided by discoveries in psychology and sociology and applied by men of a scientific and philosophical juridical training.

Herein lies the interest of Alfredo's review to us. It is not the particular case that should govern. The exemption of the *causa honoris* may be had, perhaps it is impracticable only in America, but the spirit which prompted its enactment and the kind of examination to which it was subjected in the Italian appellate court are qualities which could well be imported into American legislation and American criminal trials. Until this spirit does prompt us in our law making and law enforcing, we cannot hope to accomplish efficiently the

great object of all criminal jurisprudence—the lessening and ultimate and final abolitional of crime. J. L.

COURTS—LAWS.

State Laws Regulating Marriage of the Unfit.—(From the Annual Report of the National League for the Protection of the Family.—Rev. Samuel M. Dike, Sec.)

NO REGULATION BY STATUTE.

Thirteen states and territories make no regulation by statute. These are Alabama, Arizona, Colorado, Florida, Indian Territory, Louisiana, Maryland, Missouri, New Mexico, Pennsylvania, South Dakota, Tennessee, and Texas. But some of these states secure the aims of these restrictive measures through provisions in their divorce laws.

DISQUALIFICATIONS IN OTHER STATES.

Arkansas declares void all marriages when at the time either party is incapable of consenting to the marriage from want of understanding.

California provides for their annulment when either party is of unsound mind.

Connecticut makes the marriage of epileptic, imbecile, or feeble-minded, a criminal act.

Delaware makes marriage with a person who is insane at the time void.

The *District of Columbia* makes voidable the marriage of an idiot or person judged insane.

Georgia declares the marriage of an insane person void.

Idaho provides for the annulment of a marriage when either party is of an unsound mind.

Illinois makes void the marriage of an insane person or an idiot.

Indiana provides that no license to marry shall be issued where either party is an imbecile, epileptic, of unsound mind, nor to any person who is or has been within five years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed and that such male applicant is able to support a family and likely to so continue, nor shall any license issue when either of the contracting parties is affected with a transmissible disease, or at the time of making application is under the influence of an intoxicating liquor or narcotic drug. (Act of April 15, 1905.)

Iowa makes the marriage of the insane or idiot subject to annulment.

Kansas prohibits the marriage of an epileptic, imbecile, feeble-minded, or insane person except when the woman is over forty-five years of age.

Kentucky prohibits the marriage of an idiot or a lunatic.

Maine declares void the marriage of an insane or idiotic person.

Massachusetts prohibits the marriage of insane persons or idiots.

Michigan prohibits the marriage of insane persons and idiots. It also provides that no person who has been confined in any public institution or asylum as an epileptic, feeble-minded, imbecile, or insane patient shall be capable of contracting marriage unless before the issuance by the county clerk of the license to marry there be filed in the office of said county clerk a verified certificate from two regular physicians of the state that such person has been completely cured of such insanity, epilepsy, imbecility

or feeble-mindedness and there is no probability that such person will transmit any of such defect or disability to the issue of such marriage. By an Act of 1899 persons afflicted with certain venereal diseases and not cured are forbidden to marry.

Minnesota prohibits the marriage of a woman under the age of forty-five or a man of any age (unless he marries a woman over forty-five) if either party is an epileptic, imbecile, feeble-minded, or afflicted with insanity.

Montana provides for the annulment of marriages of persons of unsound mind.

Nebraska makes void marriages of those insane or idiotic at the time of marriage.

Nevada makes voidable marriages where either party is incapable for want of understanding of assenting to the marriage unless there is voluntary cohabitation after such incapacity is removed.

New Jersey prohibits any person who has been confined in any public asylum or institution as an epileptic, insane, or feeble-minded patient from intermarrying within the state without a certificate from two regular physicians.

New York makes voidable marriages where either party is incapable of consenting from want of understanding.

North Carolina makes all marriages voidable where either party is incapable of contracting for want of will or understanding.

North Dakota provides that marriages may be annulled when either party is of unsound mind, unless such party freely cohabits with the other party as husband and wife.

Ohio provides that no marriage license shall be granted where either of the parties, applicants therefor, is an habitual drunkard, epileptic, imbecile, or insane, or who at the time of making application for said license is under the influence of any intoxicating liquor or drug.

Oklahoma declares void the marriage of an insane person or idiot.

Oregon makes voidable marriages where enther party is incapable of contracting or consenting for want of sufficient understanding.

Rhode Island declares marriages void when either party is an idiot or lunatic.

South Carolina prohibits the marriage of idiots and lunatics.

Utah prohibits the marriage of the insane and lunatic and those persons who have syphilis or gonorrhea and are uncured, and those having chronic epileptic fits.

Vermont makes marriages voidable when either party is an idiot or lunatic, unless after the restoration of such persons to reason the parties voluntarily cohabited.

Virginia makes voidable the marriage of the insane.

Washington, by Act of 1909, prohibits the marriage of a common drunkard, an habitual criminal, the epileptic, imbecile, feeble-minded, an idiot or insane person, or one afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease.

West Virginia makes marriages of the insane voidable.

Wisconsin both prohibits and makes void the marriage of the insane and idiotic, and also makes them criminal.

Wyoming prohibits the marriage of the insane and idiotic.

LAW RELATING TO JUVENILE OFFENDERS

SUMMARY BY CAUSES.

Insanity, Lunacy, and Want of Understanding or Will to Consent.—Thirty-four states or jurisdictions make restrictions under some one of these terms: Arkansas, New York, North Carolina and Oregon—Oregon using the last of the three terms given above. The other states are: California, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

The Imbecile and Feeble-minded.—Eight states specify the imbecile or feeble-minded as follows: Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, Ohio and Washington.

Idiotic.—Fifteen states and the District of Columbia specify the idiotic as follows: District of Columbia, Illinois, Iowa, Maine, Massachusetts, Michigan, Mississippi (providing divorce in such cases), Nebraska, Oklahoma, Rhode Island, South Carolina, Utah, Vermont, Washington, Wisconsin and Wyoming.

Incapable of Consent.—Four states put a restriction in this form: Arkansas, New York, North Carolina and Oregon.

Epilepsy.—Nine states specify epilepsy. They are Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, Ohio, Utah and Washington.

Drunkenness is named in the statutes of only two states as a bar to marriage. Ohio specifies habitual drunkenness and Washington the common drunkard.

Venereal and other contagious diseases are a bar to marriage in four states. Indiana names only a transmissible disease, and Michigan, by an act of 1899, and Utah and Washington, by acts of 1909, specify venereal diseases as a bar to marriage.

The Indigent.—One state, Indiana, regulates with considerable care the marriage of the indigent.

As the suggestion is frequently made that the marriage of those afflicted with venereal disease should be legally regulated, inquiry has been made into the working of the law on the subject in Michigan, the only state that has had the law long enough to test it fairly. The testimony of leading men interested in checking these diseases is that the law has no practical value. It is easy to see why such a law must be, to a great extent, a failure, and that our hope must rest on the influence on education, in various ways, and on the direct action of the parties to be married, their parents, pastors and physicians. The evils are of a grave character, both on account of their wide prevalence and their most serious effects on the parties immediately concerned and their descendants. But their legal prevention is difficult.—From *The Training School,* Vol. VIII, No. 10.

(Since the above was published, Wisconsin has made the medical certificate a prerequisite to marriage.)

R. H. G.

Law Relating to Juvenile Offenders in Vermont.—The following progressive legislation was enacted in Vermont by the last legislature:

LAW RELATING TO JUVENILE OFFENDERS

AN ACT TO DEFINE AND REGULATE THE TREATMENT AND CONTROL OF DEPENDENT AND DELINQUENT CHILDREN; TO PROVIDE FOR THEIR DISPOSITION, CARE, EDUCATION, PROTECTION, SUPPORT, MAINTENANCE, PUNISHMENT, GUARDIANSHIP AND ADOPTION; TO PRESCRIBE THE POWERS AND DUTIES OF COURTS, POLICE OFFICERS AND PROBATION OFFICERS WITH RESPECT THERETO; TO FIX THE JURISDICTION OVER JUVENILE OFFENDERS IN THE PROBATE COURT AND PRESCRIBE ITS POWERS AND PROCEDURE IN SUCH CASES; AND TO RESTRICT THE IMPRISONMENT OF CHILDREN.

It is hereby enacted by the General Assembly of the State of Vermont:

Section 1. This act shall apply only to children under the age of sixteen years; provided, however, that when a child under the age of sixteen years shall come into the custody of the juvenile court under the provisions of this act, such child shall continue, for all necessary purposes of discipline, a ward of such court until, if such child be a boy, he shall attain the age of twenty-one years, and if such child be a girl, until she has attained the age of eighteen years, unless sooner discharged as hereinafter provided. The words "delinquent child" shall, for the purposes of this act, include a child under sixteen years of age who violates a law of this state or a city or village ordinance; or who is incorrigible; or who is a persistent truant from school; or who associates with criminals or reputed criminals, or vicious or immoral persons; or who is growing up in idleness or crime; or who wanders about the streets in the night time; or who frequents, visits, or is found in a disorderly house, house of ill fame, saloon, barroom or a place where intoxicating liquors are sold, exchanged or given away; or who patronizes, visits, or is found in a gambling house or place where a gambling device is operated; or who uses vile, obscene, vulgar, profane or indecent language, or is guilty of immoral conduct. For the purposes of this act, the words "delinquent child" or "neglected child" shall mean a child under sixteen years of age who is dependent upon the public for support; or who is homeless, destitute, or abandoned; or who has not proper parental care or guardianship; or who begs or receives alms; or who is found living in a house of ill fame or with a vicious or disreputable person; or whose home by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child, or whose environment is such as to warrant the state, in the interests of the child, in assuming its guardianship. The word "child" or "children," as used in this act, may mean one or more children, and the word "parent" or "parents" may mean one or both parents as may be consistent with the intent of the act.

Sec. 2. The probate courts of the several probate districts in this state shall have original jurisdiction of all cases coming within the provisions of this act, in their respectve districts, and a child against whom proceedings are had under this act, and the parent or guardianship of such child, shall have the right to an appeal from the action of the probate court in the same manner in which appeals are taken from said court in other causes, provided that no recognizance or bond for such appeal shall be required. The

probate court shall keep a separate record of proceedings under this act to be known as a "juvenile record."

Sec. 3. A reputable person who is a resident of the probate district, having knowledge of a child in his district who appears to be either dependent or delinquent, may file with the probate court for that district a petition in writing, setting forth the facts, verified by oath. It shall be sufficient that the facts be stated in such petition and upon information and belief.

Sec. 4. Upon the filing of the petition, a summons shall issue requiring the person having the custody or control of the child, or with whom the child may be, to appear immediately with the child at a place stated in the summons. The parent or guardian, or if there be neither, then a relative of such child, if the residence of such relative be known, shall be notified of the proceedings, and, in any case, the judge may appoint some suitable person to act in behalf of the child. If the person summoned as herein provided fails, without reasonable cause, to appear and abide the order of court, or bring the child, he may be proceeded against as for contempt of court. In case the summons cannot be served or the party served fails to obey the same, or, in any case, when it is made to appear to the court that such summons will be ineffectual, a warrant may issue on the order of court, either against the parent or guardian or the person having custody of the child, or with whom the child may be, or against the child itself. On the return of the summons or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner. Pending the final disposition of a case, the child may be retained in the possession of the person having charge of the same, or may be kept, in the discretion of the court, in some suitable place provided by the city or town authorities or by some private individual or association, or placed in charge of the probation officer.

Sec. 5. The probation officer for the county in which the probate court is held, shall, at the request of such court, investigate cases arising under the provisions of this act, and shall, if the court so directs, take charge of a delinquent or dependent child under such conditions as may be specified in the order of court.

Sec. 6. When a child is found to be dependent or neglected within the meaning of this act, the court may make an order committing the child to the care of some suitable state institution or to the care of some reputable citizen of good moral character who is willing to receive the same without charge, or to the care of some association willing to receive it, embracing in its objects the purposes of caring for or obtaining homes for dependent or neglected children. The court may, when the health or condition of the child requires it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge.

Sec. 7. In a case where the court awards a child to the care of an association or individual in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the guardianship of the association or individual to whose care it is committed. Such association or individual shall have authority to place such child in a family home, and be made a party to proceedings for the legal adoption of

the child, and may, by its or his attorney or agent, appear in any court when such proceedings are pending, and assent to such adoption. And such assent shall be sufficient to authorize the court to enter the proper order or decree of adoption. Such guardianship shall not include the guardianship of the estate of the child.

Sec. 8. In the case of a delinquent child the court may continue the hearing from time to time, and may commit the child to the care and custody of the probation officer, and may allow said child to remain in its home, subject to the visitation of the probation officer; and subject to be returned to the court for further or other proceedings whenever such action appears to be necessary; or the court may cause the child to be placed in a suitable family home, subject to the supervision of the probation officer, and the further order of court, or it may authorize the child to be boarded in some suitable family home, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child; or the court may commit such child to the care and custody of a reputable citizen of good moral character who is willing to assume such supervision without charge, or to an association or institution within the state that receives and cares for delinquent children; or such child may be committed to the Vermont industrial school or other suitable public institution, provided that all commitments to said school under this act shall be governed by the provisions of law relating to commitments thereto. A child committed to the Vermont industrial school or other public or private institution shall be subject to the laws, rules and regulations governing such schools or institutions.

Sec. 9. When a child known to be under sixteen years of age is arrested, with or without warrant, charged with a crime not punishable by death, such child shall, instead of being taken before a justice of the peace or other court of criminal jurisdiction, be taken directly before the probate court for the district in which the child was arrested, and the probate court shall proceed to hear and dispose of the case in the same manner as if the child had been brought before it upon petition as hereinbefore provided, and in such case the court shall require notice to be given and investigation to be made as in other cases arising under this act, and may adjourn the hearing from time to time for that purpose, and, pending the final disposition of the case, the child may be retained in the possession of the person having charge of the same, or may be kept, in the discretion of the court, in some suitable place provided by the city or town authorities, or by the officer making the arrest, or by some private individual or association, or placed in charge of the probation officer. If a criminal complaint and warrant has been issued against such child, the officer serving the same shall return such complaint and warrant to the court which issued the same, stating in his return that he has served the warrant and has taken such child before the probate court as hereinbefore provided; and thereupon the court which issued the warrant shall enter the case transferred to the probate court under the provisions of this act.

Sec. 10. No officer, court or magistrate shall commit a child known to be under sixteen years of age to jail or other prison, unless such child is charged with a crime punishable by death; but if such child is unable to give bail it may be detained in or committed to the care and custody of the sheriff, police officer or probation officer, who shall keep such child in some

suitable place, or it may be held otherwise as the court may direct; provided, however, that nothing in this act shall be held to amend or repeal existing acts or laws relating to sentences to or confinements in the Vermont industrial school, or transfers from that school to jails or penal institutions.

Sec. 11. The court may at any time require from a private institution, association or person receiving or desiring to receive children under the provisions of this act, such reports, information and statements as the judge deems proper and necessary for his action, and the court shall in no case be required to commit a child to the care of a person, association or institution whose standing, conduct or care of children, or ability to care for the same, is not satisfactory to the court.

Sec. 12. In a case in which the court finds a child neglected, dependent or delinquent, it may in the same or subsequent proceedings, upon the summoning or volunteer appearance of the parents of the child, or either of them, proceed to inquire into the ability of such parent or parents to support the child or contribute thereto, and if the court finds such parent or parents able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its orders or decrees; and no property of such parent or parents, or either of them, shall be exempt from levy and sale under such execution. Such parents or either of them shall have the right to an appeal to the county court from the order of the probate court.

Sec. 13. The fees of officers and courts incident to proceedings under this act shall be paid by the state, provided that in proceedings under section 12 of this act the court may, in its discretion, assess costs against such parents, and in the case of an appeal to the county court from the action of the probate court in proceedings under this act, the county court may, in its discretion assess such costs against the appellant as are deemed just.

Sec. 14. Nothing in this act shall be construed to repeal any portion of the criminal law of this state, nor of any law concerning or affecting minors, except such portions thereof as are in conflict with the provisions of this act, and all such portions are hereby repealed.

Sec. 15. This act shall be liberally construed to the ends that its purpose may be carried out; that the care, custody and discipline of a child shall approximate, as nearly as may be, that which should be given by its parents; and that the restraint of a delinquent child shall tend rather toward his reformation than to his punishment as a criminal.

Approved January 23, 1913. R. H. G.

The Indeterminate Sentence and Parole Laws in Indiana.—The indeterminate sentence and parole laws have been on the statute books of Indiana since 1897. As first enacted, only the state prison at Michigan City and the reformatory at Jeffersonville were affected, but the legislature of 1899 extended their benefits to the woman's prison at Indianapolis. They apply to all men over sixteen years of age and all women over seventeen years, unless convicted of treason or murder in the first or second degree. Between the minimum and maximum terms of imprisonment prescribed by law as a penalty for the crime committed, prisoners serving an indeterminate sentence may be conditionally released by the

parole board of the respective institutions, consisting of the board of trustees at the reformatory and state prison, the trustees, superintendent, chaplain and physician at the woman's prison. The state prison parole board originally was composed of the trustees, the warden, chaplain and physician, but the legislature of 1907 changed the law to conform to that of the Reformatory. Prisoners who have served their minimum term are eligible to parole if in the judgment of the parole board there is reasonable probability that they can live at liberty without violating the law. Paroled prisoners may be held under supervision until the expiration of the maximum term; at the same time the parole board has authority to grant an absolute discharge whenever it appears not incompatible with the welfare of society. In actual practice paroled prisoners who have complied with the conditions of their release are usually discharged at the end of one year.

Up to September 30, 1912, the reformatory, the state prison and the woman's prison had granted conditional releases to 6,945 of their prisoners. Sooner or later the terms of all these prisoners would have expired and they would have left the institution free men and women; but going out as they did under the parole law they remained under the control of the state until they gave satisfactory proof of their reformation and their ability to maintain themselves. By paroling them and exercising over them such supervision as was necessary until they became rehabilitated, the state saved to useful citizenship many who might have continued in criminal ways and become a menace to the public welfare.

The reports to the Board of State Charities indicate that of the 6,945 paroled prisoners, 4,000 completed the parole period to the satisfaction of those in charge and were released from supervision. An additional 449 were discharged because the maximum limit of their sentence was reached during the parole period. At the close of the fiscal year, 573 were under supervision and reporting to the authorities and 120 had died. These various classes make a total of 5,142. The remaining 1,803 are the failures, those who are known to have broken faith. They constitute 25.9 per cent of the whole number paroled. Every effort is made by the authorities to apprehend these delinquents. Up to September 30 they had returned 1,024 to the institutions, but 779 were still at large.

The appended table in the report sets forth in separate columns the results of these laws in the three institutions to which they are applicable. The reformatory, up to the close of the year, had paroled 4,171 young men and its unsatisfactory cases numbered 1,087, or 26 per cent. Of the 2,580 men paroled from the state prison, 659 or 25.5 per cent proved delinquent. The woman's prison paroled 194 women, of whom 57 or 29.3 per cent proved delinquent.

The records show that the system is as great a success financially as otherwise. The prisoners, during the time they were under supervision, never less than a year, reported earnings for themselves amounting to $1,886,995.53 and expenses amounting to $1,568,466.66, these reports being certified by their employers. These ex-prisoners, therefore, not only were self-sustaining, but had on hand or due them when they ceased reporting a total of $318,528.87. Had they remained in prison, their maintenance

for one year would have cost the state, at the average per capita expense, the additional sum of $1,152,555.80.

A. W. BUTLER, Secretary State Board of Charities, Indianapolis.

Law Relating to Social Vice in Kansas.—A stringent bill became law in Kansas March 30, 1913 (H. B. 40) which makes it a felony—1 to 5 years—at hard labor to entice or detain any female for prostitution, concubinage, or fornication. It makes the keeper of any house for immoral purposes equally guilty, and makes owner of such premises, after notice, guilty also. It voids the lease of any tenant who uses premises for such purpose, authorizes injunction in the name of the state to vacate place of prostitution, and makes it a misdemeanor to solicit any male person to enter such place.

J. C. RUPPENTHAL, Judge 23rd District, Russell, Kans.

"First Aid" to Justice.—A splendid illustration of what can be accomplished through the frank, free, sympathetic co-operation of a group of citizens, with judges, magistrates, probation officers, public officials and religious and charitable agencies, working harmoniously together, actuated by a common purpose, and with no private end to serve, is afforded in the work of the Committee on Criminal Courts of the Charity Organization Society of New York, which has just completed a second year of its activity.

The year has been one of definite accomplishment, of strengthening of relations, of a broader appreciation of the newer ideals of social justice, of a changed point of view on the part of the courts, it is not too much to say—of the dawn of a new era in the treatment of the minor offender.

It has seen the practical abolition of the system of fining women of the street, that ancient evil, preposterous in its inner significance, but an evil that still prevails in nearly all other American cities; the year has seen the beginning of a proper system of identification of convicted offenders, thus making possible their rational treatment by the separation of the first offender from the chronic "rounder"; through this step the door has been opened to a more humane treatment of inebriates and a more intelligent grappling with the problem of vagrancy; ultimately it will make possible the treatment of each offender with relation to what will restore him to his position as a useful member of society or keep him as such; not punishment, but rehabilitation.

The year has seen the development of the work in the Children's Courts by leaps and bounds. In the words of Justice Hoyt of that court: "The last eight months' advance has been far greater than any similar advance in any previous eight years." A new children's court building centrally located in a quiet neighborhood has been assured, and is now being constructed from plans that will make it a model for all other cities: For the first time, the Children's Courts have been equipped with a paid staff of probation officers devoting their whole time to the work; starting at the beginning of the year with 20 officers, we have just begun to learn how far short of real probation work the work of the court has hitherto been, notwithstanding the deep interest of the judges and the devoted service of the small group of volunteer workers attached to the court; with 20 probation officers as a nucleus, a comprehensive plan of probation work has

been outlined as a result of special expert study of the needs of the court; and the 20 probation officers provided for the first year have been increased to 40 for the second year, a very great increase but a number still far from adequate to meet the real needs.

More important than new building or permanent and competent probation officers has been the great change that has taken place in the court itself. For the first time in the history of the city there have been judges assigned to the Children's Court for substantial periods of time and with continuity of service. In the Manhattan court there have been but two different judges throughout the year and each one of these has presided for three months at a time.

The result has been just what was anticipated, the judges have become experts; the needs of the courts have been studied; the defects of the system have been laid bare and remedies proposed; broad far-reaching plans for co-operation have been developed and are about to be carried into effect—in a word the Children's Courts are taking their rightful place in the city's social life.

The progress of the year has been by no means limited to the Juvenile Courts. Of vital consequence to the community has been the development of the first thoughtful and comprehensive programme yet proposed for the intelligent treatment of the prostitute, who constitutes so large a part of the women arraigned in our courts; the year has seen not only the unfolding of this plan, but the first step taken towards its carrying out.

Important legislation has been secured, strengthening the operation of the Domestic Relations Courts and at the same time administrative changes have been carried into effect bringing about a wider and more effective use of the court by social agencies.

The Inferior Courts Act has been strengthened through amendment and objectionable legislation has been defeated. The old notorious Essex Market Court building, so long a disgrace to the city, and so often condemned by successive Grand Juries and Boards of Health, is a thing of the past. In its place is to be erected a new building which is expected to prove a model for all future Magistrate's Courts. A well-chosen site for this building has been selected and is now in process of being acquired.

Other buildings heretofore found inadequate are being radically altered and much needed additional space secured.

The needs of the city have been carefully studied and the establishment of an additional Magistrate's Court has been urged upon the city authorities. The committee's work has been strengthened by the formation of a similar committee in Brooklyn, with similar aims and purposes.

Such is but a bare outline of the year's work in this field; a fuller account of these activities will be found set forth in the Annual Report published by the Committee. In all of these activities the Committee has played a vitally important part. It has furnished not only the stimulating energy, but has been as well the effective agency, in many cases carrying out the changes proposed; it has furnished at times the sinews of war; and has constantly placed at the disposal of the judges and other officials expert service of various kinds. No realization can be had from this bare summary of the infinite amount of detailed work that has been involved; the careful research, the constant conference, the establishment of diplo-

matic and tactful relationships, the subordination of private opinion, the willingness to serve without thought of credit or public recognition.

LAWRENCE VEILLER,
Secretary Committee on Criminal Courts of the Charity Organization Society, New York.

New Probation Law in Vermont.—The Vermont Commission on Probation has recently secured the enactment of an act to codify and amend the laws of that state relating to probation. It contains the radical provision that probation officers, instead of being appointed, as hitherto, by judges, shall hereafter be appointed by the State Probation Commission. According to the terms of the law, the first appointments were required to be made on March 1, 1913, and similar appointments shall be made bi-ennially hereafter. Each county has its own officer who serves during the pleasure of the State Commission. In case of need, special additional officers may also be appointed. The amount of compensation of the probation officers shall be determined by the county courts. The State Commission shall also "make all needful rules and regulations for the efficient administration of the statutes relating to probation; shall provide for such co-operation of probation officers and others connected with the administration of probation laws as in their judgment will best promote the system of probation, and to that end may hold such meetings for conference and instruction as they deem necessary; and shall prepare the forms of records, blanks and reports, and procure the necessary record books, blanks and stationery for the use of probation officers."

Section 14 of the new law authorizes probation officers, upon direction of the court, to expend for the temporary support and traveling expenses of the probationers such reasonable sums as the court may deem expedient. The amounts so authorized to be expended shall be entered on the docket of the clerk or records of the judge or justice and made a part of the record of such cause.

This new act, which was approved on January 16th, is original in many of its features. The law, together with a new act relating to the treatment of persons convicted of intoxication and a new chancery juvenile court law, is published in a pamphlet issued by the State Commission on Probation. The law is quoted in full above.—[Ed.] A. W. T.

Oudinot on Conditional Convictions.—Twenty years of experience with conditional conviction under the *loi Bérenger* (of March 26, 1891), in Frankreich, may be studied in a report by Dr. Marcel Oudinot. The essential elements of the law are: provisional release; such release to be final if the person convicted does not become an offender again within five years. Recidivism is punished with severity. Pardon is not a feature of the law. The use of the short term in prison is avoided, all admitting that it is an evil.

It is shown that the courts have made increasing use of the law as its effects are better known. In 1892, out of 1,000 permissible cases only 127 were treated under this law; while in 1907 the rate per 1,000 was 328. Recidivism has decreased; this being due to some extent to this legal innovation; and first offenses have not increased. Some abuses require correction and the author recommends: that this measure should not be employed

by the juries, nor substituted for fines, nor applied to minors; that it should be restricted to persons who have not been convicted before for any ordinary misdemeanor. He urges also that the benefits of the conditional release be not given in addition to the plea of "mitigating circumstances" and exemption of the detention awaiting trial from the term of punishment.

C. R. H.

Juvenile Court Legislation.—By virtue of an act approved by the Governor of Vermont on January 23rd, that state has added to the growing number having chancery instead of criminal juvenile courts. The new law, which vests jurisdiction in children's cases in the probate courts, follows the main lines of the original Illinois Juvenile Court Act of 1899.

New York State can now boast of two counties instead of one having a similar law. The Monroe County Juvenile Court Act of 1910 has been adapted to the neighboring county of Ontario through the enactment of chapters 269 and 270 of the Laws of 1913, giving the county court of Ontario County exclusive jurisdiction over all cases of delinquent and dependent children in that county, and concurrent jurisdiction over cases of offenses against children. The board of supervisors have made funds available for the employment of a probation officer, and the State Civil Service Commission is soon to hold an examination.

A bill introduced into this year's session in the New York State Assembly by its majority leader, Mr. Aaron J. Levy, contemplated the abolition of the four children's courts in New York City and the vesting of their powers and duties in a "children's bureau" of the City Board of Education. The measure excited some little furor at first, but it was soon realized that the measure contained insurmountable difficulties and had no likelihood of receiving serious consideration at the hands of the legislators. The charge was made, and evidently on good grounds, that the bill was drafted primarily in the interests of a certain school principal who had aspirations to become the chief justice of the proposed new "children's bureau," as the new court would have been called. The principal objects served by the bill were to focus attention on the fact that the New York Children's Courts have within the last year or two made very substantial progress, and now command a much greater degree of public confidence than ever before.

According to the March number of "Seeking and Saving," published in London, the Spanish Minister of Justice has recently introduced in the Senate a measure for the appointment of a special judge and court for dealing with juvenile delinquents. It is proposed that the judge shall be allowed wide discretion in administering the law, particularly in determining whether the children possess an adequate knowledge of right and wrong. Children lacking normal powers of moral discernment may be sent to charitable institutions. It is also provided that delinquents under 15 years of age may be committed to remand homes.

A. W. T.

Annual Conference of County Attorneys of Kansas.—The annual conference of county attorneys of the State of Kansas held Thursday, April 3, 1913, furnishes food for thought. While efforts are being made to secure the improvement of the criminal procedure, why should there not be an

intelligent effort made to secure increased efficiency in the "human agencies" employed in the arrest, trial and punishment of offenders among them, the prosecutor? Many prosecuting attorneys come to the office without much, if any, experience in criminal prosecution. Many of them are fresh from law school, where, though they study the law of crimes, but little attention is paid to the practical side of the prosecutor's duties. At present experience, alone, teaches the representative of the state the many duties of his office. So long as these are neglected in the law schools, an annual conference of the men engaged in the prosecution of offenders is of great importance. In such a meeting, much can be learned from the interchange of experiences and opinions. The Kansas conference is a voluntary association called each year by the Attorney General of the state. The sessions are devoted to the consideration of the various duties of the office of county attorney and not solely to that of prosecutions. A high conception of the position can thus be taught those who are newly elected, and greater efficiency will undoubtedly follow. It is hoped that similar associations will be formed in the various states. In Kansas, sixty-three of the county attorneys attended the last meeting.

W. E. H.

Summary of Recent Legislation in Kansas in Respect to Criminal Law and Kindred Matters.—I have now gone over the 300 and odd acts of the legislature of 1913 in Kansas and abstract the following:

The conviction of an attorney of a felony or of a misdemeanor involving moral turpitude obliges the Supreme Court to disbar him, but if the conviction be reversed or the offender pardoned, the said Court *may* reinstate him as attorney. Chap. 64, laws 1913. The rest of the act provides an entirely new procedure for disbarment, committing the entire matter primarily to the state board of law examiners, with decision in the Supreme Court, and requiring the attorney general to prosecute.

The great extension of public utilities has caused police jurisdiction in cities of 2nd and 3rd classes to be "extended over all waterworks, sewer systems, pipe, power, light, telephone lines and ways of access thereto, and all the public utilities or parts thereof, and all property rights used in connection therewith, owned, controlled or managed by such cities within five miles of the city limits; and all city ordinances, past and present, are extended over such utilities and property," etc. Chap. 127, laws 1913. In Kansas all closely aggregated settlements are "cities" either of 1st, 2nd or 3rd class, or are unorganized and without local government.

Courts are empowered to parole persons before or after sentence for any felony of which convicted, except murder, forcible rape, arson or robbery, but not after such person has been delivered to the penitentiary or reformatory, or industrial schools for either boys or girls. This act simply removes the age limit which has stood in the law since 1907 when the first act was passed, but set 21 years as the maximum age limit. Now the age of the convict or accused is not an absolute bar to immediate parole. This law and the law with reference to "white slavery" (Ch. 179) and the divorce proctor law (Ch. 234) are perhaps the most important measures that were enacted in 1913 in Kansas, in relation to criminal law or the prosecuting officers. The parole law amendment as to age is in Ch. 172.

By Ch. 179 it is made a felony to "persuade, entice, induce or procure a female person" for prostitution, or to enter or remain in any such house; or to leave the state for such purpose. Keeping such house is a felony. Permitting such on one's premises is a felony. If the owner of property is notified of such on his premises and does not seek at once to eject the offenders, he is guilty of felony. All leases become void where a lessee permits prostitution on the place. Courts are empowered to grant injunctions in the name of the state against such immoral use, and may enforce such orders fully, and may fine and jail violators. To solicit any male person to enter a house of prostitution, is made a misdemeanor, with 30 days to 6 mos. jail, or $100 to $500 fine or both.

To use substitutes for leather in shoes without labeling the shoe with the fact is made a misdemeanor, with a fine up to $250. Ch. 180.

Chapter 182 prescribes a fine not over $500, or jail sentence of one year, or both, for those who "use a horse, or domestic animal of another or his automobile or other vehicle or conveyance or his personal property of any kind, with intent to deprive the owner of their temporary use against the owner's will, but without intent to steal or convert the property permanently."

In counties having cities of the first class, trees and shrubs along streets and ways leading to public buildings are protected under penalty by chapter 183.

The practice of pharmacy and of supplying drugs and medicines is further regulated by chapter 186; the manufacture and sale of live stock remedies by chapter 187, and of feeding stuffs for such stock by Ch. 188, and penalties are prescribed for contraventions.

Not peculiarly relating to criminal law, yet of much importance is chapter 193, which forbids nomination or election of Supreme or District Justices or Judges by political parties. The act provides that candidates may place their names before the people at the primary election, or have their names so presented, and that the two candidates standing highest on the poll at the primary election shall have their names printed on a separate judicial ballot at the general election. Nowhere is any party designated to appear either in nomination or election, and only two candidates can contest for the place at the polls finally, excepting where more than one place is to be filled. In such a case two names may be presented for each place, by taking the four (or six) candidates who stand highest in the primary election. Kansas has never before tried by any law to place the judiciary outside of politics.

The matter of game laws and the game season receives attention from every legislature, and as usual, amendments were made in 1913, by Ch. 199.

A hotel law, chapter 205, among other provisions, makes it a misdemeanor to obtain "food, lodging or other accommodations at any hotel, inn or boarding house or eating house" by false pretenses.

Convicts in the penitentiary may be taken out and worked on public roads and streets by cities or counties at $1 per day per man and expenses. Ch. 219.

A divorce proctor is provided by Ch. 234. The county attorney (who is public prosecutor) in each county, is such a proctor. "He shall appear in every divorce case in his county whether contested or not. He, his deputies and law partners are forbidden to take employment for either side in a divorce case, or to accept a fee from either side. The plaintiff must serve a copy of his petition on such proctor, and may not file the petition in court until service of such copy has been made by the divorce proctor. Other service must be had as

usual. "The divorce proctor shall at once investigate the charges made and be prepared to advise the court on the hearing, as to the merits of the case." No hearing may be had for at least 60 days after filing the petition, unless the court makes an order declaring an emergency, stating therein its nature, the evidence to sustain it and the names of the witness who gave such evidence.

Common carriers and their servants are forbidden to remove the names of either consignor or consignee from shipments of intoxicating liquors. Ch. 249.

By Ch. 289, a board of corrections replaces older boards and both industrial schools (for boys and for girls), and the reformatory for young men of age 18 to 25 years, and the penetentiary are all placed under one management by said board.

Moving picture films and reels may not be exhibited until examined and approved by the state superintendent of public instruction.

The sterilization of habitual criminals, idiots, epileptics, imbeciles and insane by vasectomy or oophorectomy is authorized by Ch. 305. The managing officers of state institutions containing such classes are required to secure advice of competent surgical experts in addition to their own corps of physicians, to examine the inmates such as are deemed to be unfit for procreation. The physical and mental condition of such inmates shall be examined, and their history learned, and if such authorities think that such inmates would produce children with an inherited tendency to crime, insanity, feeblemindedness, epilepsy, idiocy or imbecility and that there is no probability that such inmates will improve enough so as to render procreation advisable, or if the physical condition or mental condition of any such person will be improved by sterilization, then said physicians and experts shall report their conclusions to the district court or any court of competent jurisdiction, in and for the district from which such inmate has been committed to such institution. "The court shall then hear and determine the matter and if satisfied that the subject is an habitual criminal within the meaning of the act (i. e. a person convicted of felony involving moral turpitude), or is insane, or an idiot, imbecile or an epileptic and that the purpose of this act ("to prevent the procreation of habituals, idiots, epileptics, imbeciles and insane") will be accomplished by such order, shall adjudge that such operation shall be performed and shall appoint one of the authorities signing such report to perform the operation of vasectomy or oophorectomy, as the case may be, upon such person." "The county attorney of the county in which the hearing is had may be directed by the court to represent the state in the proceedings." "Such operations shall be performed in a safe and humane manner." Except as authorized by this act, any person who shall perform, encourage or assist in or otherwise promote the performing of either of these operations for the purpose of destroying the power to procreate the human species," or who shall permit such operations to be performed, unless of medical necessity, shall be fined not over $1,000, or jailed not over one year or both.

A penalty is laid upon miners who take or keep over 25 pounds of explosives with them in any mine at any one time. Ch. 228.

J. C. RUPPENTHAL, Judge of the District Court, Russell, Kansas.

For Compensation in Certain Cases to Persons Awaiting Trial.—The following bill in the Massachusetts House has been recommended for reference to the next General Court:

COMPENSATION TO PERSONS AWAITING TRIAL

An act relative to compensation in certain cases to persons confined while awaiting trial. (House No. 40.)

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section one of chapter five hundred and seventy-seven of the acts of the year nineteen hundred and eleven is hereby amended by striking out the said section and inserting in place thereof the following:

Section 1. Any person in this commonwealth who is kept in confinement awaiting trial for more than two weeks after having been arrested on a complaint or an indictment, and who is finally acquitted or discharged, if the delay in trial was not at his request or at the request of his attorney of record, shall receive compensation for the period of his confinement after the lapse of said two weeks and until his acquittal or discharge: *provided,* that the payment of compensation is approved by the judge who presided at the trial, or in case of a discharge without trial, is approved by a judge of the court in which the complaint was made or the indictment found. Such compensation shall be paid by the county in which the complaint was made or the indictment found, and shall be equivalent to the amount which the arrested person earned or received from regular employment for any period of equal length during the two years immediately preceding such confinement; and if the arrested person had no employment, the compensation shall be such sum as shall be determined by the judge, who is to approve the payment of compensation as above provided. The judge or justice, upon application by the person acquitted or discharged, shall give a hearing at which such person may be present and represented by counsel, and the district attorney or other officer representing the commonwealth or the county may also be present, and the person acquitted or discharged and the commonwealth or county may offer testimony as in any civil case. The decision of the judge or justice shall be final.

The law which the above bill was intended to amend is as follows: [CHAPT. 577.]

AN ACT TO AUTHORIZE COMPENSATION IN CERTAIN CASES TO PERSONS CONFINED WHILE AWAITING TRIAL.

Be it enacted, etc., as follows:

SECTION 1. Any person in this commonwealth who is kept in confinement awaiting trial for more than six months after having been indicted, and who is finally acquitted or discharged without trial, if the delay in trial was not at his request or with his consent, or at the request or with the consent of his attorney of record, may receive compensation for the period of his confinement after the lapse of said six months and until his acquittal or discharge: *provided,* that the payment of compensation is approved by the judge who presided at the trial, or in case of discharge without trial, is approved by a justice of the superior court sitting at a session for criminal business in and for the county in which the indictment was found. Such compensation shall be paid by the county in which the indictment was found and shall be equivalent to the amount which the indicted person earned or received from his regular employment for any period of equal length during the two years immediately preceding his confinement; and if he had no employment, the compensation shall be such reasonable sum as shall be determined by the judge who presided at the trial, or, in case of a dis-

charge without trial, by a justice of the superior court sitting at a session for criminal business in and for the county in which the indictment was found. The judge or justice, upon application by the person acquitted or discharged, shall give a hearing at which such person or his representative may be present, if he so desires, and the district attorney or other officer representing the commonwealth or the county may also be present, and the person acquitted or discharged and the commonwealth or county may offer testimony as in any civil case. The decision of the judge or justice shall be final.

SECTION 2. This act shall take effect upon its passage. [*Approved* June 22, 1911.] R. H. G.

Selection of Justices of the Peace in England.—There is a Royal Commission appointed in England to consider and report upon the selection of justices of the peace. In a report made to the commission by a committee of the Penal Reform League the following objections to the present method of selection are presented:

"First, the opinion is widely held that justices of the peace, especially in country districts, are, as the result of their mode of selection, in a large proportion of instances, biased in favor of the propertied classes.

"Second, it is objected that benches of justices are in danger of becoming mere juries, with the clerk acting as the judge to inform them as to the law and even instructing them as to the evidence. This is attributed primarily to the fact that chairmen of district councils sit on the bench *ex officio,* and thirdly to the practice of making political appointments which sometimes result in the appointment of justices who cannot speak English.

"It not infrequently happens that persons are recommended for appointment by members of parliament or prominent members of a political party as a reward for party service, and, though this is applicable to members of either party, still in country districts it is conservative views that for the most part provide the necessary qualification for appointment.

"We conclude, then, that there exists, for various reasons, considerable and wide spread want of confidence in the justices of the peace as at present selected, which of itself must militate against the successful administration of justice; that the selection of justices is often, if not generally, founded on, or influenced by, considerations other than their probable efficiency as magistrates; and that appointment to the Commission of the Peace is coveted in itself as a social distinction, and in some cases for the trade advantages."

Before suggesting improvement the committee undertakes to lay down what it understands to be the principles and ideals which should underlie any system of reform on this point it says:

"We think—and we understand that the best magistrates do, in fact, hold similar views—that a court of justice, especially a local court of summary jurisdiction, should be a place where all kinds of people, good and bad, high and low, can be sure of meeting with courtesy and sympathy, with impartial consideration and well-weighed judgment, and an appeal to, and faith in, their better nature. The court should be a place with a bracing and elevating tone and atmosphere, not depressing or humiliating. People should come there for moral assistance or for a helping hand, rather than for revenge or for punishment. In a word, a court should be a center for regenerative influences. And the justices who preside over it should be fit agents of such influences.

We would lay special stress on the fact that, if the probation system is destined to meet with the public acceptance and development it seems to deserve, then the nature and general view of the courts must inevitably change gradually in the direction indicated in the foregoing paragraph; and one may reasonably hope that before long probation work will be the main work of the local courts. The present time, therefore, would appear to afford an excellent opportunity for commencing such an alteration in the methods of selecting magistrates as will pave the way for so desirable a development.

"It seems to follow naturally from the above considerations that the best security for the selection of efficient justices of the peace would be found in a greater development of the probation system, whereby a large body of cultured social workers of both sexes, derived, perhaps, from different strata of society, might be induced to devote themselves to practical dealing with the problems connected with crime. It should then become the practice to select magistrates from the best of these, thus securing exactly the character, capacities and experience required in a good magistrate.

"Doubtless most of them might have to be paid a good salary, and thus some considerable initial expense would be entailed. This, however, would almost certainly be recovered in money saved on prisons and other undesirable items, and many times over in moral and industrial gains." R. H. G.

POLICE—IDENTIFICATION.

Finger Printing in New York City Magistrates' Courts.—The Committee on Criminal Courts of the New York City Charity Organization Society, recently published a twelve-page pamphlet setting forth reasons why the finger print system should be extended in the Magistrates' Courts of that city, and giving an estimate of the probable cost of operating the system as it should be operated. The system has been used very successfully in the night court for women for about two years. The Committee recommends that the system be extended to all of the District Magistrates' Courts in the burroughs of Manhattan and the Bronx and that finger prints taken in one court be photographed and sent to the other courts. The salaries of nine additional employees and of supplies for one year are estimated at about $24,000. By enabling the courts to distinguish first offenders and repeaters, however, this expenditure would be in the direction not only of increased efficiency, but also economy.

The Criminal Courts Committee of Brooklyn has urged also that the finger print system be established in the Magistrates' Courts of that borough. The cost is estimated at about $15,000.

The following is taken verbatim from the pamphlet referred to above:

Present Difficulties Due to the Lack of Records.

"A visitor at either of the Night Courts, or at almost any day session of a Magistrate's court in New York, will see some person brought before the Magistrate on the charge of intoxication, and say, 'Judge, it is the first time.' It may be the first time or the second time or the twentieth time and this fact not be revealed by the records now in use. A careful study of the commitments to the Workhouse has shown that some men have been there for intoxication as often as forty, fifty and even sixty-five

times. Some were spending their lives as 'guests' of the municipality. *Nevertheless, if one of these men was convicted again to-morrow and chose to give a fictitious name, there would be nothing whatever in the court records to distinguish him from a new offender.* The same is true of the habitual vagrant and of the one whose conduct is habitually disorderly. A common offense, classed as vagrancy, is begging in the streets. Persons have been known to make a livelihood by this means year in and year out, but there is nothing in the court records to prove the identity of such persons. Rowdyism in public conveyances has become a prominent form of disorderly conduct. In such cases there is again nothing to distinguish a new from an old offender. Magistrates' Courts are given jurisdiction over first offenders in cases of automobile speeding. Under the present system there is no possibility of the magistrate determining whether the man is or is not a first offender.

"When a new offender is brought into court on one of these charges, nothing so much exonerates him from severe punishment as the proof that he has never been in court before. His case requires very different treatment from that of the chronic offender. When the magistrate is able to learn from the records that the defendant is a beginner, and perhaps needs, more than anything else, strengthening of his moral fibre, he has the opportunity of making a wiser decision, and may prevent new offenders from becoming 'chronic.' When the records show the defendant to be a hardened offender and, therefore, less amenable to reformation, the Magistrate can impose a lengthy term of workhouse incarceration with an untroubled mind.

Improved Treatment of Prostitution Cases Resulting from Efficient Records.

"Finger-printing defendants, after conviction in the Magistrates' Courts, is not a new proposition, because since September 1st, 1910, *this system has been in very successful operation in the Women's Night Court.* In the case of the prostitute, the magistrate has before him, prior to pronouncing sentence, an absolutely accurate record indicating whether it is the woman's first offense, or whether she is an old offender, and what the prior dispositions were. He therefore has the data necessary for an intelligent consideration and a wise disposition of the case. When shown to be a new offender the woman is very often released on probation. Finger-printing in the prostitution cases not only distinguishes the new from the old offender, but shows the number of times the old offender has been convicted. During the first three months of 1912 two convictions were for tre 11th time, one for the 10th time, three for the 9th time, 11 for the 8th time, 25 for the 7th time, 44 for the 6th time, 79 for the 5th time, 115 for the 4th time, 184 for the 3rd time, and 226 for the 2nd time. During the same three months 466 persons were convicted and found to be new offenders.

Some Advantages of Finger-Printing.

"The finger-print records will indicate at once whether the person is a new or an old offender. The magistrate need not be racked with a doubt in estimating a person's character and past history, and is better able to determine whether he is a fit subject for the suspended sentence, for probation,

"Another advantage of no small importance is that lying in regard to former convictions is found by the prisoner to be useless. In the past in the prostitution cases the more hardened offender often made the plea of first offense, in order to avoid a severe sentence; and the young girl in court for a reformatory, or for a long workhouse sentence merely to prevent his being a nuisance to society.
the first time confessed to previous convictions, in order to be considered too hopeless for a reformatory with its longer term of commitment. When finger-print records exist the defendant knows that nothing is gained from subterfuge. When asked her name she may be Lulu Smith one time, Sadie Jones the next, and something else the next, but consultation of the records, requiring less than two minutes, makes it plain that through her several *aliases* she is known to be one and the same individual. In the prostitution cases the tendency to give various *aliases* has decreased. One of the women mentioned above as convicted for the eleventh time has given the same name throughout.

Imperative in Case of Drunkenness.

"Subdivision 6 of Section 693 of Chapter 551 of the Laws of 1910, and subdivision 5 of Section 88 of Chapter 659 of the Laws of 1910 make it imperative that magistrates, and also officers of the Board of Inebriety, have at their disposal accurate information as to the number of offenses of persons convicted for public intoxication. *This can be ascertained accurately only by the establishment of the finger-print method of identification.*

"In addition to this, Section 72 of Chapter 659 of the Laws of 1910 make it necessary that magistrates have accurate information as to first offenders violating the motor-vehicle law. It is again impossible for them to have this information without finger-printing after conviction. Moreover, *the first offender is entitled to the protection which this system would afford him.*

Finger-Prints a Protection to the New Offender.

"Finger-prints afford the most *humane* method of identifying. One still hears occasionally a reference to the stigma of finger-printing, but fortunately its civil and commercial uses both in this and other countries are becoming so extensive that this prejudice is passing away. One of the latest phases of the commercial use is in savings banks. Finger-print records can never be read by the general public; in fact, only by the official expert. Having one's finger-print impressions on file does not by any means involve humiliation, as is the case with the picture in the rogues' gallery, or a written record of one's bodily scars and deformities. It should be remembered, too, that while finger-printing is useful in showing the record of the hardened offender, it is just as useful in proving that, from the point of view of the courts, the new offender's life was heretofore blameless.

Plan of Installing a Finger-Print System.

"The success of finger-printing in the Magistrates' Courts will depend upon the completeness and the immediate availability of records. A man may be arraigned for drunkenness or vagrancy or disorderly conduct on the Bowery one time, and in Harlem the next. It would be necessary therefore that all the courts keep complete finger-print files, in order to know this

man's record. It would not be practicable to bring all persons arrested on one offense to the same court, as is done at present in prostitution cases.

"Of several methods considered for installing finger-printing, the following seems to be the most simple and practicable. In Manhattan and the Bronx there are eight day courts and two night courts, where persons are tried for the offenses in question. Two night courts, being in the same building with two day courts, will use the same finger-print rooms and files. When a person is convicted in any one of these courts his finger-print impressions will be taken, his record looked up and shown to the magistrate immediately, as is done at present in prostitution cases; sentence can then follow, according to the merits of the case. If the person is a new offender the finger-print impressions will be sent to a central bureau to be photographed, and after giving them the proper number the central bureau will forward to each court a copy of the photographed impressions to be placed on file. If the same person is again convicted in any one of these courts a record of his previous conviction or convictions, together with the dispositions which followed, will be immediately available. The reproduction of the impressions by photograph for the several courts will be necessary only once, because on later convictions each court will already have on file this person's finger-print impressions, which can be referred to by number.

"In case of the repeater, therefore, the Central Bureau will not make and distribute photographic impressions, but will instruct each court to add to the person's record (readily referred to by number previously given it at the Central Bureau) the fact of a new conviction. Or if it is found simpler his record will be corrected to include the new conviction at the Central Bureau, and a copy sent to each court to replace the previous record.

"It should be remembered that the above are intended as *court* records, and not police records." A. W. T.

MISCELLANEOUS.

Desertion of Wives and Children by Emigrants to America.—Among the many problems brought forth as a result of immigration into the United States from foreign countries, one of the most pitiful and most worthy of the attention of social workers is the condition resulting from the desertion of their families by emigrants.

It occurs quite frequently that an emigrant, after staying for a few years in the United States, or even before this period, neglects and refuses to send any money for the support of his wife and his children, and in many cases even severs his ties with his family completely.

We can differentiate and observe three classes of cases:

1. The alien is living in adultery with another woman.

2. He starts proceedings in divorce against his wife who resides abroad, and in most cases, due to lax divorce laws, is successful in procuring it. He remarries without providing for the family left behind him abroad, in any manner whatsoever.

3. In some instances he marries without procuring his divorce and thus commits bigamy.

This state of affairs is seriously endangering the morals of society in the foreign settlements of our cities, and works, on the other hand, a great hardship on the families of unscrupulous husbands and fathers. These

families are entirely deprived of the support and care of the head of the family.

It goes without saying that we do not hold brief against the many good and respectable emigrants who are a great asset to our American population, and prove to be good citizens, upright and moral, good fathers and husbands. We also wish to add that this evil is not confined to any race or nationality in particular, but cases occur among all emigrants. The condition of affairs as outlined above is becoming more and more serious and the resultant complications: social, legal and moral, can not be ignored much longer. The bad example shown when a man and woman are living together without the sanction of the state, contrary to law results not only in illegitimate children born to them but also in the contamination of the morals of the particular community.

The peculiar situation of husbands having two wives and two sets of children is to be reckoned with also. One a legitimate wife, residing abroad, another a "common law wife" residing in America, both probably with one or several children.

Claim agents, lawyers, probate courts and courts of common pleas and fraternal insurance societies face these problems frequently. The legal complications in awarding an insurance to the "wife" or "children," the difficulties in making distribution of compensation for wrongful death to those rightly and justly entitled to the same, the resultant misleading statements as to the family of decedent, involve the "special estate" in litigation, or in other difficulties. Foreign consuls have many of these problems to deal with. Probate courts have obstacles in distributing estates for want of correct information as to the right heirs or next of kin. It occurs sometimes that the right heirs and next of kin claim their due share after the common law wife and illegitimate children have obtained by misrepresentation the assets

York.

they were not entitled to. Insurance companies and fraternal insurance societies have to cope with these problems sometimes, all resulting in hardship to those who should properly be benefited.

But under the present laxness of procedure in divorce actions in most of the states the husband has a comparatively easy task in obtaining the divorce decree from his non-resident wife. There is no adequate control to guard against uncontested divorce cases. The brief period set by the statutes of most states whereby in an uncontested divorce case the hearing of the case can be held six or eight weeks after suit is started, lends an aiding hand to the husband who contemplates a new marriage and who has abandoned his wife and deserted his children who reside abroad.

And after he obtains his decree there is hardly any remedy for the wife. In the last case in Ohio on this subject (and several earlier cases decided prior thereto) the following rule is laid down:

"Where the husband by fraud and false testimony, obtains a decree of divorce for the wife's aggression and the decree also, by reason of the wife's aggression so found, bars her of alimony, dower and all other interest in the husband's property, the decree dissolving the marriage relation is conclusive; but, when the court making such decree did not have jurisdiction of the wife's person, she may thereafter have said decree and the issues opened up

so far as they relate to her interest in the husband's property and be let in to defend."

Bay v. Bay, 85 O. S. decided by the Ohio Supreme Court, February 6, 1912.

Many states follow this doctrine on the ground of public policy.

With due credit to the instances where a just cause exists for divorce, there are many instances where a decree is procured by fraud and perjury, where the complaining party misleads the court in concealing the other party's address (although well known to the plaintiff), or sets up facts entirely false and manufactured.

If service is had by proof of publication the wife residing beyond the seas has no opportunity to defend within the limited time which might be adequate to a resident, or if so, is too late in doing so and comes to defend the action for divorce after the decree is granted and the husband has remarried. It is needless to point out the obstacles in the way of criminal prosecution, of the party guilty of fraud and perjury because the evidence is beyond reach of the prosecuting attorney's office. We desire to point out the excellent draft of the Uniform Divorce Act (prepared by a committee of the American Bar association), which would effectively check these evils.

Still worse is the situation when a husband leaving his family behind, marries another woman here under his own or an assumed name. This is very easily accomplished at present, due to the fact that the statements of the applicant under oath without any proof whatever, are accepted.

The social, moral and legal obstacles are still worse in such cases as in the case of adultery. The fear of criminal prosecution for perjury or bigamy are insufficient to prevent the commission of this act by the reckless, ignorant, "morally insane" parties.

Dealing with the conditions as they are in most of the states, the present state of affairs promotes immorality in the worst degree, brings about hardship to countless wives and deserted children who are objects of charity and victims of poverty without any fault of their own. It has a vicious effect on the community, it checks the possibility of establishing homes, it deprives the state of many families, for the husband does not find it necessary to have them come to the United States. It hinders the development of healthy family life, infects the community with the wretched examples, promotes crime (fraud, perjury, bigamy and adultery), and adds many burdens to the administration of justice.

Last, but not least, it furthers inhuman attitude on the part of the head of a family torn apart, by diminishing and annihilating the responsibility of the bread winner.

In almost all of the states of the Union the abandonment of a wife, by her husband, the desertion of minor children by their father, are made criminal offenses.

Due to the difficulties of criminal procedure and evidence in securing adequate proof of the commission of the crime and due to the constitutional questions and privileges involved, as already referred to, this prevailing evil can not be rooted out by resorting to criminal prosecution.

The problem then is this: How can we prevent or diminish the increasing proportion of immigrants who desert their children and abandon their wives

by their emigration, although in most instances not contemplating to do so, and how can we abolish the resultant evil of adulterous practices, bigamy, fraudently secured divorces?

As to the last question, we strongly recommend the adoption of the excellent provision of the Uniform Divorce Act referred to before and more strictness and control in issuing marriage licenses.

Eliminating the great difficulties facing us in the way of federal legislature by enacting a special act, and also the handicap in prevailing upon state legislatures to act on this matter separately, the most feasible way to solve the problem would be by amending the statute on immigration, or the White Slave Act. If Congress would attach an amendemnt to either of these statutes whereby a foreign subject would be deported if during his first five years of residence in the United States (or until he becomes naturalized), he having a family abroad, commits adultery or bigamy, or deserts his minor children and abandons his wife without supporting them according to their station of life and without due cause, the prevailing evil would be remedied effectively. If such acts would be regarded as immoral acts involving moral turpitude, the depositions, or duly authenticated official documents coming through official channels would be regarded as sufficient evidence establishing such acts, the relief sought for by a great many non-resident wives and children, the prevention of immorality, and the saving of morals of foreign communities would be entirely obtained thereby.

HUGO E. VARGA, of the Cleveland, Ohio, Bar.

The Bulletin from the Office of Juvenile Protection in Belgium.—*Bulletin de l'Office de la Protection de l'Eufance. Royaume de Belgigue.* (Bruxelles, Lacier, Editeur.) Numbers 1 and 2 of the first volume (Oct., 1912, Jan., 1913) of this year of the Belgian official administration of the juvenile court and its auxiliaries are devoted chiefly to discussions of the principles of the new law, to texts of the law and regulations for making it effective. The meeting of the royal commission of patronage, held September 29, 1912, was the occasion for discourses by M. Carton de Wiart, minister of justice, Professor A. Prins, president of the Commission, and M. Maus, general director in the Ministry of Justice. These addresses were luminous, eloquent and competent interpretations of the fundamental principles and ideals of modern treatment of juvenile offenders; they are new, for they indicate quite clearly the abandonment of the merely retributory notions of justice and the acceptance of a rational policy of social protection, with the educational purpose dominant in methods. C. R. H.

The American Academy of Medicine.—The 38th annual meeting of this distinguished Academy was held in Minneapolis on June 13, 14, and 15. On Saturday, the 14th, a notable program was presented, setting forth the bases of crime from many angles. Following is the list of authors. Some of these papers were read by title only, but all will eventually be published in the Bulletin of the Academy and elsewhere:

1. "Crime as Viewed by an Anthropologist." Prof. Albert E. Jenks, Professor of Anthropology, Univ. of Minnesota, Minneapolis.
2. "The Relation of the Somatic to the Psychic Defects in the Subnormal." Mr. David C. Peyton, General Superintendent, Indiana Reformatory, Jeffersonville.

3. "Heredity as a Factor in Criminality.—A Study of the Findings in about a Thousand Cases." Dr. Edith R. Spaulding, Resident Physician, Massachusetts Reformatory for Women, South Framingham; and Dr. William Healy, Director, Juvenile Psychopathic Institute, Chicago.
4. "Relation of Juvenile Crime to Parental Diseases." Dr. Haldor Sneve, Clinical Professor of Mental and Nervous Diseases, Univ. of Minnesota, St. Paul.
5. "Social Factors Affecting the Volume of Crime." Prof. J. L. Gillen, Associate Professor of Sociology, Univ. of Wisconsin, Madison.
6. "The Influence of Publicity on Crime." Dr. W. Blair Stewart, Atlantic City.
7. "The View of the Sociologist." Prof. Charles Richmond Henderson, Professor of Sociology, Univ. of Chicago, Chicago.
8. "The Psychology of the Adolescent in its Relation to Crime." Dr. Winfield Scott Hall, Professor of Psychology, Medical Department, Northwestern Univ., Chicago.
9. "Crimes of the Adult from the Standpoint of the Alienist." Dr. Frank W. Robertson, New York City.
10. "The Physician in the Service of Criminology." Prof. Robert H. Gault, Associate Professor of Psychology, Northwestern Univ., Evanston, Ill.
11. "From the Viewpoint of a Judge of a Juvenile Court." Edward F. Waite, Esq., Judge of the Juvenile Court, MinneapoIlis.
12. "From the Standpoint of a Prison Physician." Dr. Rock Sleyster, Physician in charge of the Wisconsin State Prison Hospital, Waupun.
13. "Truancy the Kindergarten of Crime." Mr. Bert Hall, Welfare Secretary, Milwaukee Electric Railway and Light Co.; formerly Chief Truancy officer, City of Milwaukee, Milwaukee.
14. "From the Standpoint of the Probation Officer." Mr. John H. Witter, Superintendent, Chicago's Boys' Club, Chicago.
15. "From the Prison." Mr. Z. R. Brockway, Elmira, N. Y.
16. "From the Standpoint of the Juvenile Court." Ben B. Lindsey, Esq., Judge, Juvenile Court, Denver, Col.
17. "Physical and Mental Aspects of Probation Work." Mr. Arthur W. Towne, Secretary, New York State Probation Commission, Albany.
18. "The Physical Character of Crimes of the Alcoholic." Dr. T. D. Crothers, Hartford, Conn.
19. "The Relation of Adenoids and Enlarged Tonsils to Juvenile Delinquency and the Effects of Treatment and Removal." Dr. Charles H. Keene, Supervisor of Hygiene and Physical Training in the Public Schools, Minneapolis.
20. "Relation of Physical Defects to Delinquency with Special Reference to the Hennepin County Juvenile Court." Dr. Horace Dana Newkirk, Director of the Department of Research (of the Court), Minneapolis.
21. "Crimes of the Feeble Minded as Compared with Those of the Intellectually Normal." Dr. A. C. Rogers, Medical Superintendent, Minnesota School for Feeble Minded and Colony for Epileptics, Faribault.
22. "Feeblemindedness and Crime." Mr. Henry H. Goddard, Director, Department of Research, Training School for Feeble Minded, Vineland, N. J.
23. "Habit Producing Drugs and Crime." Dr. Reynold Webb Wilcox, New York.

24. "Head Injuries and Syphilis as a Cause of Crime." Dr. Bernard Glueck, U. S. P. H. S., Ellis Island, New York Harbor.

R. H. G.

Social Factors in Crime.—In the Dutch Journal, *Tydschrift voor Strafrecht*, for 1912, appears a valuable article on the "Social Factors of Crime in Comparison with the Individual Causes," by Dr. W. A. Bonger (author of "Crime and Economic Conditions," soon to be translated for the Modern Criminal Science Series). Dr. Bonger begins by noting that modern criminal science began with the statistical studies of Guerry, Quetelet, Ducpetiaux, and von Mayr (1826-1870), in France, Belgium and Germany, thus emphasizing the social aspect; but that after Lombroso's writings began, in 1800, the anthropologic element dominated for nearly a generation. Again, however, a reaction has set in, Lombroso's extreme views are less accepted, and the social causes are emphasized. He then takes up some illustrations of the vast importance of the social element. Child-neglect, child-labor, unfavorable conditions of life among the poor, alcoholism, etc., are pointed out as causes essentially social and not individual. He then enters on a defense of the view that social surroundings are not operative unless the individual is by innate character likely to be affected by them, and this defense is forcibly elaborated. He closes with Lacassagne's epigram, "A Society has the criminals which it deserves"; and this, to the author, is an optimistic truth, for it gives the hope that crime is not innate, but may be diminished in proportion to social amelioration. "May a community some day be found," he closes, "which has no criminals because it deserves none." J. H. W.

Civil Service Examination for the Office of Clerk and Secretary to the Board of Pardons in Illinois—Training and Experience.—On December 14, 1912, the following examination was offered in Chicago to candidates for the above named office:

1. (a) What is your age?
   (b) Are you married
   (c) How many persons are dependent upon you for support?
2. State your education in detail, giving the preliminary, grammar, and high schools, colleges, etc., attended, the studies pursued and years spent in each. If you have received any degrees, indicate them.
3. What practical experience have you had in studying or dealing with social questions.
4. Have you ever been in contact with the prison classes? Give details.
5. Have you ever had any particular acquaintance with the haunts of criminals in cities in which you have lived? Answer in detail.
6. What experience have you had in studying or dealing with delinquent classes of children?
7. What experience or training have you had, other than that covered above, which you think would tend to fit you for the position of Clerk and Secretary of the Board of Pardons?

Crime and Criminology.

1. What do you think of the proposition, "Society is to blame for the crimes that are committed against it"?

2. Is the state ever justified in inflicting physical pain upon the criminal? Explain your attitude.

3. Explain how the Prison Labor problem bears upon the science of Criminology?

4. What is the present attitude of criminologists toward the theory that there is a distinct criminal type? State briefly how this attitude is justified.

5. (a) Should the state pay the deserted family unconditionally in return for the labor of the imprisoned deserter; or only on condition that the prisoner's behavior is of a high grade; or only upon condition that the product of his labor is of good quality?

(b) If on none of these accounts alone, state as explicity as possible how the commonwealth should be guided in this matter.

6. What books have you read on Crime, Punishment and Sociology?

Theory of Probation and Parole.

1. (a) How would you state the theory on which the commonwealth justifies itself in adopting the policy of probation and parole?

(b) Does the same theory apply without modification to the probation and parole of adults as well as children? Explain your answer.

2. (a) Guided by your theory, would you insist upon model prison behavior as a prerequisite to consideration of an application for parole? Explain your answer.

(b) In the order of their importance state the considerations that should guide in selecting a prisoner for parole.

3. Do you see any objection to punishing the deserter and non-supporter by fining? If so, what?

4. Criticise fully the act of the probation officer in the following case: He placed out a sixteen-year-old ward, a girl; she one day asked the mistress of her new home for permission to go to the city twelve miles away on a certain afternoon to meet friends who are unknown to the mistress. Thereupon the mistress replied, "I don't know what to say, because I do not know the people whom you are going to meet, and besides it isn't convenient to let you go on that afternoon. Perhaps you can go some other day; in the meantime I shall ask Mr. ——— (the probation officer's) opinion." The ward then called up the officer who gave his consent in reply to her request, without consulting the mistress of the home in which the ward had been placed.

Give reasons at each step for your criticism. How is the theory of the probation and parole of minors affected by the act of the officer as described above?

5. Outline what you think would be an ideal "placing out" system; ideal from the point of view of all interests concerned: state, ward, and foster home.

6. What have you read on Probation and Parole?

Administration.

1. State your conception of the duties of the State Board of Pardons.

2. Without considering the present provisions of the law, outline what you think your relations should be with the (a) managing officers of the

penal institutions, (b) parole officers of the various institutions, (c) the State Board of Pardons.

3. How would you equip your office so as to best provide for carrying out your duties?

4. Describe in detail the method you would use in making an inspection of a prison. List the points you would particularly observe.

5. What recommendations would you make as to testing the mentality of prisoners, indicating what records you would keep and the use to which you would put them.

6. Describe the method you would use for keeping in touch with all paroled prisoners and their employers.

7. What power has the Board of Pardons with regard to transfer of prisoners from penitentiaries to the reformatory and vice versa?

8. Would you think it desirable or not to parole prisoners outside the boundaries of the state, leaving out of consideration the present provisions of the law?

9. Outline briefly the provisions of the "Good Time Law."

10. List the steps necessary before a prisoner's parole can be authorized.

11. What effect has a violation of the parole rules upon a parole contract?

12. Compare the parole law of this state and its administration, with systems in use in other states. Deduce such conclusions as you think warranted, making recommendations for betterment of the Illinois law and its administration.

The clerkship and secretaryship are combined in one office. The salary is $3,500 a year. The weights of the examination were as follows:

Training and Experience	3
Theory of Probation and Parole	1
Administration of duties and familiarity with parole laws of Illinois	3
Crime and Criminology	1
Oral	2
Total	10

R. H. G.

The Criminal Clearing House.—There is published in Chicago a paper called the "Detective," which acts as the official organ of the police departments of the United States and Canada. In the columns of the "Detective" are displayed photographs of fugitives wanted and notices of rewards for the arrest of bail jumpers, escaped convicts, and other individuals whose arrest is a matter of public interest and concern. This paper is published once a month, and its files are carefully preserved by the police; it contains a veritable mine of information concerning the records of crooks and all classes of thieves. When the police do not know anything about a man under arrest they simply send his picture to the "Detective" for publication, and ask the other police officials of the country if they know anything about the culprit. Another chief of police sees the picture and happens to know all about the man concerning whom the information is asked, and he mails at once the desired information to the

police official asking it. In this way the western police help the eastern police, and vice versa. The files of the "Detective" contain photos, descriptions, and records of professional criminals such as shoplifters, pickpockets, sneak thieves, pennyweighters, forgers and check-raisers, besides rewards offered for fugitives, missing people and bond jumpers. These files are of the greatest value to police, sheriffs, penal institutions, peace officers, special hotel and railway police officers, detective agencies, and those interested in criminal investigations. A file of the "Detective" for the past ten years contains a permanent rogues' gallery of 12,000 to 15,000 photos, descriptions, and records of the best working criminals in the United States and Canada. The Pinkerton Detective Agency acts in harmony and co-operation with the local police authorities; they get the pictures of all thieves taken by the local police, and in return they allow the local police to view their picture gallery and they interchange pictures and information concerning criminals and by this system of mutual co-operation they produce the desired results in any criminal case.

JOSEPH MATTHEW SULLIVAN, Boston.

Municipal Civil Service Examination in New York City for Promotion to Warden.—Date: June 25, 1912. 1. Criminologists and penologists have advanced a large number of theories to justify the imprisonment of men and women who have been convicted of crimes. Discuss fully at least five of these theories and state clearly how each would influence you in administering a prison as warden. 2. Discuss fully your views with reference to the desirability of separating first offenders from hardened offenders and state distinctly in what respect your treatment of the one class would differ from your treatment of the other class. 3. State in detail all of the precautions which you would take as warden, and enumerate five instructions which you would give your keepers to prevent prisoners from committing suicide. 4. Discuss in detail the advantages and disadvantages of allowing the prisoners in a prison for the detention of prisoners awaiting trial, the freedom of the prison yard, for the purpose of exercise, each afternoon during the summer months. 5. Give the following information regarding the writ of *habeas corpus*: (a) What is the purpose and the effect of this writ? (b) From whom may it be obtained in the State of New York? (c) Under what circumstances may its issue be refused? (4) Under what circumstances will the writ be dismissed by the court? 6. Describe fully two types of prisoners of unsound mind with whom a warden frequently has to deal, giving: (a) the characteristics of each, by means of which he may be readily distinguished; (b) the manner in which each is to be treated when he is first suspected of being of unsound mind; (c) his proper treatment after his mental condition has been definitely established. 7. (a) Draft a set of regulations governing the receipt by prison officials of money for delivery to the prisoners in a prison for the detention of prisoners awaiting trial. (b) Draft a similar set of regulations governing the receipt of food from relatives of the prisoners for delivery to the prisoners in a prison for the detention of those awaiting trial. 8. (a) What measures of discipline would you employ in a prison for the detention of prisoners awaiting trial? Arrange the measures of discipline in the order of their severity, and state under what circumstances you would use each of them. (b) Give the same information for a prison for convicted felons and misdemeanors. 9. (a) Describe in

detail the daily examination which you would make as warden, of the food supplied to the prisoners, with a view to determining its quality and quantity. (b) Demonstrate your knowledge of food qualities by giving at least twelve reasons for rejecting food supplied to your prison. 10. Demonstrate your knowledge of food values by preparing a menu for your prison for three meals a day, for a week of seven days. 11. While warden of a prison which is situated outside of the city you experience considerable difficulty by reason of the fact that many of your keepers over-stay their leave, or return from their leave in a condition unfit to perform their duties. State in detail how you would overcome this difficulty. 12. (a) Draft a set of twelve regulations which you would adopt as warden of a prison for the detention of prisoners convicted of felonies and misdemeanors, to protect their health and prevent an outbreak of contagious diseases among them. (b) Would your regulations differ in any respect if you were the warden of a prison for the detention of prisoners awaiting trial? If so, give full particulars. 13. Describe in outline, omitting no essential particulars, a fire drill for a prison, the population of which changes very much from day to day. Assume that the prison has an average census of 400 men and 100 women, and that it is not situated in the built up section of the city. 14. Give all the essential provisions of the statutes, with reference to the sentences to be imposed upon prisoners convicted of disorderly conduct or of being disorderly persons or vagrants. 15. Discuss fully the advantages and disadvantages of the indeterminate sentence, giving your views and suggesting such improvements in the statutes as your experience has shown you to be desirable. 16. (a) As the warden of a prison for the confinement of convicted prisoners, state specifically what reformatory influences you would bring to bear upon the men confined in the prison who have been convicted of disorderly conduct, or of being disorderly persons. (b) What reformatory influences would you bring to bear upon boys confined in your prison upon a similar charge. (c) What reformatory influences would you bring to bear upon women and girls confined in your prison upon a similar charge? 17. (a) Draft a set of regulations governing the subject of communication with their friends, by prisoners in a prison for the detention of prisoners awaiting trial. (b) Draft a similar set of regulations governing the subject of communication with their friends by prisoners in a prison for convicted prisoners. (c) State specifically your reason for each difference between these two sets of regulations. 18-19-20. Address a report to the Commissioner of Corrections, covering the following points: (a) The principal causes which lead to crime, vice and lawlessness in the City of New York at the present day. (b) The forces by means of which these causes may be checked, or their effect lessened. (c) The manner in which the wardens of a prison in this city may assist in minimizing the effects of these causes of crime, vice and lawlessness. N. B. 1. Do not sign any name, number, initials or title to this report. N. B. 2. In rating this report, consideration will be given not only to spelling, punctuation, composition, etc., but also to the intelligence of the candidate as shown by the expression of his opinion. LEONARD FELIX FULD, New York City.

Education in Prison.—Somebody has said "the best asset society has is a good citizen." Nobody can dispute this statement. It is a truism that successfully challenges all attack. It was undoubtedly the recognition of this truth which caused the Pennsylvania Bar Association at a recent meeting to take

up the question of more humane and intelligent treatment of prisoners in the penal institutions of the State. It was suggested that men confined for crimes against the Commonwealth be compelled to engage in some productive and remunerative employment, and that a part of the proceeds be given to their families from whom they are temporarily withdrawn. In this demand the lawyers recognized that one of the best methods that can be used for the reformation of a fallen man is to compel him to become a producer of something useful.

If the imprisoned man can be shown that the product of his toil is to be used for the comfort of those whose support he had guaranteed in happier times, his latent self respect, if he has even a vestige of it left, is bound to assert itself. It is the unremunerative toil, the toil that gives to the toiler no recompense nor gives to his family any comfort, that degrades. Altruists and many who are not altruists, but simply men of common sense, are demanding that the system of punishing prisoners be changed. They are not doing this because of a maudlin sympathy for the person incarcerated. They simply want to bring the offender back to paths of righteousness, thus redeeming a valuable asset to the State. In his fallen condition he is useless. He is a producer of nothing but discord, strife and unhappiness. These reformers want him to be a tiller of the soil. They want him to be added to the industrial ranks of the nation.

In considering the reformation of prisoners, the advanced thinker takes little heed of the criminal himself. His sufferings are nothing as compared with the rights of society. But the protection of the community can be better secured by the regeneration of the lawbreaker than by his perpetual degradation. It is one of those happy instances where what is best for the individual is best for the collective whole.

That is the point: the protection of society is more effectively secured by the regeneration than by the degradation of the law-breaker. If protection could be secured by a definite term of imprisonment there should be no repeated offenses. But more than forty per cent of the inmates of reformatories have served time in other institutions, and on the whole, while the conduct of paroled prisoners suggests improvement, we are yet, excepting in sporadic instances, far from realizing the effectual educational treatment of criminals in detention. These conditions, says Robert B. Molineux in "The Court of Rehabilitation," published in *The Commons* of September 28, 1907, "result from a definite, a pseudo-mathematical infliction of punishment, in which every crime is labeled and a price put upon it previous to its commission. We punish in supposed accordance with the gravity of the crime actually committed. The less the amount stolen, the fewer the years of commitment. The fact that the thief took all that he could find or all that he could carry; that petty larceny is not grand larceny merely because the opportunity did not present itself, or because the opportunity was not what had been expected; that every housebreaker is a potential assassin who has not killed because the necessity did not arise—these are not permitted to enter into the question of punishment. The willingness or an unsuccessful attempt is lightly dealt with. Yet, can we differentiate? Is not the mental condition of all these criminals the same? If one may be returned to society with safety to the lives and property of his fellows, may not all?

"In truth it is as impossible to punish 'crime' as to reward harmony. 'Crime' is intangible, as is sunlight or fragrance. We attempt to punish an abstract quality, whereas only the individuality of the criminal should be considered. Admitting that we should punish him, to what extent should we do so? Absolute justice would reply: 'To the extent of his responsibility for his act.' The insane murderer is not executed, nor is the child imprisoned for arson. Self-defense annihilates guilt, as almost always does unbearable provocation. Here, irresponsibility tempers justice. This should be true of all punishment, yet the criminal law makes no provision for the study of the accused or convicted man's heredity, environment, susceptibility,—a man often of such birth and training that he does not realize one whit more than the child or lunatic that he has done wrong.

"Bad example, excitement, fear, egotism, opportunity, wealth and indolence, the special character and particular passions of individual races; imagination, arousing a mistaken but sincere effort to right some social or political wrong; the influence of depraved literature and sensational journalism, upon already distorted minds—these do not excuse a crime, but in any rational system they must be considered in the infliction of punishment. With hundreds of others, they are causes for which the condemned was not responsible, but for the effects of which he must suffer under the present system of law that assumes that the criminal possesses absolute free will to choose between good and evil. In this assumption it sets at naught the law of cause and effect, acknowledged in every department of science. If it be said, 'Punish to the extent of responsibility,' how determine the responsibility? Offenders must be dealt with as individuals, not as a class or even in classes. Omnipotent knowledge only could decide the exact punishment justly to be given.

"Here, then, is the situation. Vengeance, entirely, and example, largely have been abandoned as motives for imprisonment; the more modern attempt to make it protective of society is a failure. The present indeterminate sentence is farcical because it is indeterminate in name only; and, even aside from the failure of all punishment, as such, it is wrong because it is humanly impossible to determine what is just punishment."

What is to be done? The convict is in prison, a hero in proportion to the magnitude of the offense. He is pointed out to visitors. The ego that is inseparable from criminality is flattered, developed and distorted. He is in a university in which criminality is the curriculum. We have imprisoned Lucifer and liberated Beelzebub. The prisoner requires of us systematic education and we give him a stone. But what is "systematic" for each one can be determined only by a study of the individual. He is a weakling—unadapted to what we are pleased to call our normal environment. In him is an illustration of the failure of our institutions. Prisoners of the intelligent class realize this as fully as do we. An unknown convict, writing in *The Star of Hope* journal of those imprisoned at Sing Sing, recently said:

"The average man in prison is not so radically wicked as he is abominably weak. The only salvation for such a man then is to strengthen him, and to educate him to an understanding that life is unmercifully real. He must be braced up, invigorated, with strength of character, and as soon as this great task is accomplished, under ordinary circumstances, he is a fit man to be given one more chance."

Prison officers and others who come in contact with the convict must, in the ideal state, take advantage of means for estimating his responsibility and daily increase in its efficient exercise. The prisoner must be made to understand that in his fitness for responsibility is his hope for release. He must learn in school and shop to speak and write and do the work of a skilled mechanic. Let him deposit his savings in the prison treasury or send them to his friends. Let him show evidence that he has, as far as possible, made restitution for the wrong that brought him to prison. When he has done these things and when the officers who have him in charge are aware of other less tangible indications of change in his character, such as an improved mental attitude toward society, we have evidence that the correctional institution is accomplishing its educational function, and in so doing is making it harder for the convict to return to prison after release.

The Leavenworth, Kansas, *Times* several months ago commented editorially, as follows: upon Abe Ruef's plan for giving prisoners a chance:

"Ruef's plan is an extension of an idea that has been in process of development for some years in various parts of the country. Prisoners' aid societies have been organized with a large measure of success, but they have failed quite to meet the need of the case in some respects. The Ruef idea is to make the prisoner a partner of his own redemption, to endow him with a direct share in the enterprise by starting the work inside the prison, and by giving him thus a measure of assurance before he goes that he will have a chance 'outside.' He wants to overcome the despondency and despair that many prisoners feel as they face the future. This is constructive work, and it is to be hoped that the California prison board will recognize its value and start the process in motion. Abe Ruef will have in large measure paid off his debts to society if he can establish some such process of preventing the penal institutions of the country from becoming breeding grounds for future crime." A. L. GRANT, St. Paul.

Prevention of Crime vs. Coddling the Criminal.—The following is the body of a letter recently addressed to the Secretary of the Institute. Mr. Hillyer's vision penetrates to the roots of criminality. Criminologists everywhere must have it upon their consciences to emphasize prevention of crime first of all. [Eds.]

"I can not escape the conviction that too much attention is paid to coddling and taking care of criminals instead of the prevention of crime. If the law were enforced there would not be half, nay, there would not be one-tenth of the crime and consequent suffering that follows crime, by which our land is now being cursed from one end of the United States to the other.

"All this fancy notion that any criminal, especially a bad criminal who has done something particularly cruel and atrocious should be boarded as if at the Palmer House, and not required to do a lick of work, and have a pension to spend in bar rooms or gambling houses, where he will all the time be under the temptation to commit other crimes and tempt more criminals to follow his evil example, is wrong.

"If the yellow fever were raging at Rio Janeiro and five thousand cases occurred every day, the world would in the light of modern intelligence look on aghast if the health authorities of that city should devote their entire attention to care for the sick and burying the dead, but do not one solitary thing to

kill the mosquitoes or clean up the city. If the latter course were pursued and had been rightly pursued early in the year, there would not have been any yellow fever and nobody would be sick and dying from it. And just so, if the law were enforced, there would be such an enormous diminution in crime as to greatly simplify the problem and make it far easier to be good and kind and humane and merciful to the few victims that old Satan has left.

"Those of us who have what I claim are the rational views on the subject of criminology are beginning to feel great congratulation in the fact that the courts are doing away with technicalities and as far as the law will allow avoiding delays. I think in my own state that whereas ten or twelve years ago from 40 to 60 per cent of criminal cases were reversed in the Appellate Courts, now reversals hardly amount to 10 per cent. The world is learning that the honest verdict of an honest jury ought to be allowed to stand.

"If the progress of enlightenment and knowledge of these great questions could only be made to reach properly the legislatures of the different states, we could do away with the thralldom now placed on the judges. The object of a criminal trial would then always and everywhere be the ascertainment of truth, the protection of the innocent, the punishment of the guilty, and for no other objects but these. The percentage of crime would then rapidly and immediately diminish.

"These results are directly within reach of the great and good men who compose our Institute, if they could only be reinforced by the great mass of the good men who are giving attention to these subjects, but who with absolutely amazing blindness and blundering, fritter away their time on jail reforms instead of criminal reform. Mind, I do not object to jail reform. No man living is more earnest in kindness and sympathy to the poor deluded criminal than is the writer; but what I want in this particular instance and in this emphatic way is to urge that it is far more inviting for the accomplishment of real and substantial good to prevent the individuals from becoming cirminals and to preserve his innocence for presentation at the judgment day than it is to give him a few ounces more of meat and bread, or a new blanket, after he has declared war on society and violated the laws of God and man. GEORGE HILLYER, Atlanta, Ga.

Migrations of Thieves.—In the winter season pocket picking is practically at a standstill in the northern states. This is because it is the overcoat season, and the pockets of citizens are protected by the long coats, and the difficulty of getting at them deters a thief from taking any chances because under the conditions it would mean certain detection. Thieves go south in the winter time and attend the "Mardi Gras" festivities at New Orleans, and also visit the Gulf States and enjoy the festivals and do a little of their own work "on the side." Those who stay in the northern states have "their women" out hustling for them, "shoplifting" by day, and the "cold hands" game by night. In this way a thief can take things easy in the winter time especially if he has had a fairly successful "summer" season. Of course if his woman companion should "fall" it would take only a short time for his savings to be melted away in legal expenses. The western thieves come east in the summer time, and south in the winter; New York "guns" run over to New England States

all the year round, and so on throughout the whole year the "mobs" are constantly shifting their "base" and scenes of operations.

The average criminal makes it a point not to stay too long in any one place because by so doing he would become too well acquainted with the police, or he might be picked up by the cops, and "mugged" and then all his troubles would come at once; he would be blamed for crimes he never committed; in consequence of police "stupidity" he might have to do time for the crimes of "local crooks."

When strange thieves arrive in town the first salutation that greets you is this: "I am going away tonight." This is to throw people off their guard; straight people do not care if the town is overrun with thieves provided they escape from their depredations; it would be more appropriate for newly arrived thieves to cultivate the good will of local "guns" (thieves). Local crooks look with an envious eye at outsiders invading their stamping ground, and if their own interests are liable to suffer they will not hesitate to "turn up" to the police any strange thieves who happen to be in town and who are likely to interfere with their grafting.

JOSEPH MATTHEW SULLIVAN, Boston.