Journal of Criminal Law and Criminology

Volume 5 | Issue 1 Article 10

1914

Notes on Current and Recent Events

NOTES ON CURRENT AND RECENT EVENTS.

ANTHROPOLOGY—PSYCHOLOGY—LEGAL-MEDICINE.

Comments on the Case of Father Johannis Schmidt. — The general attitude and appearance of Father Schmidt was striking. He is rather short of stature, well nourished, and round of limb. He wore a full beard, and with his somewhat pale and prominent features and rather finely chiseled nose and eyes that were liquid and spiritual in expression, he gave the instant impression of a certain resemblance to the Christ with which one becomes so familiar among the mentally diseased. He moved about and sat down without apparently paying any attention whatever to his body. Throughout the examination he sat perfectly quiet, there was no agitation of his body or signs of nervousness of any kind; his hands lay limp in his lap, his shirt was unbottoned at the neck, his trousers were unbuttoned in front, and he gave me the general impression of not only not caring for his body, but as hardly knowing that he had one. Upon his left side, under the breast, there is a large birth-mark about the size of my two hands spread out. It is pale pink in color, neither red nor white, the significance of which will appear later. At the extremity of the spinal column there is a triangular area or hairiness of perhaps four inches in length with the base of the triangle uppermost.

The mental examination elicited the following facts: He has always been interested in blood. He says that blood always excites him, meaning sexually. He remembers in the old homestead he was always very much interested in seeing his mother chop off the heads of the chickens and geese, and he would often pick up one of the heads and carry it about with him for days afterwards. On occasions, he, with another boy, would take the heads and place them between their legs. On one occasion he was about to unbutton his pants to put the head against his genitals when his father caught him and whipped him. He used to visit the slaughter house with another boy and while watching the operations they would feel each other's genitals. One of his very earliest experiences in seeing blood was in seeing the blood in the bed where his sister had slept, — undoubtedly her menstrual blood. Upon one occasion, when his mother was confined and he was about six years old, he says he wanted to be with her very much when she was in bed, and once when in the room he pulled back the bed clothes and saw some blood. Upon another occasion she asked him to take the vessel out and empty it. She had put a piece of paper over it. He took it out and emptied it in the sink. It contained blood. He remembers falling upon a broken bottle and cutting his thigh and being attended by the barber, who put some stitches in it, and his sister would generally be present and assist the dressings. He says he is the favorite priest of God, for God has shown him many times the real blood in the chalice.

He was ordained in the old country by a bishop, but the night previous to his ordination he was visited by Saint Elizabeth, who ordained him and made him her favorite priest. This was Saint Elizabeth of Hungary. He knows the stories of this saint; he tells about how she was a very good woman and used to go about among the poor and help them. He remembers the story when her affianced husband met her on a cold, wintry day and wanted to know

where she was going and chided her for exposing herself to the weather. He asked her what she had in her apron, and reaching forward pulled it open, when the bread that was there turned into roses, and the roses all fresh fell out upon the ground. He tells how this man afterwards married her, drove her out of the house, and how finally she died in prison. He also knows the story of Saint Elizabeth picking up the little leprous child, taking it home, putting it in her bed, and then looking and finding that it was the Christ child.

He tells about his own life. He tells how his father used to abuse his mother. His father was an engineer on the railroad and came home frequently drunk. He says his mother was a very good woman and used to help the poor when she could. He says his sister was also a very good woman, and she also used to help the poor when she could. His sister's name was Elizabeth.

Here he said also that there was something mysterious about his own parentage, that he frequently asked his mother about it and that she said that she would tell it all in good time. The father, I think he said, also knew about it. The father wanted his name called Heinrich when he was born, but it was finally Johannis, and that has great significance with reference to this parentage; he says he is named after John the Baptist, and this relationship between himself and John the Baptist, through his mother, has something to do with the relationship of Christ to Mary also perhaps in the same way. John the Baptist was the man who baptized Christ. He took Christ into the water and baptized him. Water is a means of purification, and always in the communion service they mix water with the wine and when Christ was on the cross and the soldier plunged the spear in his side blood and water flowed from his side, and the birth-mark on his side is neither red nor white, but pale — like blood mixed with water.

In the old homestead in Darmstadt there were only three rooms, kitchen, the bed room for his father and mother, and the other room where the children slept. He slept often in the bed with his sister, and his brother Heinrich was also often in the same bed. He remembers very early having had some kind of sexual relation with his sister, and he remembers that his sister told him that he must not say anything about it. He thinks also that Heinrich had the same sort of relations with her. He says also that Heinrich is the brother most like himself.

The father used to misuse the mother very much, often striking her. Upon one occasion he threw the hatchet at her, and upon another occasion, at the table, when she was getting supper ready, he struck her with a knife and cut her hand. He remembers the knife very well, because it is one his father carried for many years. When he saw the blood in the bed at the time his mother was confined he thought the blood was the result of his father having wounded his mother with the knife. On one occasion, when he, and his brother Heinrich, were sleeping together, his brother woke him up and called his attention to noises coming from his parents' room. He heard his mother give a suppressed cry, and while it was not the same kind of cry she made when his father cut her with the knife, still he thought that his father was injuring her.

He has had numerous sexual relationships during his life. In his early days he and a boy named Otto Schmidt, who was a cousin of his, used to beat each other with a rope. Later on there was another boy with whom he had homo-sexual relations, a boy who came to visit him when he had rheumatism,

and finally with Dr. Murat. In his relations with Dr. Murat he has felt himself become a woman; he put his hands to his breasts, and said that he had the breasts of Saint Elizabeth. In these relations he was often rough, and his companion would complain. He actually bit, and he said that he felt as if he could eat them.

When he first met Annie Aumuller he fainted, — became completely unconscious. He can give no explanation for this. Later, after he had sexual relations with her for some time, he was doubtful whether it was right or not. He knew that he was offending the laws of the priesthood, and yet he felt that God had given him those feelings and those faculties, and that it might be right to use them. He accordingly took her into the church, had sexual relations with her at the altar, meanwhile watching the chalice to see whether God would give him the sign. He said there was no sign and he therefore thought that God approved.

I asked him, if when he came to the Tombs he had not had a cut on his hand. He said, yes, on the right hand at the base of his index finger. I asked him how he got it and he said that it came from the knife when he (I believe he used the term) "divided" Annie. There was some considerable discussion as to how many parts he had cut her in, and it was not altogether clear whether it was seven or nine parts. He insisted that it was seven, and no matter what was said with regard to the coroner's report or any other sort of information, he replied stolidly, "I know better than they, it was seven."[1] He finally, upon request, took a pencil and paper and indicated by a drawing how he had cut up the body. After he cut her throat he attempted coitus with the body, but failed. He took some of the blood from the wound in the throat, mixed it with water, and drank it.

The Lord had said to him before the homicide upon several occasions that Annie must be a sacrifice and an atonement. One of the objects of putting her in the water was to mix her blood with water and put her where no one else could even touch her. He told once about visiting a church in the old country, where there had been a miracle and where the Lord had caused to appear upon the altar twelve bleeding heads. He saw the cloth upon which these heads had rested, and these heads were the heads of the twelve apostles. In connection with the number 7 as being the number in which Annie's body was divided, he speaks of the seven candle sticks, the seven branches of the candle sticks used in the Jewish Temple, etc.

I asked him when I had completed my examination whether he was at peace with God and he said that he was, that God would keep his promise, and he stated that he felt as if he had entered into God and formed a part of him, was united and identified with him.

All of the above facts, so far as they were objective, were verified by the father and sister, who came from Germany to testify at the first trial, and also by a close associate of Father Schmidt's in the priesthood. A careful going over of the family record showed mental disease upon both sides of the family. His heritage of mental disease was therefore duplex. For three or four, I am not sure but five, generations back there were numerous instances of mental disease, particularly suicide.

This history shows clearly what we would call today a *breaking through*

[1]The mystical and religious significance of seven is well known.

of the unconscious. Undoubtedly from his early boyhood Father Schmidt has had a serious internal conflict that expressed itself in sexual symbols. He has been fighting this conflict all his life; I think as early as seven years of age he was known as "the little chaplain," having erected an altar in his house and made vestments for himself and worshipped before the altar. This conflict was most severe, and robbed him of anything like consistent efficiency. He was always in trouble wherever he was, he had two or three distinct fugues, and was rarely able to get along at any church for any period of time. He was always being censured by his superiors until they found that did little good, because instead of correcting his ways he would fall into a depression and not eat. There is plenty of evidence, as I recall it, that he frequently made mistakes in raising the host at mass with the thumb and middle finger instead of the thumb and forefinger. This might seem a trivial mistake to one not acquainted with the rubric of the mass, but when one realizes that the thumb and the forefinger are especially consecrated by the bishop at ordination and anointed with holy oil, and thus prepared for their holy office of touching the host, it can be understood that to use the middle finger is not a trifling matter, but absolutely wrong. He used his middle finger, he explains, because that was the sign of Saint Elizabeth.

It appears from the above examination that he identifies himself with John the Baptist. There are also evidences, especially in his appearance and the birth-mark on his side, that he identifies himself with Christ. The connection between Jesus, the child of Mary, and John, the child of her cousin Elizabeth, both conceived by the Holy Ghost, is well shown in the first chapter of Luke from the 28th to the 43rd verses. A further identification with Saint Elizabeth and therefore a change of sex was also noted in his relations with Murat. Another important element in the case is that he was just at the age of Christ and had he been convicted and executed as he appeared to expect he would be he would have been executed at exactly the same age and practically about the same time in his life that Christ was crucified. This confusion of identities is the commonest kind of thing to be met with in the psychology of the unconscious. A similar type of reasoning is shown with reference to a certain alleged abortifacient which he is said to have used. He gave Miss Aumuller some lentils, either to keep her from being pregnant, or to cause her menses to come. The prosecution claimed that he put these lentils up in packages and sold them for criminal purposes. The whole explanation of the thing shows a typical way of unconscious reasoning. He had noticed when he ate lentils that they made his bowels move.[2] That is the first point. The second point is that Esau sold his birthright for a mess of pottage. Now pottage, so Father Schmidt says, is the same thing as lentils. Therefore, putting all these things together, it can easily be seen why lentils should prevent conception, or at least bring about a miscarriage.

Another difficulty which Father Schmidt had in the various churches was in his mixing water in the wine at communion. The rubric prescribes, I believe, that only a small portion of water shall be mixed with the wine, never more than one-third, whereas Father Schmidt was constantly being brought to task for using too much water. The bearing upon this of what has gone before is easily seen.

[2]Birth Phantasy.

So far as I was able to learn, Father Schmidt was a man of gentle nature, who gave not only freely to the needy, but to the extent of practically impoverishing himself.

The defense maintained that this man was suffering from mental disease, that he had finally been unable to handle the conflict that had been going on within him all his life, that the unconscious broke through and resulted in the homicide, that the meaning of the homicide can only be read in the light of this man's whole life. They maintained also that in his whole career he had shown himself to be inefficient, unable to adequately adapt himself to circumstances, in other words that he had always been a failure, just about able to get along. He had been once before confined in an institution for the insane in Germany, where he had been pronounced unqualifiedly insane. His whole life shows the varying dominion of the two sides of his nature, his varying successes and failures in the conflict.

The prosecution claimed that the whole thing was malingering, that he was a man of education and unusual attainments, very clever and capable, and that the whole delusional system, which has been outlined above, was manufactured. This, despite the fact that while he took great pains to deposit the various parts of his victim's body in the river, he left absolutely incriminating evidence right exactly where it could not fail to be discovered, left the blood-stained knife and saw in his trunk, his picture in a coat hanging up on the wall, and other things which were entirely at variance with a cleverly planned homicide. There were many other similarly stupid things, not only in connection with the act itself, but throughout his life, as particularly when he entered into an arrangement with Dr. Murat to do counterfeiting and expected to be able to prepare himself by buying a book or two on engraving.

The very horror and atrociousness of the thing that he did would seem to peclude the possibility of calm judgment being accorded him. It would seem that without question the more atrocious a crime the greater presumption there must necessarily be of the abnormality of the man committing it. The very character of the thing that he did would seem to be almost sufficient to warrant a diagnosis of mental disease.

WILLIAM A. WHITE, Supt. Government Hospital for the Insane,
Washington, D. C.

COURTS—LAWS.

To Amend the Code of Criminal Procedure in Relation to Indictments, and to Repeal Certain Sections Thereof.—The following bills have been recently introduced in the N. Y. Legislature. [Ed.]

The People of the State of New York, Represented in Senate and Assembly, Do Enact as follows:

SECTION 1. Section two hundred and seventy-five of the Code of Criminal Procedure is hereby amended to read as follows:

Section 275. Indictment, what to contain.

[The indictment must contain:

1. The title of the action, specifying the name of the court to which the indictment is presented, and the names of the parties;

2. A plain and concise statement of the act constituting the crime, without unnecessary repetition].

1. *No indictment shall be insufficient if it contain the title of the action, specifying the court to which the indictment is presented, the names*

of the parties, and in substance a statement that the defendant at a specified time and place has committed some indictable offense therein specified, which statement may be in popular language, without any technical averments or any allegations of matter not essential to be proved. Such statement may be in the words of the enactment describing the offense or declaring the matter charged to be an indictable offense or in any words sufficient to give the defendant notice of the offense with which he is charged.

2. An indictment or count may refer to any section or sub-section of any statute creating the offense charged therein, and in determining the sufficiency of such indictment or count the court shall have regard to such reference.

3. Every indictment shall be signed by the district attorney or by the attorney general or assistant or deputy attorney general, whichever shall present the case to the grand jury.

SECTION 2. Section two hundred and seventy-six of the Code of Criminal Procedure is hereby repealed.

SECTION 3. Subdivision 6 of section two hundred and eighty-four of the Code of Criminal Procedure is hereby amended to read as follows:

6. That the act or omission, charged as the crime is [plainly and concisely] set forth [;] *sufficiently to give the defendant notice of the offense with which he is charged;*

SECTION 4. Section two hundred and ninety-one of the Code of Criminal Procedure is hereby amended to read as follows:

Section 291. Pleading in indictment for perjury or subornation of perjury. [In an indictment for perjury or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the crime was committed, and in what court, or before whom, the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment need not set forth the pleadings, record or proceedings with which the oath is connected, nor the commission or authority of the court or person where or before whom the perjury was committed]. *No indictment or count charging perjury or subornation of perjury shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or affidavit was taken or made, or the subject of the controversy, matter or inquiry, or the words used, or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used.*

SECTION 5. This act shall take effect September 1, 1914.

EDWARD SWANN, Judge, Court of General Sessions, N. Y. City.

To Amend the Code of Criminal Procedure in Relation to Indictments.—The People of the State of New York, Represented in Senate and Assembly, Do Enact as follows:

SECTION 1. Section three hundred and ninety-one of the Code of Criminal Procedure is hereby amended to read as follows:

Section 278. [Indictment must charge but one crime and in one form.] *Charges which may be joined in one indictment.* [The indictment must charge but one crime and in one form except as in the next section provided.] *When there are several charges against any person for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses, the whole may be joined in one indictment in separate counts; and if two or more indictments are found in such cases, the court may order them to be consolidated.*

SECTION 2. The heading or title of section two hundred and seventy-nine of the Code of Criminal Procedure is hereby amended to read as follows:

Section 279. [Except where it may be] *Where the crime may have been* committed by different means.

SECTION 3. Subdivision three of section three hundred and twenty-three of the Code of Criminal Procedure is hereby amended to read as follows:

3. That [more than one crime is charged in the indictment within the meaning of Section 278 or 279]; *there is a joinder of charges or counts other than as permitted by Section 278 or Section 279; or*

SECTION 4. This act shall take effect September 1, 1914.

EDWARD SWANN.

To Amend the Code of Criminal Procedure in Relation to the Trial of Defendants Jointly Indicted.—The People of the State of New York, Represented in Senate and Assembly, Do Enact as follows:

SECTION 1. Section there hundred and ninety-one of the Code of Criminal Procedure is hereby amended to read as follows:

Section 391. *Joint or separate trials of defendants jointly indicted.* When two or more defendants are jointly indicted [for a felony, any defendant requiring it, must be tried separately. In other cases, defendants jointly indicted] *they* may be tried separately or jointly, in the discretion of court.

SECTION 2. This act shall take effect immediately.

EDWARD SWANN.

To Amend the Code of Criminal Procedure in Relation to Evidence of Other Acts of Defendants.—The People of the State of New York, Represented in Senate and Assembly, Do Enact as Follows:

SECTION 1. Section three hundred and ninety-one of the Code of Criminal Procedure is hereby amended to read as follows:

Section 392. Rules of evidence, evidence of certain children how received; *evidence of other acts of defendants.*

The rules of evidence in civil cases are applicable also to criminal cases, except as otherwise provided in this code. Whenever in any criminal proceedings a child actually or apparently under the age of twelve years offered as a witness does not in the opinion of the court or magistrate, understand the nature of an oath, the evidence of such child may be received though not given under oath if, in the opinion of the court or magistrate, such child is posesssed of sufficient intelligence to justify the reception of the evidence. But no person shall be held or convicted of an offense upon such testimony unsupported by other evidence.

In any criminal case where the act with which the defendant is charged is one of a series of acts committed in pursuance of a general scheme, plan or system, any like acts of the defendant which were committed in pursuance of such general scheme, plan or system, may be proved, whether they are contemporaneous with or prior or subsequent thereto.

SECTION 2. This act shall take effect September 1, 1914.

EDWARD SWANN.

To Amend the Code of Criminal Procedure in Relation to the Defendant as a Witness.—The People of the State of New York, Represented in Senate and Assembly, Do Enact as Follows:

SECTION 1. Section three hundred and ninety-three of the Code of Criminal Procedure is hereby amended to read as follows:

Section 393. Defendant as witness.

The defendant in all cases may testify as a witness in his own behalf

[but his neglect or refusal to testify does not create any presumption against him].

SECTION 2. This act shall take effect September 1, 1914.

EDWARD SWANN.

Advisory Board of Parole.—The following bill was introduced in the Maryland Senate on February 18, 1914:

An Act to create an unpaid advisory Board to be known as the "Advisory Board of Parole," and to prescribe their powers and duties and to provide for the appointment, salaries and duties of a Secretary to said Board and Parole Officers, and to make an appropriation for the expenses thereof, and to repeal and re-enact with amendments Sections 6 and 7 of Article 41 of the Code of Public General Laws, and to add eight new sections to said Article 41, to follow immediately after Section 7 thereof, and to be known respectively as Sections 7A, 7B, 7C, 7D, 7E, 7F, 7G, and 7H, the same being an Act to render more effective and efficient the exercise by the Governor of his power to pardon and reprieve.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Sections 6 and 7 of Article 41 of the Code of Public General Laws of Maryland be and the same are hereby repealed and re-enacted with amendments so as to read respectively as follows:

Section 6. The Governor, by and with the advice and consent of the Senate, shall appoint an advisory Board to be known as The Advisory Board of Parole, to consist of three members, who shall be appointed without regard to political affiliation and who shall each be not less than thirty years of age, and who shall each have been, for the four years next preceding his appointment, a resident and qualified voter of the State of Maryland. And the first appointments hereunder shall be made by the Governor as aforesaid, upon the passage of this Act, and if such appointments, or any of them, for any reason fail of confirmation at the January Session of the General Assembly of 1914, then the Governor shall appoint, as recess appointments, such number of members of said Board as may be necessary to secure a full board. One of said Board shall hold office for two years from the beginning of the term of his office and until his successor shall qualify; and one of said Board shall hold office for four years from the beginning of his term of office and until his successor shall qualify; and one of said Board shall hold office for six years from the beginning of his term of office and until his successor shall qualify. The term of all officers of said Board shall begin on the first day of May, 1914. The Governor, at the time of making and announcing the appointment of said three members of said Advisory Board of Parole, as well as in the commission issued by him to each of them, shall designate which of said Board shall serve for the term of two years, and which shall serve for the term of four years and which shall serve for the term of six years, and also which shall be chairman of said Board. On the expiration of each of said terms, the term of office of each member of said Advisory Board shall be six years from the time of his appointment and qualification and until his successor shall qualify.

Vacancies in said Board shall be filled by the Governor for the unexpired term, by and with the advice and consent of the Senate

In the event that the term of office above described and prescribed for each of said members of said Advisory Board shall, in respect to any of said members, be held and decided by the Court of Appeals of Maryland to be in excess of the period or term of office allowed or permitted by the Constitution of Maryland, then, and in such event, the term of office of each of said members shall be, and this Act hereby declares and determines that the term of office of each of them shall be for the period of two years from and after the first Monday of May, 1914, and until their successors

respectively qualify according to law, and in such event, the term of office of each succeeding member of said Board shall be for two years and until his successor qualifies.

The Governor may remove any member of said Board for inefficiency, neglect of duty, or misconduct in office, giving to him a copy of the charges preferred against him, and the opportunity of being publicly heard in person or by counsel in his own defense, on not less than ten days' notice. If such member shall be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such member and his finding thereon, together with a complete record of the proceedings.

Section 7. Before entering upon the duties of his office each member of said Board shall take an oath that he will well and faithfully execute and perform the duties appertaining to his office according to the laws of the state and the rules and regulations adopted in accordance therewith.

SECTION 2. *And be it further enacted,* That eight new sections be and the same are hereby added to Article 41 of the Code of Public General Laws of Maryland, to follow immediately after Section 7 of said Article and to be known respectively as Sections 7A, 7B, 7C, 7D, 7E, 7F, 7G, and 7H, and to read as follows:

Section 7A. The said Advisory Board of Parole shall have and are hereby given visitorial powers over all institutions to which any person may be committed upon a criminal charge or to which a minor may be committed as a delinquent, whether such institution be a State, County or City institution, or private institution receiving State, County or City aid; and the said Board shall have power to summon witnesses before it and to administer oaths or affirmations to such witnesses whenever, in the judgment of the said Board, it may be necessary for the effectual discharge of their duties under this Act; and any person failing to appear before said Board at the time and place specified, in answer to said summons, or refusing to testify, shall be punishable by a fine of not less than twenty-five dollars; false swearing on the part of any witness testifying before said Board shall be deemed perjury and shall be punished as such.

The said Advisory Board of Parole shall have power to make all needful rule and regulations not inconsistent with law for the effectual carrying out the provisions of this Act and to prescribe the powers and duties of all persons employed or appointed by said Board.

Section 7B. The said Advisory Board of Parole shall have power to appoint, and remove at pleasure, not more than four parole officers for the purpose of carrying out the provisions of this Act, each of whom shall receive compensation, to be fixed by said Advisory Board of Parole, not exceeding twelve hundred dollars per annum, to be paid from the moneys appropriated under the authority of this Act. The Advisory Board of Parole shall also, in its discretion, appoint and remove at pleasure other persons to serve as parole officers without pay. And the said Advsiory Board of Parole shall have power to appoint and remove at pleasure a secretary, at a salary not to exceed fifteen hundred dollars per annum.

Section 7C. The Governor upon giving the notice required by the Constitution may commute or change any sentence of death into confinement in the Penitentiary or in the Maryland House of Correction or Maryland House of Correction, Woman's Branch, or banishment, for such period as he shall think expedient; and on giving such notice, he may commute or change the sentence of any person from imprisonment in the Maryland Penitentiary, to imprisonment for a like or for a less period in the Maryland House of Correction or in the Maryland House of Correction, Woman's Branch. And on giving such notice he may pardon any person, convicted of crime, on such conditions as he may prescribe, or he may upon like notice remit any part of the time for which any person may be sentenced to imprisonment, on such like conditions without such remission operating as a full pardon to any such person.

Section 7D. In any case in which the Governor may issue a conditional pardon to any person, the Governor, in the absence of any provision to the contrary expressed therein, shall be the sole judge of whether or not the conditions of said pardon have been breached, and the determination by the Governor, that the conditions of such pardon have been violated by the person receiving the same, shall be final and not subject to review by any Court of this State.

Section 7E. *And be it further enacted,* That in any case in which the Governor may release any person by a conditional pardon and thereafter, on breach of any condition therein, revoke said conditional pardon, the person so released on such conditional pardon shall be required, unless otherwise ordered by the Governor, to serve the unserved portion of the sentence originally imposed upon him; and said person, unless otherwise ordered by the Governor, shall not be considered as serving any portion of his original sentence during the time he is released by virtue of such conditional pardon.

Section 7F. It shall be the duty of said Board to collect all information that may aid it in determining the advisability of recommending to the Governor the conditional pardon of any person sentenced under the laws of Maryland, and whenever said Board shall, upon examination, be of the opinion that both the interests of the State and the interests of any prisoner sentenced under the laws of Maryland would be best subserved by a conditional pardon, it shall be the duty of said Board to lay before the Governor for his consideration those facts and circumstances which induced their conclusion in that respect.

Section 7G. Whenever the Governor shall conditionally pardon any person sentenced under the laws of Maryland and shall prescribe as one of the conditions of such pardon that said person shall continue under the supervision of the Advisory Board of Parole during the term of such conditional pardon, it shall be the duty of said Advisory Board of Parole to supervise during said term the life and conduct of the person so conditionally pardoned and to ascertain and report to the Governor whether or not the conditions of said pardon are being faithfully complied with by said person. And whenever the Circuit Court of any county or the Criminal Court of Baltimore shall suspend the sentence of, or parole, any person convicted of crime, and shall direct such person to continue, for a time certain or until otherwise ordered, under the supervision of the Advisory Board of Parole, it shall be the duty of said Advisory Board of Parole to supervise, as directed by said Court, the life and conduct of such person, and to acsertain and report to said Court whether or not the conditions of such parole or suspension of sentence are being faithfully complied with by said person.

Section 7H. The sum of ten thousand ($10,000.00) dollars annually is hereby appropriated to pay the salaries of the Secretary and the parole officers, herein provided for, and for the purchase of all needful books and records and for the necessary traveling and other expenses of said Advisory Board and of said parole officers, and shall be payable on the order or orders of said Advisory Board of Parole, in such amounts and at such intervals as said Board shall direct, and the Comptroller shall draw his warrant upon the Treasurer of Maryland for such amounts and at such intervals as directed by the said Advisory Board of Parole as aforesaid.

SECTION 3. *And be it further enacted,* That all acts and parts of acts inconsistent herewith are hereby repealed.

SECTION 4. *And be it further enacted,* That this Act shall take effect from date of its passage.

E. O. DUNNE, Baltimore.

ALLOWANCES TO PRISONERS

To Provide Counsel for Indigent Defendants Charged with Felony.—The following are bills introduced in the Massachusetts legislature. They and others are commented upon elsewhere in this issue in the article by Mr. Baker, reprinted from the Boston *Transcript*. (House bill 1067.)

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

SECTION 1. The superior court, at the beginning of a criminal term in any district, or at any time during such term, may appoint a person to act as counsel for indigent defendants charged with felonies, other than capital offenses, and may at any time revoke such appointment.

SECTION 2. Such appointment in the Suffolk district may be for any period not exceeding one year, at the discretion of the court. In other districts such appointment shall be for a single term of the court.

SECTION 3. The compensation to be allowed to counsel so appointed shall be fixed by the court, but the amount paid for his services shall not exceed one-half of the salary of the district attorney for the same length of time. The court shall allow the reasonable expenses incurred and paid by counsel so appointed.

SECTION 4. If a person so charged appears for arraignment without counsel, the court shall ascertain whether or not he desires counsel, and if so, whether or not he is able to obtain it. If satisfied that he is not able to do so, the court may assign him, as counsel, the person appointed as hereinbefore provided.

SECTION 5. A person so charged, upon his request in writing, shall have a list of the jurors who have been returned, and in the discretion of the court may have process to summon witnesses who are necessary to his defence. All expenses incurred under this act in any case shall be paid by the county in which such case originated.

SECTION 6. This act shall take effect upon its passage.

R. H. G.

To Authorize Certain Allowances to Prisoners.—(Mass. House, 1080.)

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

SECTION 1. From and after the first day of July of the current year each prisoner in the state prison, the Massachusetts reformatory, the reformatory for women and the prison camp may receive from the treasury of the commonwealth a sum of money not exceeding three dollars per month.

The prison commissioners from time to time shall make rules, consistent with the provisions of this act, governing the amount of said allowance and the conditions upon which a prisoner may receive it. The money shall be paid quarterly to the warden or superintendent on a schedule approved by said commissioners, and shall be held by him in trust for said prisoners. He shall keep an account of all moneys so received separate from all other accounts, and shall disburse the same as hereinafter provided. He may pay to any prisoner discharged between two quarterly payments any money due him under the provisions of this act, taking his receipt therefor, and the money so paid shall be refunded on a schedule approved by said commissioners.

SECTION 2. The warden or superintendent shall retain, from the money received by him under the provisions of the preceding section, such portion

thereof as the prison commissioners by rules shall fix, to be disposed of as follows: On the release of the prisoner the money so retained, and money received by him under the provision of section three, and held by him at the time of the prisoner's release, shall be used by him, in his discretion, either for the purchase of clothing or other articles for the prisoner, or by paying the same, or any part thereof, either to him, or to the agent for discharged prisoners, to be expended by him for the benefit of the prisoner.

SECTION 3. The remainder of the money, if any, received by the warden or superintendent as aforesaid shall be disposed of as follows: At his request, the same, or any part thereof, may be deposited by the warden or superintendent, in trust for the prisoner, in a bank designated by him; or may be paid to his dependents, or be expended by the warden or superintendent for *articles* for his use. The prison commissioners, from time to time, shall designate by rule the articles which may be purchased for the use of prisoners, and no expenditures shall be made of money received as aforesaid for articles not permitted under said rule ,except by vote of said commissioners, upon the recommendation of the warden or superintendent.

Any money received by the warden or superintendent, and not disposed of as hereinbefore provided prior to, or at the time of, the prisoner's release, may be retained until the expiration of the full term of the prisoner's sentence. At any time during that period the whole or any part of the same may be paid to the prisoner or expended for his benefit, and it shall be so paid at the time of such expiration.

Money in the hands of the warden or superintendent shall, at all times, be subject to forfeiture, under such rules as the prison commissioners from time to time shall make. Money so forfeited and money held for a prisoner who escapes from prison or for one who dies in the prison or on parole shall be disposed as directed by the commissioners, by rule or otherwise.

SECTION 4. If the prison commissioners shall at any time provide for grading the prisoners held in the state prison, the payment authorized by section one of this act shall be paid, thereafter, only to persons in the two highest grades, and the amount to be so paid may be increased to four dollars per month.

R. H. G.

Relative to the Punishment for Murder in the Second Degree.—(Mass. House, 1065. Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section two of chapter two hundred and seven of the Revised Laws is hereby amended by adding at the end thereof these words:—or for any term of years not less than twenty,—so as to read as follows:—*Section* 2. Whoever is guilty of murder in the first degree shall suffer the punishment of death, and whoever is guilty of murder in the second degree shall be punished by imprisonment in the state prison for life, or for any term of years not less than twenty.

R. H. G.

To Provide for the Disposition of Criminal Actions on Information of the District Attorney.—(Mass. House, 1069.) Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. On the written petition of any person charged with felony,

the maximum punishment for which shall not exceed years' imprisonment in the state prison, and who is held in custody therefor, setting out that he is held as aforesaid, and that he is guilty of the offence so charged, and that he desires to plead guilty thereto, and to have judgment forthwith passed upon him therefor, and requesting the court to direct the district attorney to file an information against him charging him with the commission of such offence, the court, or any judge thereof, may direct that such information be filed by the district attorney, and upon the same being done, such person shall, without unnecessary delay, be brought before the court, as upon indictment by a grand jury, and after the court shall have heard the plea of guilty on the part of such person, to the charge contained in the information, and his statement of the facts indicating his guilt, and whatever such person may submit relevant to the proper disposition of the case, the court shall pass judgment, and make disposition of the case in all respects as though the accused person had been duly adjudged guilty upon an indictment regularly returned by the grand jury.

SECTION 2. All courts having jurisdiction to try and determine and make disposition of criminal actions, involving charges of felony, are fully authorized and empowered to proceed in the manner hereinbefore mentioned.

SECTION 3. This act shall take effect upon its passage.

R. H. G.

Relative to Aiding Discharged Prisoners.—(Mass. House, 11078.) Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The agent employed to aid prisoners discharged from the state prison may, with the approval of the prison commissioners, assist during office hours, such other discharged prisoners, found to be needy and deserving, as can be helped without expense to the commonwealth.

SECTION 2. So much of chapter eight hundred and twenty-nnie of the acts of the year 1913 as is inconsistent with this act is hereby repealed.

R. H. G.

Relative to Sentences for Felony.—(Mass. House, 1066.) Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. If a convict is sentenced to the state prison, for a crime committed after the passage of this act, except for life or as an habitual criminal, the court shall not fix the term of imprisonment, but shall merely impose a sentence to the state prison. Whoever is so sentenced to the state prison may be held therein for the longest term fixed by law for the punishmnt of the offence of which he has been convicted.

If a convict is sentenced to the house of correction for a felony, excepting for a term of two years or less, the court shall not fix the term of imprisonment, but shall merely impose a sentence to the house of correction. Whoever is sentenced to the house of correction for an unfixed term, as aforesaid, may be held therein for the longest term of imprisonment in a house of correction fixed by law for the punishment of the offenec of which he has been convicted.

If a convict is sentenced to the state prison or is sentenced to a house of correction for an unfixed term, as aforesaid, for two or more felonies, he may be held for a term equal to the aggregate of the maximum terms fixed by law

for the punishment of said felonies, and for the purposes of this act, he shall be held to be serving one continuous term, equal to such aggregate.

A sentence imposed under this act shall be known as an indeterminate sentence.

SECTION 2. If it appears to the board of parole for the state prison and the Masaschusetts reformatory that a prisoner held in the state prison or in a house of correction upon an indeterminate sentence imposed under this act has reformed and is likely to lead an orderly and law-abiding life, and it has a reasonable assurance that he will not become a charge upon public or private charity, it may issue to him a permit to be at liberty during the remainder of his sentence, upon such terms and conditions as it shall prescribe.

If the holder of a permit issued under the provisions of this act, violates any of its terms or conditions, or violates any law of this commonwealth, before the expiration of his sentence, such violation shall make void such permit. The prison commissioners may revoke any permit to be at liberty issued under the provisions of the preceding section.

SECTION 3. When any such permit has become void or has been revoked, they may issue an order authorizing the arrest of the holder thereof by any agent appointed by said commissioners, or by any officer qualified to serve civil or criminal process in any county, and the return of such holder to the prison from which he was released.

A prisoner who has been so returned to his place of confinement shall be held therein according to the terms of his original sentence. In computing the period of his confinement, the time between his release upon permit and his return to prison shall not be considered as any part of the term of his original sentence.

SECTION 4. This act shall take effect on the first day of July of the present year. R. H. G.

Public Defenders of Portland and Los Angeles Write of Their Work.—R. S. Gray, who has been one of the foremost attorneys on the Pacific Coast to advocate the need of public defenders in our criminal and civil courts, and who believes that there should be a reorganization of bar that would provide for a paid bureau of lawyers to conduct all trials in courts, has received two letters, one from the public defender recently appointed by the superior court in Portland, and one from the public defender of Los Angeles, whose office was created by provision of the county charter adopted last year. The letters are reprinted here from the *Recorder* of San Francisco of March 2, 1914—Ed.

From Walter J. Wood, Public Defender of Los Angeles.

Dear Sir: "I am firmly of the opinion that there should be lawyers provided to conduct criminal cases, both for the prosecution and the defense. * * * *

"There has been no appointment of assistant public defender. However, several attorneys are now at work in the office under temporary appointment as deputies or assistants. Mrs. Norton is also at work in the office as adjuster, having received a temporary appointment under authorization from the Board of Supervisors. The Civil Service Commission has not held an examination for adjuster up to the present time and therefore there is no eligible list from which to appoint.

"We have more work than we can attend to, practically all of the people

accused of crime, who have no funds to employ counsel, having called for the services of the public defender. About twenty applications have been received each day for aid in the civil branch of our work. Many of these cases are such that we are not permitted to handle them under the provisions of the charter.

"I see now, more than ever, the great need for the office of public defender, and I am glad that you are working to the end that the office be created elsewhere."

From Henry L. Lyons, Public Defender of Portland.

Dear Sir: "Yours of the 23rd instant, in reference to my work here as public defender, has been received, and I take pleasure in giving you what information I have concerning the office and circumstances.

"Municipal Judge Stevenson, who is the police judge, and who also acts as committing magistrate in State cases, felt the need of a public defender in his court, and as there was no way to provide a salary at present for a regular incumbent of the office, he took up the matter with Mr. Arthur Langguth as President of the Multomah County Bar Association. It took but a very short time to make the necessary arrangements, and it was decided to attempt to secure regular practicing attorneys who would be willing to devote, say, one week each to the work, without compensation. I was very glad to have the privilege of being the first to take up the work, and I spent two weeks defending persons who were unable to hire an attorney.

"The Bar Association has prepared a list of attorneys who are willing to donate their services for one week each to this work, and these names are submitted to Judge Stevenson from time to time for appointment. I have no doubt that the work can be continued for a long time in this way, if necessary.

"I was provided with a key to the room in which the prisoners are placed while awaiting trial, and I went in to see them before court every morning, and as often during the day as necessary. I always explained to them that my services were free and that I had been appointed by the court to represent those who desired the services of an attorney and were unable to get one. Those who were able to pay an attorney were advised to employ one, but I was always careful never to recommend, or even to suggest, the name of an attorney to them. A great many of the prisoners availed themselves of my services, and I had the satisfaction of feeling that I was of asssitance to some of them at least.

"In the press of police court work, with the police officers, and the City Attorney's office, or the District Attorney's office, all on the side of the prosecution, a prisoner who is without an attorney is at a great disadvantage in the trial of his case. The municipal court is particularly the people's court. It is the court that deals more closely with everyday affairs of life, and comes into closer touch with the people than any other, and it is especially important that every protection and care should be given to those who are brought before it. Their cases may seem small to the public, but they are exceedingly important to those involved, and while Judge Stevenson is as kind-hearted and sympathetic toward the accused as a judge could well be, yet it is impossible for any court to see that their side of the case is properly or fully presented, and that they avail themselves of their legal rights and defense, if they have no attorney to assist them. As Judge Stevenson said to me, the

mere fact that someone is present in court to take the side of the accused, acts as a sort of balance and preserves the equilibrium of justice.

"As the work was new here there was some question as to how far the public defender should go, or how energetic he should be in the defense of those he represents. For that reason it was thought best, at least at first, that the public defender should limit his defense to assisting the court in bringing out the prisoner's side of the case, rather than making a vigorous fight on technical grounds if necessary, to secure an acquittal. I understand that in Los Angeles the public defender is expected 'to work as diligently in the defense of any accused person as the Distirct Attorney does in the prosecution.' That seems to me to be a very good guide or rule of conduct for the public defender.

"My hope and belief is that the need of a public defender will become so apparent, not only here in Portland, but everywhere else, so that the office will be definitely created and a sufficient salary provided to secure a competent man for the place. Such a man could be of great benefit to the poor and helpless.

"There is nothing private or confidential about this communication, and you are at liberty to make such use of it as you see fit. I am glad to give the matter all publicity possible, in the hope that it will assist in spreading the movement and that it will soon become established all over the country." * * * *

Novelties in the New Italian Code of Criminal Procedure.—As usual, the October, 1913, issue of *La Sciola Positiva* is replete with important and interesting matter for criminologists. There are original articles, notes on legislation, reviews of books and articles, and learned comments on recent decisions.

The original article is a continuation of an article begun in the September issue, and deals with evidence in the new code of criminal procedure. The article treats of the novelties introduced into the new code. Among these are the following: The public prosecutor is to adduce before the trial court, testimony on both sides,—testimony not only inculpating the defendant but also testimony exculpating him. The author of the article, Salvatore Messina, maintains that this provision of the code is to be interpreted broadly; and that although a quasi-judicial attitude on the part of the public prosecutor is fit for the preliminary hearing, it is not fit for the subsequent trial in the higher court, because, says he, the public prosecutor before presenting the case to the magistrate, makes an independent examination and comes to a conclusion as to the probability of the defendant's guilt. And it is only then, when he believes that there is a sufficiently strong case against the defendant that he presents it to the magistrate.

In the higher court the public prosecutor's judgment has been sustained by the magistrate, and so the public prosecutor comes to the trial there, not to present doubts as to the guilt of the defendant but to prove a case against him.

The method of the production of proof is to have ready for the inspection of the other side a list of witnesses two or three days before the trial, depending on the court in which the trial is to be held. The testimony may be any element of proof. In fact the public prosecutor and the parties may ask not

only for the calling of the witnesses, but for documents. If a witness has given testimony before a magistrate, he may under certain conditions (as for example the consent of the parties) not be called to give oral testimony in the higher court; but his testimony may be read. A great deal of time is lost during trials in the higher courts because of the production of witnesses in respect to whom cross-examination is inadvisable or unnecessary. R. F.

Crimes and Punishments in the New Election Law of Italy.—An article by Gaetano D. Amelio in *La Scuola Positiva,* October, 1912, on crimes, punishments and disabilities in the new election law. The new election law of the 26th of June, 1913, is the outcome of the old law of 1905. The main feature of the reform caused by the new law is the much larger participation of citizens in the political suffrage.

Crimes against the electoral franchise were for long considered trifling. But the new code views them with a stern eye and punishes them with long sentences. Pardon is no longer allowed for such crimes. The statute of limitations has been amended and the time within which an action may be begun has been extended.

The law claims to guarantee the purity of the vote. Any citizen may instigate an action against a violator of the law. There has been a great deal of discussion as to whether this means that anyone may carry on an action. But the author maintains that to instigate an action is the function under the new law of a private person, and to institute and carry it on is the function of the public prosecutor.

Crimes may be comimtted at any one of three stages: that of preparation for voting; second, that of voting; and third, that of making the vote effective. The punishment of an election officer who violates his oath is graver than that visited upon one who is not. The conditional sentence is not available to an officer, and pardon is not obtainable. R. F.

Coercion by Ministers of Religion in the Italian Code.—An interesting provision in the code is that pertaining to coercion by ministers of religion. Church and State are separate in Italy, but action between them is not always harmonious. Ministers of religion are prohibited from talking on political matters in places of religious worship, and at meetings of a religious character. The phrase, meetings of a religious character, was a stumbling block, but after explanation by Minister Sonnino, it was left in the law intact. It means "meetings called and held in the exercise of religion, that is, meetings to which those who are there have been invited to do acts of religion."

Among those who are deprived of the right of voting are the following: Persons convicted of idleness, vagabonds, and begging. These have, under the new code, become permanently, instead of only temporarily, as under the old code, disfranchised. Persons guilty of fraud, misappropriation, breach of trust, theft, conspiracy. The new code, contrary to the old one, enumerates all the crimes for the commission of which disfranchisement follows. And only for these may the right to vote be taken away. R. F.

Defamation in the Italian Penal Code.—There is a very interesting decision on page 935 (*La Scuola Positiva,* October, 1912.) based on Article 391 of the penal code relating to defamation. The reader will note that the essential elements of criminal libel are the same as in England and America. The

decision gives in condensed and admirable style the whole doctrine of defamation. The material element in criminal libel is the holding up to public contempt, hate and ridicule of a person, and injuring his honor and reputation. A writer may not be held guilty of libel if he has investigated sources worthy of credibility and if he writes without motives of hate. R. F.

Regulation of Interstate Commerce as to Products of Convict Labor.—The following report from the Committee on Labor of the House of Representatives relates to House Bill 1933, introduced by Mr. Booher:

"The Committee on Labor, to which was referred the bill (H. R. 1933) to regulate interstate commerce in the products of convict labor, submits the following report and recommends that the said bill do pass without amendment.

"The bill is as follows:

"'A BILL to limit the effect of the regulation of interstate commerce between the states in goods, wares, and merchandise wholly or in part manufactured, mined, or produced by convict labor or in any prison or reformatory.

"'*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convict labor, or in any prison or reformatory, transported into any state or territory of the United States, or remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in such state or territory, be subject to the operation and effect of the laws of such state or territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such state or territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.'

"The question of convict labor, in its moral and economic aspects, has been the subject of public discussion for many years. Owing to crime or misfortune, a considerable, and apparently increasing, number of our population are yearly compelled to lose their liberty and suffer confinement, more or less protracted, in penal institutions. Humanity and health alike require that these unfortunate individuals should have both employment and exercise; and sound policy dictates that such employment should be directed in channels capable in part, at least, of requiting the cost of their maintenance, lest they should become too great a charge upon the public. Had the practice of all the states confined itself within the limits of health for the prisoner and such returns for his labor as would repay the cost of maintenance, it is not probable that any economic issue would ever have grown out of our prison system. But in course of time the enforced labor of numerous individuals under single management attracted both public and private cupidity; and in some American commonwealths the unhappy convict has been exploited not only to the profit of the state, but the products of his labor have become a menace to the economic welfare of the whole community. Hence have arisen the protests of labor organizations against the competition of convict goods with the products of free labor; hence the outcry of manufacturers at the control of the market in important lines of industry by prison plants; hence the efforts of various states to protect themselves by local laws against commerce in prison commodities; and hence the more recent efforts of publicists to curtail the evil through Federal legislation.

"According to the report of the Commissioner of Labor for the year 1905, the value of goods produced by convict labor in 296 of the larger penal institutions in the country in that year was, in round numbers, $34,000,000, represent-

ing the work of some 50,000 convicts. Of this output the leading product was that of boots and shoes, which aggregated, in round numbers, $8,500,000, or about 25 per cent of the whole. The leading industries which followed were farming, the manufacture of clothing, furniture, brooms and brushes, binding twine, etc., and coal mining. (Twentieth Annual Report of the Commissioner of Labor, p. 20.)

"This product is small, apparently, when compared with the great mass of the products of free labor in the whole country, but the uniform testimony of the manufacturer and the free workman is that, when convict goods are thrown upon the market, demoralization and depression is the invariable result, in some instances prices falling below the cost of production (p. 25). For example, the boot and shoe industry in the year 1904 suffered from prison competition in 11 states, where convict-made shoes exceeded, by 39 per cent, the export shoe trade of the whole United States for the year ending June 30, 1905. In furniture the competition is severely felt in certain lines, as a single company controls the entire product of seven prisons in five states. The same is true of cooperage in the Chicago market, and likewise in certain lines of clothing, etc. (pp. 49-51.)

"'As a result of such competition wages are forced to the lowest limit in the effort to lower the cost of production to that of the prison contractor, until in some cases it has resulted in a deterioration of quality of material used, and in others an entire abandonment to the prisons of the manufacture of certain grades of goods.'

"Some states, whose convicts are permitted to manufacture only for state and charitable institutions, have sought to protect themselves by law against the sale of convict goods from without. Among those which have at various times sought to regulate or restrict the traffic in goods of this character are California, Colorado, Indiana, Kentucky, New York, Ohio, Wisconsin, Oregon, Oklahoma, Texas, Pennsylvania, New Jersey, and Maine. But these restrictions have failed, either wholly or in part, in consequence of the inability of the states, under our system of government, to regulate their commerce with other states. Congress alone has this power in our government.

"'The Congress shall have power * * * to regulate commerce with foreign nations and among the several states and with the Indian tribes.' (Constitution, Art. I, sec. 8.)

"Bills of similar import to the one under consideration have been reported favorably heretofore from this committee in several Congresses, and at the second session of the Sixty-second Congress a bill of identical form passed the House of Representatives, but failed of report from the committee of the Senate to which it was referred.

"The object sought to be accomplished by this legislation is to lift the protecting hand of Congress from convict goods shipped from one state into another state—which shipment, of course, constitutes an act of interstate commerce—and subject them, upon arrival at their destination, to the local law of the state into which they are shipped. But for such permissive act on the part of Congress such goods would remain interstate commerce, free from state control, until their delivery to the consignee at the point of destination, and beyond that, even, until the consignee had disposed of them or broken the package in which they were shipped. (*Brown v. Md.*, 12 Wheat., 419; *Low v. Austin*, 13 Wall., 29; *Leisy v. Hardin*, 135 U. S., 100; *Vance v. Vandercook Co.*, 170 U. S. 438; Lewis, Federal Power Over Commerce, pp. 4, 5.)

"While the right to sell an article of interstate commerce in the original package, in the absence of Congressional legislation regulating the subject, is thus guaranteed by repeated decisions of the Supreme Court, yet that it is competent for Congress, by appropriate legislation, to subject this right to state control has been fully illustrated by the history and adjudication of the Wilson Act of August 8, 1890, dealing with another subject of interstate commerce, along lines identical with those involved in this bill.

"The Wilson Act was as follows:

" 'That all fermented, distilled, or other intoxicating liquors or liquids transported into any state or territory, or remaining therein for use, consumption, sale, or storage shall, upon arrival in such state or territory, be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquors or liquids had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.'

"As is well known, this act was violently assailed on the ground of its unconstitutionality, in that, as alleged, Congress had delegated its authority over an admitted subject of interstate commerce to the state legislatures. But its constitutionality was upheld by the Supreme Court in the case of *In re Rahrer* (140 U. S. 545), wherein Chief Justice Fuller declared:

" 'No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so.'

"And again the same court affirmed:

" 'It has been settled that the effect of the act of Congress is to allow the statutes of the several states to operate upon packages of imported liquor before sale.' (*Rhodes v. Iowa,* 412.)

"The act, however, fell short of its avowed purpose to subject the interstate commerce goods to state law upon their arrival in the state, for it was held by the court that 'arrival in the state' meant at the point of delivery; and it was again declared that 'the Wilson Act, which subjects such liquors to state regulation, although still in the original packages, does not apply before actual delivery to such consignee, where the shipment is interstate.' (*L. & N. R. R. Co. v. Cook Brewing Co.,* 223 U. S. 70.)

"Therefore, considering these and other deliverances of our highest court regarding this question, it is confidently submitted that the object of this legislation, to wit, the authorization of the state to prohibit, by local law, if it see fit, the sale of convict goods in the original package imported from within its borders, is not amenable to constitutional objection; and it is believed its legal effect will be to enable enlightened commonwealths, so inclined, to deal more wisely and more effectively with this important moral and economic issue."

R. H. G.

JUVENILE PROTECTION.

Two Child-Protection Congresses.—Two notable Congresses were held within the last year in Europe to consider ways and means for more effective handling of the problems of dependent, neglected and delinquent children. The first, held at Brussels in July, was distinctly international in character, and

though it failed of one of its declared purposes, namely, to establish an international office for child-protection similar to the International Labor Office, still it carried out its more obviously educational purposes with conspicuous success. Brussels was chosen as the meeting place largely because of the new and comprehensive Belgian juvenile court law (of May 15, 1912). The first question debated by the Congress was whether juvenile courts should add to their penal function jurisdiction over all other phases of the child problem, e. g., guardianship, adjudication of parental authority, etc. Opinions varied. The Belgians stood for limiting the court, or at least for its very gradual assumption of further powers. The French shared with Herr von Polzer of the Austrian Ministry of Justice the view that further competence should be conferred upon such courts. Incidentally it was reported from every side that so far the children's court has been a success, especially in its getting away from routine and in its individualizing of treatment. After prolonged discussion the Congress by a small majority voted yes upon this question. The next question had to do with probationary care of children. There was some difference of opinion as to whether the judge should retain his personal oversight of all children admitted to probation or whether his duty ended when he had commtited such children to responsible officers or private citizens. In small cities it was held that the judge might be able to maintain his personal oversight; but in larger places this would be impossible and his chief work would consist in directing the general policy of the probation staff. The general conclusion urged that judges be freed from formalism in their procedure in this whole matter of probationary oversight. The third important question presented was that of the technical training necessary for a probation officer (Jugendgerichtshelfer). While the text of Fraulein Elsa von Liszt's paper was the English phrase, "men not measures," she did not go so far as to suggest that personality could not be made more efficient by technical training. To the contrary, she urged that all probation officers, volunteers or professional, should know the legal baiss of their work, the most important provisions of criminal law and procedure, in so far as they concern children. Also a certain familiarity with some of the principles of the law of domestic relations, of child protection, of the poor law, insurance law and commercial law is desirable. Furthermore lectures by experts upon certain phases of the child problem were recommended. Berlin, with its systematic training courses instituted by the Berliner Zentrale für Jugendfürsorge represents the most notable attempt so far to give this techincal instruction. The Congress unreservedly approved of these suggestions and added that child welfare workers should also have a thorough knowledge of the youthful *Psyche*. Closely connected with this recommendation stood the final topic discussed, namely, the need for studying the abnormal child. The Congress urged that penal procedure on behalf of children be carried on in closest co-operation with physicians and constructive educators.

The Salzburg *Kinderschutzkongress* gathered over a thousand delegates from all parts of Austria. It was a purely local Austrian meeting, devoted to treating home problems. The most pressing of these problems seemed to be how to get really enacted the several legislative projects now and for many years past held up in the lower house of the Austrian Parliament. Not the least important part of this legislation was the warmly discussed problem of legal regulation of child labor, the important and delicate (!) problem as one

writer phrased it. Indeed it was frankly avowed by the President of the Congress, Dr. Baernreither, that the problems of child labor and of child neglect are merely two phases of the one fundamental problem of distress (*Not*). Hence the note of prevention sounded throughout the deliberations of the Congress. This justifies quite clearly Dr. Lederer in his observation that the whole trend of modern child protection is in the direction of the normal child. He might have added to his title the subtitle, Two Conservation Congresses. (Dr. Max Lederer, *Osterr, Zeitschrift f. Strafrecht,* 6 & 7 Heft., 1913.)

A. J. Todd, University of Illinois.

Congress of the Italian Society for the Care of Delinquent Minors.— Secondo Congresso Nazionale delle Societâ di Patronato per i minorenni e per i carcerati. *Revista Penale,* February, 1913.

This society, which has for its object the care of delinquent minors and discharged prisoners, held its second meeting recently in Turin. Among the topics discussed appear the following: Practical Means for Preventing Juvenile Delinquency, Work of the Elementary School in Preventing Delinquency, Methods of Publicity and of Popular Propaganda in the Prophylaxis and Cure of Juvenile Delinquency, The Colonization of Abnormal Children, Corporal Punishment as Punitive and Corrective Treatment for Juvenile Delinquents, Courts for Children, White Slave Traffic. The liveliest discussion of all, perhaps, followed Professor Stoppato's paper on corporal punishments. One feminine voice was raised on behalf of restoring the cat 'o nine tails to common usage. But the predominant sentiment was against corporal punishment for juvenile delinquents as useless and degenerative. Marchioness Tartarini stated that of all the female houses of correction and reformatories she had visited the only one in which the children showed marked degeneration was one in which the nuns used corporal punishments. The Congress adopted unanimously a resolution calling for more adequate legislation on behalf of neglected youth. Naples was chosen as its next meeting place.

A. J. Todd, University of Illinois.

Report of Italian Commission on Increase of Juvenile Delinquency.— One gets a very clear sense of the thoroughness and the originality of the struggle that Italy is making against the problem of juvenile delinquency from an article in this number of *The Bulletin, from the Office of Juvenile Protection in Belgium,* Vol. 1, No. 4, July, 1913, by C. Campioni, President of the tribunal de police at Bruxelles. (pp. 241-253.)

He outlines the work of the various sections of the Royal Commission appointed on Nov. 7, 1909, to study the causes of the progressive increase of delinquency of minors and to propose legislative reforms which might remedy it. One group of Section III was detailed to make a study of a single code—a code that should gather together all laws and all regulations pertaining to minors in order to establish legal uniformity in the texts. The general report and a preface regarding this code form the fifth volume of the publications of the Commission and it is chiefly of this that M. Campioni writes.

The author of the report, S. Exc. le senateur Quarta, is of the firm belief that in order that the different institutions now existent or to be created and the different duties and functions regarding guardianship, aid and correction of rebellious, guilty or delinquent children, may act promptly and harmoniously in

a common effort, it is indispensable, on the one hand, to unite in a single code all the various laws, and on the other, to unify all the different and multiple duties of many functionaries into the office of a single magistrate in each province or "arrondissment," "who in *full authority* should watch over, guide and control all that which touches upon the functions of different administrative or judicial organizations either private or public in character, who should assume the application and the respect of the ensemble of the legislative and regulative measures and co-ordinate their actions with the common end in view: the education, the improvement, the safety of children."

According to the plan it is a "District Magistrate" in whom will be vested this consolidated power of guardianship, protection, instruction, discipline and reformation of minors. He will be chosen from the functionaries and the judiciary order, having at least the grade of Judge or of Substitute of Attorney General. It is urged not as merely useful but as highly essential that if possible he be learned in biological, pedagogical and social sciences. To this end the plan includes the appointment of chosen auditors versed in these matters for the most important offices in order to call them in the course of their career to be efficient magistrates of districts.

The District Magistrate is given complete authority, yet that he be not without a superior authority to which he may turn for consultation in case of need and which in turn may intervene in case of his negligence, lack of efficiency or abuse of his functions, — there would be created a Supreme Tribunal sitting in the Ministry of Justice, composed of a Councillor at the Court of Cessation of Rome, of a State Councillor, of an official Professor of the University of Rome, whose department is that of the psychological, social and psychiatric sciences, of a director of the Department of Labor, and of three other members to be chosen respectively by the Minister of the Interior, of Justice and of Public Instruction, from among their functionaries of a rank superior to that of "chef de division," and finally of three others of *either sex* chosen because of their special ability.

That the Magistrate may work effectively it is emphasized that he should have agents to obtain for him all information pertinent to the case of each juvenile offender and also institutions—sufficiently numerous and various in function — with which to carry out whatever action seems wisest with respect to such individual child. To obtain information for him there are "special police" who are all to be under his immediate dependence and supervision. (Private institutions, it was decided, should not come under State control but were to group themselves into a federation in each province and to co-operate with the judge.)

The second book of the report deals with the determination of the character of the social consciousness and educational development the child receives from home and school, and with plans to better the control of these important factors by more vigilant watchfulness and more strict and enlightened legal measures, if they are found to be in any measure the cause of juvenile crime.

Private and public charity go far in protecting the life, the habits and the future of the child, but as they now exist the Commission frankly states "the effort spent and the means adopted are poor and insufficient. New means should correspond to new needs if one would work out or at least stop the evil each

year more threatening." So he pleads that all work together to build up new social organs.

So runs the report, treating also of new methods of enforcing education, of dealing more wisely with the abnormal child, of forming more severe laws of emigration, of controlling alcoholic parents, etc. It is full of a sense that the law must follow the child closely in the home and see that the parents discharge the duty of education under penalty of penal sanction that shall take some form they will respect and must obey. To this end the Commission has revised the law respecting parental authority and invested their enaction, too, in the District Magistrate.

The report insists that the supervision under parole of all young girls and children under 10 years be in the hands of women.

The reviewer states that Section VII contains the most innovations and is important, for it regulates and outlines the disciplinary measures entrusted to the District Magistrate.

In many-sidedness and detail, in its respect for law that is useful and its enterprise and resourcefulness with respect to law that does not exist or that does not fit the facts, in its concentration of power in one specially equipped person, responsible to an expert and singularly representative supreme tribunal, the plan for the control of the problem of the juvenile delinquent in Italy is worthy of careful consideration.

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Italian Congress for Protection of Neglected Children.—The *Revue de Droit Pénale et de Criminologie,* No. 7, No. 2, Nov. 13, contains also a digest of the report of the Second Italian Congress for the Protection of Neglected Children, held in Turin in October, 1912, written by the secretaries of the association, Dr. T. Dalnozzo and Prof. C. Tovo.

It indicates that initiative of private individuals and of the state had been aroused by the disquieting increase of juvenile criminality. All the work in the congress was dominated by certain general ideas; responsibility of society, necessity of special treatment for the delinquent under age, preeminent need for the use of preventive and educative measures. The most interesting communications made to the congress are summarized as follows:

1. Group A. A paper indicating means of preventing delinquency of minors through local federations of all charitable institutions and homes of refuge for neglected children with the three fold purpose of diminishing the expense of administration, of co-ordinating the efforts of various charities and of making available all the different forms of charity. As was to be expected, many institutions refused to belong to such federations, fearing the loss of their independence. The advantages of such federations, however, seem so great that it seems advisable to make it compulsory for all charitable institutions to join the federations.

Another member suggested the founding of an international office or committee for the protection of childhood. Then the question of creating a central office to gather information and send the children to appropriate institutions was studied. The office, a first step towards the federation, would aim to apply to each child the treatment he needs without the omissions, the un-

certainties and delays of the present system. It would be adjusted to the independence of the different charitable institutions, composed as it would be of the delegates of these institutions; in short, there would be absolute respect of the statutes and wills at the base of every institution, and yet co-ordination of the practical action of all the institutions in order to increase their effectiveness.

Secondary organizations are to complete this central office. Homes for immediate refuge and intermediate institutions are to act as safety valves against errors; children who cannot stay any longer in the asylum where they have been previously admitted are to be held there under observation.

Group B. Role of elementary education in the prevention of infractions.

The reporter first stated that the Italian elementary school does not answer to this educative aim and he demanded a system of education more rigorously obligatory, an increase of the number of school hours and school days, with games, exercises and occupations in school, legal dispositions completing the law of 1911 on the intervention of the state in the school charities in want of private initiative, and a reform of the school programs in a less intellectualist but more human way.

A report about the school system established since 1897 in the prisons of Lodi by the society of protection of this town showed the effectiveness of instruction given in prisons in preventing new offenses. The reporter spoke of the necessity for the state to favor particularly with subsidies the societies of protection which have founded such schools at their own expense.

Another communication was made concerning the assistance for abnormal school children as preventive measures against juvenile criminality. It recommended the establishment of schools for defectives and of a legal medico-pedagogical record for all minors.

Group C. Means of preventing juvenile criminality. The role of school charities and industrial schools is made evident.

Group D. Concourse of voluntary agencies and of the magistracy to prevent and diminish juvenile criminality.

A study of 194 minors prosecuted in Turin showed that the origin of criminality among children is much more social than physiological.

Group E. Means of popular propaganda as to the treatment of young delinquents.

II. Corrective and educative measures to be applied to the young delinquents.

Group A. Agricultural colonies and placing families.

Speaking of the delinquents who had not finished their studies, one of the reporters insisted on the necessity of giving them some means of continuing their apprenticeship of their studies while in reformatories. He spoke of the technical school of the House of Protection of Florence, and advised the establishment of similar institutions in other towns for imprisoned children.

Another member recommended that the sanitary service in the reformatories be made like that of the insane asylums, that is to say, that it include a sufficient number of physicians devoting all their time to the institution. They would keep the inmates under observation, and study the questions of hygiene relative to them.

Group B. Corporal punishment as a means of correction and punishment of young delinquents.

One of the reports discards them entirely; two others throw them out as a principle, admitting them only in the exceptional cases when they are the only effective means.

III. Special magistracy for minors.

M. Carnevale advised that the problem of juvenile criminality be not isolated by an excessive specialization to avoid putting an abyss between the successive treatments of the delinquent under age and the same of age. M. Carnevale did not believe that it would be advisable to give to the same magistrates all the powers concerning the delinquent children (education, correction, protection, supervision of the exercise of paternal rights). This was not the opinion of others who insisted that the same person should assume the preventive and repressive task.

IV. Aid societies for minors and prisoners.

M. Facchinetti thinks that the regime of probation release is equally applicable to minors of both sexes and that it is efficacious only up to eighteen years of age.

As for the aid societies, the law could allow them to act upon others than the minors released on condition. Women must be admitted to the committees of these aid societies.

The two chief difficulties which these societies encounter are the mistrust of the family of the minors and the recruiting of the volunteers in charge of the supervision. It seems advisable that volunteers should be preferred to official delegates who would increase the mistrust of the people.

Group B. Development and action of aid societies for criminals in prisons, and released prisoners.

M. Dosia insists on the importance of personal qualities and devotion in this matter, and on the urgent need of a solid organization grouping the different existing societies.

V. Action of the state in the assistance of neglected children.

A report was read on the organization of such an assistance. Neglected children are those of less than 21 years of age, who lack benefit of education, and whose parents or legal guardians are unworthy or inefficient. The state owes them protection. There would be established for the exercise of this protection a committee of assistance in every town, a magistrate for minors in every district, a general direction in the center. Except the minors of warped character, all children under age must be found an immediate protection and a definitive refuge according to their needs, till they are 19 years old. (Meanwhile the state must concern itself with the parents or the guardians.) The state would advance the expenses for such a protection; these expenses would be supported by the state, the districts, the towns, the local institutions of public charity, etc.

The book ends with the discussions in which magistrates, lawyers, professors, members of aid societies took a part. It shows in a striking manner the strenuous effort that Italy is making for the protection of children.

JEAN WEIDENSALL.

Moving Pictures in Italy.—The Italian government in ministerial circulars (Mar. 15, 1907, Mar. 31, 1908, Aug. 25, 1910), had already recognized the bearing of moving picture theaters upon public morals and public order. In Italy as in America, the "movies" tended to glorify the most brutal instincts and perversions of moral sense, or at least to represent such things as tolerable and innocuous. By easy inference such spectacles tend to cast odium upon law and order, and upon the public authorities. Hence the government has issued a new and more explicit circular (Feb. 20, 1913), calling for more careful inspection and censoring of "movies." No cinematographic spectacle is to be permitted without having first been performed before the proper licensing authorities. Having once been authorized it must produce its license every time it is put on in a new place. Licenses are absolutely prohibited to the following: (a) spectacles contrary to good habits and public decency; (b) spectacles contrary to national dignity, honor or repute, or contrary to public order, or which might disturb good international relations; (c) spectacles reproducing striking crimes or acts or facts which might serve as a school of crime to impressionable persons; (d) spectacles offensive to the dignity, or prestige of the public authorities and of the agents or functionaries of the police service; (e) scenes of cruelty, concerning either men or animals, or acts or facts which might induce disgust, *e. g.*, surgical operations. (*Rivista Penale,* June, 1913.)

A. J. Todd, University of Illinois.

PENOLOGY.

Criminal Reform as an Industry.—"Massachusetts has an extraordinary opportunity, as it seems to me, to be both the pioneer and the instructor of the whole country in developing and applying a new and better treatment of persons convicted of crime. It already possesses a greater number and a greater variety of public institutions than any other state in the country, perhaps than any foreign country. It has in a scattered and unco-ordinated form practically every agency that is required for the adequate study and management of its anti-social members. Some changes and improvements are, of course, needed, but mainly through the proper rearrangement of its existing agencies it can set and maintain the standards of a new and more practical and more humane penology.

"Chairman Randall of the Board of Prison Commissioners made this statement in preface to an explanation of what the board wishes to accomplish through the group of nineteen bills affecting prison control and criminal procedure, which it has filed with the legislature. His own ideals of what the new penology should be and how it should accomplish its purposes were set forth in an interview in the *Transcript* last summer. It should be a matter of satisfaction to the public that Chairman Rnadall's study of our penal appliances during the months since then has convinced him, as one of the country's foremost penologists, that Massachusetts does not need to build a new house, but to rearrange in better fashion the furnishings and administration of what she already has.

"This point is of no small consequence. If the reform of our treatment of criminals on modern and progressive lines required a huge expenditure of new capital for plant, conservatism and timidity might easily be hidden behind

the aspect of financial prudence. But as the facts stand, the legislature and the public can consider the changes proposed by the prison commissioners solely on the merits these proposals have as a better way of dealing with the nearly seven thousand persons who are now confined in jails and prisons for offenses against the criminal statutes. * * *

"'I desire to see the substance of these bills enacted into law,' said Mr. Randall, in an interview given to the *Transcript*, 'but I want to see them passed because the members of the legislature have become convinced that they are just and expedient. I believe that the changes we propose are desirable, and in the interest of the public as much as of the body of convicts. But our new plans, and our proposed administration of them cannot be wholly successful or beneficial unless they have the support of the judgment of the members of the legislature and of public opinion. I hope that a full and frank discussion and explanation of the whole matter will bring this support to the board's plans.'

"State ownership and administration of all prisons and jails within the commonwealth is the first and most sweeping change proposed by the board. This change is absolutely essential to the proper use of the public 'plant' for the detention and treatment of convicts. At present each county prison, or house of correction, holds a mixture of all sorts of convicts—the practically normal but misguided or impulsive offender, the naturally vicious, the feebleminded, the habitual alcoholic, every variety and almost every age are lumped together. Naturally, it is next to impossible to give the different groups in one large prison the treatment that is most appropriate to each group, and to each individual. The new penology aims to deal with the convict as an individual, and this is impossible until there is a chance to subdivide and distribute the prison population in different institutions, each of which shall have its special type of corrective work to do.

"There are prisons enough in the state to allow of all desirable separation and special handling of the various types of convicts. The necessary step towards accomplishing this modern individual treatment is to put all the institutions under one management. Then the class of feebleminded can be grouped by themselves and receive the treatment that is appropriate to their condition. The inebriates can be put in another group or two. Those, and their number is large, who are suffering from certain dangerous diseases, can be put into still another group in an institution which can be devoted to dealing most effectively with their special needs.

"Aside from this segregating for special treatment of those who are markedly abnormal, the change would allow vastly better management of the industries in the houses of correction (the county prisons). As the case now stands, the willing and hopeful convict worker sits at the workbench beside the stubborn loafer. The impulses in him that lead toward reform are opposed and weakened by association with the unregenerate defiance of the convict who is waiting for the passage of mere time to turn him loose on society with his anti-social attitude unchanged. From the point of view of economy, as well as efficiency of the reformative work attempted by the state, the proposed central control of all jails and prisons is a necessity.

"Masters of prisons, jailers, and their subordinates are left undisturbed in their tenure of office and their pension rights, but under the proposed law,

these masters and their whole staffs of subordinates, the commissioner and assistant commissioner of penal institutions in Suffolk County, and their subordinate staffs, jailors and their assistants would come under the authority of the Board of Prison Commissioners.

"But the tenure of the present masters and the penal commissioners of Suffolk are carefully guarded, since it is provided that if the prison commission decides to remove any one of them it must be for cause and after a hearing, and moreover that such removals must be approved by the Superior Court after an additional hearing. * * * Future vacancies at the head of the various prisons and jails to be filled by the prison commission; and removals of such appointees may be made by the board after a hearing and for cause, without the appeal to the Superior Court, which is provided as a special safeguard for present incumbents. * * *

"Adequate enlargement of the executive staff of the prison commission is almost a condition precedent to the acceptance of the changes proposed by the consolidation bill. At present, the board's staff is much too small to administer efficiently the larger number of institutions which the board wishes to control. Two additional deputy commissioners are specifically provided for, at salaries of $3,500 a year. In addition, the board asks power to delegate to any of its members all the powers of the whole board except those relating to the parole or transfer of prisoners.

"The necessity of this and other increases in the executive staff are apparent when one sees that the proposed law would bring under the control of the prison commission twenty-six prisons, besides the numerous jails. * * *

"One of the most important of the other changes proposed by the prison commission provides for cutting out the action of the grand jury on criminal charges against offenders who plead guilty. This bill aims at burdens and occasional abuses arising from quite different sources. At present a person arrested on a charge of crime is put into jail and kept there until the grand jury has acted on his case, and in the event of an indictment, until the end of his trial. This often means many months of destructive idleness in the jail, and the results to many prisoners are not only what amounts nearly to double imprisonment, in case trial ends in conviction, but physical and mental suffering and damage that the law does not intend to impose as punishment for the crime. In some counties of the state the Superior Court, which tries criminal cases, has only two or three sessions a year, and it is possible for an accused person to spend nearly six months in jail before the grand jury acts on his case.

"It is now proposed that when a person arrested for crime desires to plead guilty, the district attorney, taking the facts disclosed by the prisoner, may lay an 'information' against the prisoner before the court, which may then proceed to sentence the prisoner as if he had pleaded guilty after the usual process of indictment by the grand jury. The inhumanity which often marks long jail waiting for the action of the grand jury was impressed upon Chairman Randall when he was warden of the St. Cloud prison in Minnesota. In that state many grand juries met only once a year. One prisoner under his charge, awaiting action by the grand jury, was so nearly wrecked by the idleness of his jail waiting that Mr. Randall set about securing a better procedure. This required an amendment of the constitution of Minnesota, giving the leg-

islature power to authorize the sentencing of a defendant on his own plea of guilty; but by the quiet appeal to reason and humanity which is his characteristic way of asking for improvements, Mr. Randall secured the necessary changes.

"No additional or undûe power is given by the proposed law to district attorneys, and in fact the bill covering this item is re-enforced by another which effectually prevents anything in the shape of 'railroading' a man into prison unless the judge who passes sentence is himself corrupt—and that we have no reason to fear in Massachusetts. It is provided that a man shall not be sentenced to prison on his own plea of guilty, either after indictment by the grand jury, or on the proposed 'information' plan, unless he makes to the judge a statement of such facts in regard to his actions as prove that what he did was a crime, and the crime charged. If a prisoner pleads guilty, but refuses to make a statement of facts which if proved by legal evidence would establish his guilt, the judge is required to hold him for trial before a jury.

"Due protection of the prisoner's rights is aimed at in three different bills, the provisions already cited occurring in two of them. Another provision is that which authorizes the Superior Court to appoint a lawyer as counsel to represent all accused persons who have not, or cannot employ, private counsel. Our courts have always assigned counsel to persons accused of capital crime, when the accused could not provide their own lawyers; but this designation of counsel has never been applied to ordinary felonies—felonies being by statute definition offenses which are punishable by sentence to the state prison. Under the proposed law the Superior Court may appoint counsel for the indigent accused, to serve for a year in Suffolk County, and during the term of each session in the other counties.

"That there is a certain amount or degree of 'railroading,' in some of the pleas of guilty, is a disagreeable fact. An ignorant man, arrested for larceny, may have 'sassed' the officer who arrested him; and in that event it is the proved human—or inhuman—trait of the ruffled officer to tell his 'man' that 'You better plead guilty, or you'll get it in the neck.' The new provision for free counsel for such defendants, together with the requirement that a plea of guilty may be accepted only when the accused practically proves his own guilt, will end all chances of 'railroading,' and all unjust punishment due to the defendant's ignorance, so far as the reform of procedure can accomplish these ends.

"An important additional result of the new procedure would be to cut the ground from under the numerous prisoners who protest throughout their prison confinement that they are 'innocent.' This attitude is assumed probably because the professed innocent hopes by his protestations to have a better chance of early parole, or perhaps of complete pardon. Some convicts keep up their protests until they actually believe themselves. The inevitable result is that men who claim innocence remain defiant, and in a state of mind that utterly prevents the beginning of any reformation in their attitude towards society. When Mr. Randall first took office, more than half of the inmates of the state prison were 'innocent;' but there has been a healthy decrease in the number of these self-appointed martyrs, and an accompanying gain in the reformative work of the prison.

"Since the new penology requires the fullest knowledge of the personal

quality and history of each convict, so that he may be dealt with according to his needs, the new bills carry two improvements of large importance.

"Sifting of the state prison population for defective, insane, and otherwise subnormal individuals is aimed at in the provision for an assistant physician at that prison. The present prison physician gives only part of his time to the prison work. The proposed assistant would make a study of the inmates and of the new arrivals similar to that made by Dr. Anderson, the psychologist and physician of the Municipal Court of Boston, on those defendants who are referred to him by the judges before the latter dispose of the cases of these persons of doubtful quality. The proposed sifting at the state prison would begin the work of classifying and grouping convicts which is under way at some of the other institutions, and which is essential to the new ideal of treating each convict according to his individual needs.

"Another provision, aimed to give the master of each prison (who under the proposed laws would be empowered to recommend paroles to be acted on by the prison commission) the fullest knowledge of each of his boarders, provides that when a convicted prisoner is sent from the court to any institution the clerk of the court shall send with him a detailed history of the prisoner—'down to the remotest generations,' one is tempted to say, but it is not really quite so bad (or good) as that. The bill does require many specific items, however, and they would be pretty inclusive if completely given. * * *

"A novel proposal—again a result of Chairman Randall's experience in Minnesota—is the plan to make a small, regular money allowance to convicts. This would replace the somewhat mechanical expenditure by the state at the end of a convict's term—five dollars in money, and an overcoat or a suit of clothes. Most of the proposed allowance would be spent at the end of the prisoner's term for such items as were most necessary for each person, and could cover items, such as dentistry, which are not allowed for under the present law.

"Discipline in the prisons would gain from the existence of this allowance. The feeling that he has 'money in the bank' has the same steadying effect on the man in prison that it has on the man outside. Moreover, Chairman Randall's experience in Minnesota proves that small deductions from the allowance, by way of fines for breaches of discipline are extraordinarily effective, without involving the objections against solitary confinement, which is the only substantial punishment at the disposal of our prison wardens.

"Other changes in the existing laws, such as making murder in the second degree punishable by less than life imprisonment; abolishing the minimum term in the state prison, and establishing a maximum of twenty years; provision for the increase of some now too low salaries, and for improvements at the State Camp and the Women's Reformatory, make up a list of proposed reforms that show how minutely our existing criminal machinery has been examined, and how carefully improvements have been planned in the interest of financial efficiency, as well as a better penology. The whole list makes rather difficult reading because of the many elements it deals with. The main items, as here summarized, show the larger changes in policy all of which are progressive and desirable."

BENJAMIN BAKER, in the *Boston Transcript*, Jan. 28, 1914.

The Penitentiary Administration in England.—On p. 769 to p. 775 of the *Reveu de Droit Penal et de Criminologic* there is an adequate digest of prison conditions in England in a summary of some pages of a book published by the British section of the Exhibition of Ghent under the title "Ghent Exhibition, 1913: British Official Catalogue." (London, Darling and Son, Ltd., 34-40 Bacon St. E.) We give a short resume of it here.

The idea of using prisons for the punishment of criminals is relatively new. Before the 18th century the prisons were used for the detention of men charged with some crime and awaiting trial and for debtors. Punishment never took the form of deprivation of liberty; for the most serious crimes capital punishment was inflicted, for the less serious the whip, and brand of shame, mutilation, the pillory, the muzzle and the swing. At the same time in order to clear the country of the dangerous vagrants, they transported them to the colonies. This transportation, begun under the reign of Elizabeth (1558-1603) was continued periodically until the revolt of the American colonies. As the population and the wealth of the country increased the criminal laws became more and more severe. Capital punishment reappeared in every new law, for the legislators, suspecting with good reason that 9 criminals out of 10 escaped the watchfulness of the police, hoped that capital punishment inflicted publicly to the tenth would terrify the nine others to such a degree that they would lack courage to defy the law. But this severity had no preventive effect; in fact, murders and thefts had never been so frequent as at that period of English history.

At the beginning of the 19th century great improvement is evident in the administration of justice. Capital punishment, except for the most serious crimes was abolished in 1824; in 1861 it was only inflicted in cases of murder or treason; in 1854 all executions take place within the prisons. Meanwhile the discoveries of Captain Cook suggested the idea of using these new lands for the deportation of criminals. But after forty years the increasing number of deported criminals threatening the respectable element of the colonies' population, all the colonies except western Australia forbade further deportation. The British government had to find in England a system which would dispose of its criminals. The capacity of the old prisons was increased and for the prisoners who could not be accommodated there, they had to take recourse to the old ships out of service anchored in the ports on the rivers. The cells were cubical compartments, made of sheet iron and juxtaposed in the center of the ship. Some of these narrow and unhealthy cells were still occupied five years ago.

In spite of the endeavors of the central administration, the lodgings arranged for the prisoners remained insufficient and the government found it necessary to discharge on condition a great number of criminals chosen among the least dangerous. In 1864 a system was inaugurated which enabled a prisoner, by his good conduct to shorten his term of detention. The shortest period of detention at this time was 7 years; in 1879 it was reduced to 5 years and in 1891 to 3 years, the courts of justice at the same time being authorized to inflict two years of ordinary imprisonment for offenses which before would have been punished by a period of detention in a central prison. The result of this reform was a great diminution of the criminal population. There is an essential difference between the ordinary prisons and the central prisons; whereas in

the ordinary prisons the men are never allowed to go out, the inmates of the central prisons can be employed in outdoor work under the supervision of armed officers. They work in the quarries, on the farms, at the buildings. Moreover the interior of their prison is a true factory where all trades are carried on. The prisoners print all the documents necessary to the administration of the prison, bind its books, etc.

The reformers of the prisons of the 18th century, fearing the dangers which might arise from freedom of intercourse among the prisoners recommended cellular imprisonment and hard labor as the best means of reforming criminals. At this time two years of hard labor were considered a very serious punishment. The administration was content that the hard labor imposed should be unproductive, as for instance, the disciplinary mill or squirrel-cage and the crank. It was generally believed that the preventive effect of the hard labor was increased in proportion with its unproductiveness.

During the last years of the 19th century many changes have been made under the direction of Sir Evelyn Ruggles-Brise. Gradually the unproductive labor has been abolished. For a time the disciplinary mill and the crank were used to pump water and grind corn; then a system was organized which enabled other governmental institutions to provide themselves with articles made in the prisons and when there were sufficient orders to occupy all the prisoners without detriment to the private industries, the mill and the crank were suppressed. The task mill was demolished in 1902.

The work of the prisoners is not speculated upon by contractors as it is in several European countries. The government buys all the raw materials and then sells all the products directly to the buyers.

Lately, a system has been organized with the purpose of helping the prisoners to begin a new life when they come out of prison. In connection with every prison there is an aid society, the funds for which are provided by voluntary contributions in part, and in part by a sum which is granted by the government. This subsidy is granted under the condition that a committee of the society will meet once a week. One can say without exaggeration that no prisoner, desirous to redeem his past and to begin to work, goes out of prison without help or encouragement.

The penitentiary administration knows all the advantages of a good classification of the criminals. In some institutions, the prisoners are carefully classified in three groups: the first or star class includes the men whose character had been previously irreproachable, the second, those who though not worthy of being put into the first class are not yet habitual criminals, the third is composed of the inveterate criminals. As a proof of the carefulness with which this division is made it has been stated that less than 2% of the men of the first class are charged a second time with a period of detention; 92% are able to find work and earn their living as soon as they are released.

Another classification has been tried in order to separate young criminals from others. It is difficult to fix the age at which a young criminal is still susceptible to corrective influence, but in England the criminals under 21 years of age are put into a special class which is under definite instruction and discipline. This reform was begun in London in 1902. The young criminals

were lodged in the prison of Borstal near Rochester. The results of the experiment were encouraging but it was found that the periods of detention were not long enough for the corrective influence to have its full effect. It seemed necessary to look after the young prisoners during the first critical months of their release. This was provided by the law for the prevention of crime promulgated in 1908. It authorized the courts to condemn the young criminal to a period of detention of one year at least and three years at most under the Borstal system, reserving for the commission of prisons the right to release them on parole after at least six months of detention. Today about 700 young men and 90 girls are being educated in these institutions; they learn military drills, trades and industry under severe discipline; they are encouarged to complete their general education and they are given opportunities to prove that they are trustworthy. A considerable number of the young criminals who have been under this system have been able to begin an honorable life and that is an indisputable proof of its practical wisdom. Already the Borstal system has been inaugurated in India and its progress has aroused much interest on the continent.

The law for the prevention of crime was also concerned with the question of the second offense. Steady work is the only thing many criminals are afraid of and as soon as they are out of prison they commit new crimes. Society should be allowed to imprison them under a lenient discipline for an indefinite time until in order to get free they would consent to live an honorable life. But the House of Commons has fixed the limit of detention at ten years. Generally the courts impose a minimum period of ten years of detention which much be followed by five years of additional detention. The prisoners know that they will be released after eight years even if their character has not been reformed and that they have chances to be released before if they succeed in coaxing the authorities. It seems that this limit fixed by the House of Commons will impair the success of the law for the prevention of crime.

In spite of the difficulties and dangers the reform of the prisons in England progresses in a sure and constant way; difficulties, because these reforms are expensive and you cannot impose them on a community without its assent; dangers, because some reformers are inclined to try extravagant experiments which would increase rather than diminish the criminal population. They make the prisons more attractive and comfortable than the usual homes from which the greatest part of the prisoners come, and as the vagrants find that they are more comfortable in prison than in the poorhouses the prisons are quickly filled. The Commission of Prisons has tried to follow the experiments done abroad, chiefly in the United States. It has adopted its most practical innovations without imitating its extravagances. The result of this procedure has been a system which becomes more perfect as time goes on. The well trained staff concerns itself with the moral and mental development of the prisoners and tries to increase the preventive effect of the prisons. Statistics prove the effectiveness of this system; it has been found that of 100 prisoners who served their first period of detention, 70 never come back to prison and of 100 prisoners condemned to penal detention, 90 never again trespass the law.

JEAN WEIDENSALL, State Reformatory,
Bedford Hills, N. Y.

PAROLE LAW IN MAINE

Parole Law at Maine State Prison.—"The parole law, now in execution, is a factor of distinct significance and has introduced a recognized reformatory sentiment," say the members of the board of prison and jail inspectors of Maine, Hon. Frank H. Hargraves of West Buxton, Matthew C. Morrill of Gray and Charles B. Randall of Bowdoinham, who have recently made their report.

Continuing further about the law permitting the parole of convicts in the state's prison, the inspectors say:

"To those who really want to become useful citizens the parole is an incentive for control and improvement, that they may merit its bestowal. To the recipient it carries the recommendation that he has proved himself worthy of confidence, which, and it needs no stating, is a foundation for a return to civil life.

"It is recognized that there are those who though convicted of a serious misdemeanor or crime, are not at heart criminals and would be glad at the expiration of their sentence to join the ranks of wage-earning and law-abiding citizens; but sent out, as they are, with the handicap of a prison record, and practically no money, and in the most of cases with no one to do them a good turn, the situation at once becomes serious. To those who want to 'make good' in their new start in life information and assistance at this stage would be of the greatest value and worthy of the state's interest. Without some help they may not be able to withstand the way of the least resistance and find themselves again under the ban of the law."

There are at present 178 male and eight female inmates of the state's prison; 74 were received during the year; 54 were discharged by expiration of their sentences; eight were pardoned by the governor and council; 32 were pardoned by the governor and parole committee; one parole violator was returned; one person receiving a conditional pardon was returned; four were transferred to the criminal insane hospital; and one was received from the criminal insane hospital."

Continuing the report says:

"It is the observation of your board of inspectors that conditions relating to the prisoners—their health, food, clothing and discipline—may be stated as excellent. Their housing and sanitation, while not what they should be, are made as good as circumstances will permit. The ventilation of the corridors is good and the heating comfortable. The men from their appearance and the ease with which they continne at their daily work, we judge to be of good physical standard; and the influence of the institution upon their mental and moral attitude must tend to make them better citizens when their opportunity comes.

"Under the experienced heads of the departments a good proportion of the men become interested and competent workmen, and it is a subject of surprise and complimentary to the overseers and the men, that with the changing population the quality and character of the work can be maintained.

"During the summer months the men are given the yard Saturday afternoons for out of door sports. This is greatly appreciated. The freedom from restraint and monotony of prison discipline, the healthy out of door excitement from competing sports and rival ball teams, the liberty to talk and laugh and shout, drives the pallor from their faces and makes them forget for the time the existence of a prison wall. The sentiment seems to be for an extension

of recreation, and valuables, if any, are taken to the early date by the warden and the inspectors.

"The men are well supplied with comfortable clothing. A regulation prison suit is worn which is not, however, the conspicuous striped suit commonly worn in a large number of prisons, but a suit, one-half of which is brown and the other half black. On coming to the prison the clothes of the prisoners are changed, the outer clothing aired and if necessary thoroughly fumigated, his underclothing washed and all put away with his number and name attached. Money and valuables, if any, are taken to the office and placed in safe keeping for the day of his release, if any there be. The prisoner is given a thorough bath and then provided with underwear, stockings, shoes and a suit of prison clothes. Once each week the men go in squads of five to the commissary department, baths are taken and a suit of clean underclothing, with stockings, towels, sheets and pillowcases are given to each."—From the *Daily Commercial,* Bangor, Me., Feb. 11, 1914.

W. E. WALZ, Dean, College of Law University of Maine.

Recommendations of the Massachusetts Prison Commissioners.—(Jan. 1, 1914)—*Boards of Parole and Advisory Board of Pardons.*—A law was passed (chapter 829, Acts of 1913) providing for an advisory board of pardons, two boards of parole—one for the inmates of the Reformatory for Women and one for the inmates of the State Prison and Massachusetts Reformatory—and a deputy commissioner to take charge of the work of the parole agents and to perform other duties.

Under the provisions of this act the Advisory Board of Pardons and the two Boards of Parole were organized, and since July, 1913, have held frequent sessions and discharged a considerable amount of work. The sessions were held at the various institutions, and the applicants appeared in person before the respective Boards and were fully heard in their own behalf.

All persons paroled go to proper employment, and are supervised in a kindly and helpful way. * * * * *

Research Work at Institutions. A diligent effort has been made to inaugurate the practice of promptly and continuously collecting all information relevant to the character, capabilities and condition (mental and physical) of all presons committed to the institutions, so that their treatment and training may be wisely ordered while they are in detention, and that their liberty may be granted them at the time and under the conditions most likely to serve their own ultimate good.

Some progress has been made in the direction indicated, but much remains to be accomplished, particularly in some of the institutions where the population is considerable, and in which there were no officials prepared for the new service by experience or training. * * * * *

State Control of County Prisons. With such provision, but not otherwise, the management of the county prisons could, with the allowance of a reasonable length of time for preparation, be safely confided to the Board of Prison Commissioners, but we feel that such action should not be taken without providing that the tenure of office as masters of the houses of correction should be safeguarded to the present sheriffs, as long as they may continue in their offices as sheriffs; that they may appoint and remove their subordinates as at

present; and that their subordinates shall be eligible to State pensions on retirement, with proper credit for the time served under county jurisdiction.

We believe, too, that if such new arrangement were effected, the sheriffs, as masters of the houses of correction, should have the right, and be charged with the duty, of informing themselves regarding the history, character, attitude and capabilities of all the prisoners in their charge, and of paroling them, with the approval of this Board, to proper employment, giving them suitable aftercare, and ordering the disposition of their earnings.

If this method were adopted the State would have a considerable corps of able and earnest men in training along the lines of the best practical penology, and it would not be long before any position which might become vacant in the prison service of the State could be readily filled without delay or readjustment, and without injury to the service.

We do not suggest that the successors of the present sheriffs should become ex officio masters of the houses of correction for several reasons, one being that, if the service were satisfactory, a change in the position of master would be undesirable, even though he should cease to be sheriff, and he might be more worthy of advancement than of retirement.

State Farm—Prison Department. The board further recommends that, if proper working facilities are afforded, as before mentioned, the management of the State Farm, except the charge of the insane and paupers, be placed under their direction.

Proposed Legislation. We recommend that the principle of the indeterminate sentence, so called, be applied to all commitments for felony, excepting for murder and treason.

So many prisoners who plead guilty in court later represent that they were coerced into doing so, or induced thereto, by representations of various kinds coming from divers persons or sources, while in fact they were not guilty, that we feel that all persons placed on trial for felony should (if desired by them) have legal counsel in the conduct of their defence, or in the presentation to the court of their interests; and that the mittimus of a person pleading guilty to felony should be accompanied by a writing containing, among other things, his statement to the court of facts clearly indicating his guilt, and that when he declines to make such a statement his plea of guilty should not be accepted and he should be duly placed on trial.

We advise the removal of the two and one-half year minimum term for all prisoners in the State Prison, and the removal likewise of the provision of law that all such prisoners who have served two and one-half years with good conduct, and have completed their minimum term, shall be paroled by operation of law.

Murder in the second degree is now punishable by imprisonment for life in every case, and we believe that there are cases of murder in the second degree in which the court should have some discretion, and we therefore suggest that for that offense the court be empowered to sentence the defendant to imprisonment for life, or for any term of years not less than twenty, which is the maximum term for manslaughter.

With the changes in population of the various institutions and of the plans used and the employments followed, the inelasticity of the statute law regarding the rank and designation of the members of the staffs is a matter

of serious inconvenience, and sometimes of substantial injury. For instance, at the women's reformatory persons designated as matrons are now employed in the following capacities, viz.: stenographers, field workers, internes, nurses, farm workers and school teacher.

We ask for authority to make the designations that seem to us to be proper, and to fix the salaries, subject to such approval as may be thought to be necessary or advisable. The maximum salary allowed matrons at the women's reformatory is insufficient to secure the employment of many likely inquirers, and prospective employes of a high type are often deterred from entering the service on that account.

We believe that the service there and elsewhere would be improved if persons of exceptional merit and value might, on the recommendation of the superintendent and the approval of the Prison Commission, receive not more than a certain percentage increase over the regular salary allowance.

The salary of the physician at the State Prison is low, and he is not required to devote all of his time to his official duties. We ask for authority to fix his compensation, and employ the entire time of a physician, or to engage an assistant physician.

An opinion by the Attorney-General seems to indicate that the Prison Commission is charged with responsibility for the accuracy of all the books of county prisons, including auditing, as relating to the industries carried on. We call attention to the fact that the Prison Commission cannot personally audit the books, and has no facilities for the employment of an auditor, and urge that this duty be placed in the hands of officials peculiarly qualified to discharge it.

We ask for full and free authority to transfer inmates from any institution under our management to any other institution under our management at any and all times, taking into account the probable ultimate good of the persons transferred and the interests of the Commonwealth.

We find that persons charged with felony, who fully and willingly admit their guilt, and who are prepared without delay to accept the judgment and sentence of the court, are nevertheless held in jail to await the action of the grand jury, and are not put on trial until an indictment is returned against them. We regard this practice as expensive, injurious and antiquated, and hope that the better way, which is employed in some of the states, may be brought about in Massachusetts without any more delay than is necessary to a compliance with legal requirements. One of the saddest consequences of the imprisonment of felons and misdemeanants alike is the hardship which sometimes comes to their dependents, who are often quite blameless, from the lack of means with which to provide themselves the necessaries of life. Thus homes are broken and the members of households are scattered, and at a later time delinquents again come from such families, which, if kept together, might maintain their identity and decency.

Regardless of the humanitarian aspect of the attempted preservation of even rather poor homes, when there is some prospect that it can be accomplished, the State cannot afford to let them go to pieces, if such a result can be avoided by the expenditure of a reasonable sum of money to temporarily relieve their distress.

The prison authorities, under proper supervision, should be authorized to extend prompt aid in case of harsh deprivation, and provision should be made for a small daily wage credit to industrious prisoners, who might thus, through their own efforts, maintain, in some degere, the relation of provider to those who have a natural right to look to them.

The segregation of defective delinquents (many of whom might be more properly termed delinquent defectives) is of grave importance. If the county prisons should be placed under State control, and the Prison Commission should be granted the power of transferring prisoners, the defectives could be placed together in the prison most suitable to their needs and capacity. If this means is not resorted to we know of no way out of the difficulty except by the establishment of another institution for their care, which method we should not propose except as a last resort.

The location of the State Prison and its physical equipment are not suitable, but we hesitate at this time to advise the purchase of land and the construction of a new congregate prison.

With the management of the county prisons and the State Farm, and the power of transfer above mentioned, the State would be in control of 26 prisons, which would manifestly be a sufficient number of institutions of that character for the use of Massachusetts. Many of them are well built, and some of them have quite an area of tillable land in connection. Some might with advantage be removed, by the sale of the persent sites and the purchase of more land, to a new location, particularly those institutions which are in the settled portions of cities, as outdoor work, especially on the land, is peculiarly beneficial to many prisoners.

An extension of the hospital section of the Prison Camp and Hospital at West Rutland seems clearly to be desired, and we are submitting plans in this connection.

In case the county prisons are taken over by the State, we recommend a standing appropriation of $15,000 per annum, to be used in the purchase of land contiguous to the various prisons, as necessity demands and opportunity offers.

We recommend the amendment of chapter 829, Acts of 1913, so as to permit the State agent, under authority of the commission, to dispense the funds of private charities to discharged prisoners during usual business hours.

We likewise advise the enactment of an act making it unlawful for any official connected with the prison service, or in a poistion of superiority, to urge upon any other official connected with the prison service the appointment of any particular person or persons to any position of emolument in any prison of the Commonwealth. R. H. G.

Report of the Penal Commission of Maryland.—To His Excellency Phillips Lee Goldsborough, Governor of Maryland.

The Commission on Revision of Penal Laws and Prison Reforms, recently appointed by your Excellency, begs respectfully to report as follows:

It has prepared, and herewith transmits, drafts of six proposed Bills and of one Amendment to the Constitution of Maryland. Briefly summarized, they are as follows:

1st: A Bill being an Act to create an unpaid advisory board, to be known

as the "Advisory Board of Parole," for the purpose of rendering more effective and efficient the exercise by the Governor of his constitutional power of pardon and reprieve. Under this Bill, all of the essential features of the Indeterminate Sentence system may be successfully worked out. Your Commission felt that, under the provisions of the Maryland Constitution conferring upon the Governor exclusive right of pardon and reprieve and sharply differentiating the executive, legislative and judicial functions, and forbidding the exercise by any one department of the State Government of any power belonging to any of the other departments, there was some doubt as to whether or not the parole power could constitutionally be conferred upon a Board created by act of the Legislature. It believed that the undoubted power of the Governor to issue conditional pardons, upon such terms as to him seem proper, could readily be availed of for the exercise of the parole function, provided that the Governor be given the machinery with which to advise himself as to the cases suited for parole, and should further be provided with a reasonable number of probation officers to follow up, and take care of, the cases of prisoners actually paroled. With that end in view, the proposed Bill provides for the appointment of an unpaid Advisory Board of Parole, to consist of three persons appointed by the Governor, with the advice and consent of the Senate, without regard to political affiliation. This Board is given authority to employ a Secretary and four probation officers upon reaosnable salaries and to appoint as many unpaid probation officers as it might deem necessary. It is the duty of this Board, under its appropriate rules, to examine into the cases of all persons confined in the various Penal Institutions of the State, and to report to the Governor upon such cases as may seem suitable to it for conditional pardons, and to make such recommendation thereon as to it shall seem proper. Upon receipt of such recommendation, the Governor may, if to him seems meet, exercise his constitutional power to issue conditional pardons on the terms recommended by the Board, or on such terms as he may prescribe. It is believed that by this method most of the advantages claimed for the Indeterminate Sentence will be assured, and at the same time the constitutional grounds, upon which the Indeterminate Sentence laws have been attacked, are entirely avoided.

This Bill carries an annual appropriation of only ten thousand dollars.

2nd. An Amendment to Article III of the Constitution of the State, in the form of a new section, to be known as Section 60 thereof, conferring power upon the General Assembly to provide by suitable general enactment for the suspension of sentences by the Court, for any form of Indeterminate Sentences, and for the releasing upon parole of convicts, as the Legislature may hereafter approve. The purpose of submitting this Amendment is to provide a more simple and direct machinery for any form of Indeterminate Sentence which the Legislature may approve

3rd: A Bill to establish a State Board of Control to assume charge and management of the State Penitentiary and the Maryland House of Correction and to authorize, and provide not more than one hundred thousand dollars for, the erection of a prison for women, likewise to be under the control of the said Board of Control. The erection of a woman's prison will render available for male prisoners the persent wing of the Maryland Penitentiary, with a capacity about one hundred and thirty-five modern cells, now devoted exclusively

to women, but occupied by only about thirty-five inmates, resulting in a loss of about one hundred cells, which if not made available for male prisoners will at this time require an appropriation of about two hundred thousand dollars to build an addition to the Maryland Penitentiary. The same situation, to a greater or less extent, exists at the Maryland House of Correction. Threefore, your Commission believes that the present expenditure of about one hundred thousand dollars for a woman's prison to which will be removed the women convicts from both institutions, will result in an actual saving to the State of over one hundred thousand dollars. For purely technical and legal reasons, this woman's prison is to be made a branch of the House of Correction, and so designated. This Board of Control is to consist of three citizens of Maryland appointed by the Governor, without regard to political affiliation, with the advice and consent of the Senate. Their terms of office are to be for six years, with the provision for the termination of one term only at the end of each two-year period. Each member is to be paid a salary of three thousand dollars per year. Your Commission would have preferred to have provided for larger salaries than these, but did not feel justified in doing so in view of the express constitutional provision to the contrary, and of the recent judicial enforcement of such constitutional provision. It is confidently hoped that, even at this relatively low salary, the Governor may be successful in inducing the proper sort of men to accept these responsible positions.

The State Board of Prison Control shall employ, and prescribe the salaries of, a secretary, wardens, physicians and other employees, and shall succeed to all the rights, powers, duties, etc., of the Directors of the Maryland Penitentiary and the Board of Managers of the Maryland House of Correction. It shall have full power and control over the Penitentiary, House of Correction and House of Correction, Woman's Branch. It shall succeed to the title to, and ownership of, all of the property of all of these institutions. It shall be given power and authority to establish and maintain a system of labor for priosners to supersede the present system of contract labor. It is given plenary powers with respect to the nature and character of such system of labor, but is directed to provide, wherever expedient, such form of labor as will offer an opportunity to prisoners to earn a surplus over the cost of their maintenance to the State.

It is further provided that all sentence of imprisonment hereafter imposed, exceeding six months, in the case of males, shall be to the Maryland House of Correction or the Maryland Penitentiary. The county and city jails are to be reserved for the cases of those sentenced for less than six months. After the establishment of the House of Correction, woman's branch, all women sentenced for a greater term than one month shall be sent to that branch, and only those sentenced for a less term than one month shall be sent to the county and city jails. Provision is made for the transfer, under proper circumstances, from the House of Correction to the penitentiary and *vice versa,* of any person hereafter committed to one or the other of the said institutions. The superintendent of the woman's branch is required to be a woman.

For the maintenance of the three institutions the sum of seventy-five thousand dollars annually, or so much thereof as may be necessary, is appropriated. This amount was agreed upon after careful consideration of the expense of the management of the penitentiary and the house of correction, and of the proper cost to maintain the woman's branch in the future, and, of course, takes into

consideration the revenue expected to be derived from the proper employment of the prisoners. At the present time there is a deficit at the Maryland House of Correction of about thirty-six thousand dollars.

To your commission was also referred the work of revising the criminal laws of Maryland. The limited time at its disposal had necessarily to be devoted almost exclusively to the consideration of the many problems involved in the preparation of the State Board of Control Bill and the Advisory Board of Parole Bill. Moreover, we were not unmindful of the fact that Chapter 325 of the Acts of 1908 provided for the appointment of a commission to "revise, make harmonious and rearrange systematically the criminal statutes now in force in Maryland." We have had the work of that commission before us. We recommend whatever appropriation may be necessary to complete the work of that commission and to publish its report, but in view of the fact that Mr. George P. Bagby, of the Baltimore Bar, expects to publish in the summer of 1914 an Annotated Codification of Article 27 of the Code of Public General Laws, including the criminal laws passed at the pending session, we have not thought it wise or expedient at this late date to undertake any comprehensive measures looking to the general revision of the penal laws.

Your commission would also recommend the operation of a penal farm in connection with either the Maryland Penitentiary or the House of Correction. Owing to the fact that the bills that we have prepared already call for a large outlay of money, we have not embodied this recommendation in the bills prepared by us. We strongly favor, however, the establishment of such a farm, and would be most happy to see this recommendation adopted by the general assembly. The farm, if established, ought, of course, to be under the control of the Board of Prison Control. In connection with this recommendation, we desire to call attention to the fact that the state owns at the House of Correction some three hundred acres of land, which might well be employed for experimental purposes, at least, with a view to the future establishment of a large penal farm.

Your commission was likewise anxious to recommend the making of suitable provision for the care of the criminal insane, of whom there are probably forty or fifty in the state, and for whose care, at the present time, no adequate provision has been made. The same question of the necessary financial outlay involved deters your commission from making actual provision for this much-needed reform.

Your commission concurs heartily in the recommendation contained in the annual report of the Maryland Penitentiary for 1913 (page 7), for the establishment of a tuberculosis hospital for prisoners. It respectfully suggests to the Board of Prison Control the establishment of such a hospital upon the lands of the House of Correction.

Four additional bills have been prepared by your commission, as follows:

4th: A bill providing for the indictment and trial of persons in the counties during terms of court where there is now no grand jury or petit jury. The object of this bill is to prevent the injustice of detaining persons unreasonable lengths of time in jail awaiting indictment and trial.

5th: A bill providing that no judgment shall be set aside or reversed or new trial granted in any criminal case, unless the court, after an examin-

ation of the entire case, shall find affirmatively that the error complained of has resulted in a miscarriage of justice.

6th: A bill providing for the issue of a summons or notice in criminal cases of which a justice of the peace, police justice, or other similar official has jurisdiction, in lieu of a formal warrant, in the discretion of such justice of the peace, etc.

These three bills have been approved by your commission.

7th: A bill permitting the amendment of indictments in criminal cases, in the discretion of the court. While your commission approves the principle of this bill, several of its members are not completely satisfied as to its constitutionality.

Mr. F. Neale Parke desires that it should be here stated that he does not approve of the principle of the indeterminate sentence or of the purchase of a penal farm.

Respectfully submitted on behalf of the commission.

ELI FRANK,
Chairman.

February 16th, 1914.

From E. O. DUNNE,
Baltimore.

The Need of a Federal Office of Prisons.—The following is extracted from an address recently made by Dr. E. Stagg Whitin, until recently chairman of the National Committee on Prison Labor: [Ed.]

"A case now pending before the Supreme Court of Rhode Island is of fundamental significance from the point of view of the rights of the convict, and it should pave the way for federal action. Rhode Island in the early forties, without exception, prohibited slavery in its Constitution, making no mention of the slave status as a punishment for crime. A former convict, Anderson by name, sues the business interests to whom his services were let by the state for wage, in payment for his services. It is contended that while in prison he was a ward of the state under instruction; that the business interests profited by his services, and as by the Constitution of the state he could not be in slavery, he asks the reward for his toil for the benefit of an aged mother and others dependent upon him.

"Slavery with its exploitation has seen the only alternative; for the deprivation of liberty there has grown up a new concept of control whether it be over the child, the feeble-minded, the insane or the delinquent: a control for the benefit of the individual controlled—a control for his education, for his cure, for the insuring of his happiness. Modern education with its psychological study of the power of interest has pointed a new opportunity; the brutality of the old school system, the torture of the insane must give place. The ward of the state, whether child, insane or criminal should stand in a new relation. The parent-right, whether exercised by a natural parent or by the state, may limit the boundaries of the ward's activities for the ward's own good and the good of society in which afterward he is to take his place. Neither the parent nor the state any longer has the right to exploit the child or the convict or the insane to their detriment. * * * *

"When government fails, voluntary associations come into existence to do in part the work left undone by government. The National Committee on Prison Labor has had as its task for several years now the standardization of

penal practices and the development of functioning industrial groups interchanging their products and tending towards self-maintenance. Whether on the farm, in the road camp, the productive trade-school or state work-shop, by new efficiency, new incentives through wage, new hope through personal encouragement, there must be shaped along scientific lines a refinery for the dregs of society. The national incorporation of this committee under the bill introduced by Senator O'Gorman and now before congress will do little more than give expression to what is already a reality; still it is hoped that the better recognition by congress of the constructive possibilities in this problem will make clearer the need of legislation contemplated by the National Committee on Prison Labor and will lead indirectly at least to congressional participation in the work of amelioration of the condition of this lowest substrata of society.

"Since the report of the Industrial Commission of 1900, congress has had before it bills for the restriction by indirect method of the evils resulting from the contracting-out of the prison population. Their failure of passage has been partly due to their dissociation from any constructive scheme of betterment of prison conditions. In its present form the bill known as the Booher-Hughes Bill, which will terminate the vicious contract system, because combining as it does with legislation in the states themselves, it will destroy the profitable nature of this form of convict exploitation.

The Attorney General, under several administrations, has asked for a commission to study jail and other penal conditions. I need not point out to the woman's department of the National Civic Federation the success of the only one of these commissions which was duly constituted and which did such good work with the help of Mrs. J. Ellen Foster, Miss Maude Wetmore, Miss Helen Varick Boswell and others. The bill for a nation-wide work, based on the same principles as the work done by your district commission, is still pending before congress. The commission must show the need of reorganization of the work of supervision over our national prisons to meet adequately the tremendous growth in that quarter during the last few years.

"The passage of this legislation cannot fail to bring to the fore, not only the facts as to the present conditions but the need for drawing into the movements for penal reform, many of the agencies under the control of congress. The development of penal farm colonies must have the support of the Department of Agriculture; the development of the convict road camp must have the aid of the Office of Public Roads; and, more directly under the Department of Interior, the great public works, whether irrigation or water-ways, must afford opportunity for development in connection with the penal system. Federal aid, restricted we shall hope by all safeguards which Senator Borah has so cleverly worked out in his road bill at present before congress, will find in the newly developing convict system a method of double helpfulness in that the opportunities presented for convict labor will make imperative a more scientific and more definitely organized local state department to handle and be responsible for the development of public works, whether the federal aid be given on highways construction, the preservation of forest reserves, or industrial institutions, and it is to be hoped that it will be made possible for use in all these directions. From the national government, city, county or state, officials should be able to secure information and recommendation as to the most approved methods, while in the great training schools which the govern-

ment is conducting the future Colonel Goethals should be called upon to aid with their training in scientific engineering.

"How long voluntary associations like the National Committee on Prison Labor and the National Civic Federation must act as centers for standardization in broad national ways of local penal agencies and provide for their inclusion in the big constructive development which the national government is undertaking remain to be seen, but certain it is that a government which can build the Panama Canal and change in a few years the whole life of the Philippine Islands will not hesitate to assume the responsibility."

E. STAGG WHITIN, Columbia University.

Work of the Massachusetts Board of Parole.—When a young man or a boy comes up before the state board of parole for examination as to his merits regarding possible release from imprisonment in the Concord reformatory, a question frequently asked of him is, "What is your reason for thinking that you should be let out?" With an approach to unanimity that is almost startling comes the answer, "Well, I think I have been punished enough!" But nowadays the conviction is being borne in upon them that they are there to learn, rather than to be punished. And this idea that correction of waywardness and education along lines adapted to the boy's special needs and capabilities must be always kept in mind, is the mainspring of action in the parole board's system of work.

The board of parole, headed by Frank I. Randall of the prison commission, includes the following members: Deputy Prison Commissioner John B. Hebberd, Warren F. Spalding, Benjamin L. Young and Thomas C. O'Brien. The commissioner and deputy commissioner are members ex-officiis. The other three members are appointed by the Governor for terms of three years. This board has in its membership three lawyers (one of them a man of long experience in dealing with penal affairs), a school man and a man who has spent his whole life in the work of prison reform. The board has charge of parole matters at the Massachusetts reformatory and the state prison, and acts as an advisory board of pardons for the Governor. There is another board of parole composed of the chairman and the two women members of the prison commission, and this board does the parole work at the reformatory for women at Sherborn.

A primary fact to be noted in considering our penal system is the difference between parole and probation. To many minds the difference, both in theory and practice, is probably somewhat vague. On this point Deputy Commissioner Hebberd is well qualified to speak. Mr. Hebberd says:

"The problems connected with probation and those connected with parole are vitally different. The first difference is in the type of person to be dealt with. Many on probation from the court are first offenders and persons with no criminal history or criminal intent. They have made mistakes or have fallen into bad company and as a result have found themselves summoned before the court. Many of them come from the homes of the well-to-do, have had a decent family training, and after being placed on probation once, never again appear before the court.

"In parole work, however, because of the extent to which probation is used, an entirely different type of person is the rule rather than the exception. Those in our reformatories and prisons today have gone through the processes of probation, suspended sentence and the like, and have worn out all the

methods of dealing with young men without confining them within the walls of an institution.

"Institutions for delinquents have been added in our state from time to time, and at present in most other states there are institutions which are similar to ours. Those in Massachusetts are as follows:

Name of Institution.	Age.
Disciplinary classes (day truant schools)	Under 14
County training schools (truant schools)	Under 16
Lyman School for Boys	Under 15
Industrial School for Boys at Shirley	Under 18
Mass. Reformatory, Houses of Correction, State Farm, State Prison	No age limit

"These institutions stand as life savers along the line of human activity. The one object of their existence is prevention. It is found that the more elaborate and extensive an organization is, the more difficult it is to get proportionate results. This has been clearly shown in the orphan asylums and in in foundling hospitals where death rates are extended as high as 95 per cent. In prisons, reformatories and the like, a person not only became institutionalized but often he was branded as a criminal with a serious handicap to live down. Homes were closed to him, employers were afraid to receive him and society shunned him. The cause of these evils is ascribed to the unnatural life led by the inmates. To avoid these evils there has developed in recent years the idea of reforming the person without confining him in an institution, but allowing him to have his freedom and be subject to the influence of a good home and helpful friends. When this liberty precedes confinement in an institution, we call it probation; but when it follows confinement, parole.

"A man who is placed on parole from an institution is given an opportunity to serve a part of his sentence outside the walls of the institution. It is a gradual release from supervision and oversight. It is the convalescent stage. While a man is confined in a reformatory or prison, he is living in an unnatural world; in an abnormal environment surrounded by iron bars and strong walls, and guarded in all his sleeping and waking hours. He leads the life of a dependent and after several years of such existence it is the exceptional person who does not lose his initiative and become helpless."

When asked as to the relation between parole and probation, Mr. Hebberd said:

"Each is a scheme whereby a man is given an opportunity to correct his errors and lead a law-abiding life outside the walls of an institution rather than within. Secondly, each scheme suggests supervision in the way of a probation officer or a parole officer. Thirdly, each requires some arrangement of reporting in order that those charged with responsibility may know the whereabouts and behavior of the individual on parole or probation. Fourthly, each should encourage the idea of making restitution to those from whom property has been stolen and repairing damages which have been done. Fifthly, the success of each depends upon the real personal touch and influence of some noble-minded and big-hearted individual.

"The matter of dealing with restitution is quite different with those on parole from what it is with those on probation. Many persons, if they are

placed on probation, are willing to make restitution to a very great sum in order that they may avoid going to prison, but after a man has served a term in the prison or refomatory and is told that one of the conditions of his parole is that he must make restitution, he feels that he is treated unjustly. The old idea of punishment lurks in his mind and he feels that by being confined for a period of years, he has paid whatever he owed to society, and that to require him to "make good" for the property stolen is to make him pay again and is therefore unjust.

"Applicants for parole are often weak-minded, feeble-minded, half-insane. Their home conditions are of the poorest and their training for any definite work in life is very meagre. For these reasons it is much more difficult to deal with them and to do the fair thing to them and to society. Because of this great difference in the type of persons to be dealt with in parole work the supervision must be more careful and painstaking. Stricter rules of conduct are required and strenuous effort must be made to prevent those on parole from giving up work and absconding."

All the meetings of the board are held at the institution in which the applicant is confined. Before the board considers any application for parole, an attempt is made to learn all the facts possible concerning the boy. The institution furnishes certain material, mostly on the prosecution side, and agents of the prison commission act as investigators to learn of the home conditions and to look up the employment. When all the information has been collected, duplicate copies are made and the board goes to the institution to interview the different applicants. At these meetings the warden or superintendent, the doctor and the chaplain are expected to be present and to supply information. The boy appears before the board privately and is asked such questions as seem important to the members. The boy is then asked to retire and after again discussing his case the board votes either to parole him or to postpone his parole. Some of the things which influence the board in deciding upon a parole are the following:

1. Has the boy the right kind of home to which he may go? Has he any relatives or friends who are willing to help him re-establish himself in the world? If he has a home, is it the right sort? Are the influences there of the best? Is it an environment in which he can "make good" or are there temptations which may cause him to do again the thing for which he was committed?

2. Is there anyone who will give him definite, permanent employment of the proper sort, which will enable him to pay his expenses and have a little left with which to make restitution in cases where it is required? A bank account is encouraged.

3. What has been the effect of confining the boy? Has he taken advantage of any opportunities to improve himself in the way of education? Has he tried to learn a trade or a part of a trade? Has he attended the school connected with the institution? Has he made proper use of the library? Has he improved in health? What is his attitude toward his wrong doing and his chance to begin over again?

A good many who become eligible for parole are not paroled; of those at the state prison only 51 per cent have been paroled, and at the reformatory 70 per cent. This shows, therefore, that many applications for release on parole

are postponed indefinitely or denied absolutely. These postponements in every case are, in the opinion of the board, the best thing for the applicant.

At the present time, paroles are refused certain persons for the reason that there is no proper institution in which they should be confined and the board of parole will not assume the responsibility of allowing them to be at liberty with the chance of committing the same offense again within a short time after their release. These are the distinctly feeble-minded, and they present a problem not only to the board of parole, but to the institution in which they are confined. Then there are perverts of various kinds who are in the prison and reformatory in considerable numbers, and whose presence in the community means danger and alarm. The following figures show the percentage of those paroled after interviews:

FROM THE CONCORD REFORMATORY.

Interviewed.....243	Paroled.....175	Returned.....19

FROM THE STATE PRISON.

Interviewed.....116	Paroled..... 60	Returned..... 2

These figures are from Aug. 1, 1913, to Jan. 1, 1914:

The following items indicate some general principles which the board is trying to establish: 1, restitution; 2, education; applicants for parole must know enough English to get along in the world; 3, religious duties; 4, use of libraries; 5, evening schools; 6, never parole a man you don't know; 7, never parole a man who is estranged from his family, who does not want his family to know where he is; 8, never parole a man without definite employment; 9, never parole a man without some person to supervise him; 10, be very slow about paroling a man who has served two or three terms in prison; 11, never parole a man who will not tell the truth about his offense, who does not want to talk about it; 12, do not parole a man who has warrants awaiting him, until after some investigation has been made.

Other states have had boards of parole much longer than has Massachusetts. Mr. Hebberd says: "It was my privilege to visit a number of the institutions in the middle west and to talk not only with the members of the boards of parole, but with the agents who actually carried out the work. In some states the parole board is smaller than ours and meets much less frequently. I have in mind one state in which the parole board meets only four times a year. Our law requires that we see every applicant for parole. Other states parole men without seeing them and without any very definite investigation.

The states in the middle west are all enthusiastic over the success of their systems. Some states go so far as to claim that between 90 and 95 per cent of the persons placed on parole are successes, others limit it to 75 per cent. These percentages, however, mean absolutely nothing. First, because it depends on what is meant by success. Secondly, the period of time which a person serves on parole in some states is as short as six months and in others as long as several years. Thirdly, it depends upon the kind of supervision and the standard which is set by those who supervise the work. If the system is efficiently run, if a high standard is demanded, if painstaking supervision is had, there will be many persons returned to the institution for violating their parole, and that state would be charged up with a high percentage of failures. In another state where there is practically no supervision and no definite

standard set, a high percentage of success would be recorded and it would be advertised at every opportunity that came.

"Until we have a definite understanding and a definite basis on which to reckon our work it will be difficult for us to compare successes and failures. One great cause for failure in the work is the fact that a single parole officer has a large number of men to supervise and his visits are, therefore, separated by long intervals of time. A person has many opportunities to get into trouble and even to slip away without the knowledge of the officer.

"Here, then, is a great field for volunteer parole officers. Every community should have some high-minded and public-spirited person who has the time and is willing to supervise in a very personal way some few individuals on parole. We are looking forward to the time when every man released from the reformatory or the prison will be put under the direct charge and supervision of some one person, and when that time comes our batting average will be pretty nearly perfect.

"Organizations of this sort can help greatly in this way and in the matter of employment. A great many persons do not wish to employ men on parole from correctional institutions, but these men must come out sometimes, and is it not better to have them released when they can be held to a high standard of accountability and when there are many strings with which to hold them?"

The present board of parole was provided for by an act of the last legislature and was organized July 31, 1913. Before this time, however, men had been paroled from the state prison under the law of 1911, which allowed a man to be eligible for parole after serving two-thirds of his minimum sentence, provided the two-thirds was more than two and one-half years and he had had no "punishments." At the Massachusetts reformatory, where boys are sent on indeterminate sentences, they became eligible for parole according to the rules of the institution after serving a certain number of months. The parole work, however, was very superficial. No careful investigations were made concerning the home conditions into which the boys were to go, or the employment which they were to have. At the present time there are 1,058 boys on parole from the reformatory whose whereabouts are unknown; and out of 191 men paroled from the prison only 74 can be located. All this came about before the organization of the present board of parole.

H. S. KEMPTON, in Boston Transcript, Feb. 25, 1914.

STATISTICS.

Austrian Criminal Statistics for 1909.—The most striking feature about these figures is the increasing tendency towards acquittals and to short prison sentences. Professor Löffler shows that from 1876-1909 the acquittals in trials by judges increased from 13.1 per cent to 16.8 per cent; but during the same period, trials by jury raised the percentage of acquittals from 24.8 to 30.6. Or put another way, during the period 1876-1909 juries decreased the actual number of verdicts of guilty from 2,940 to 2,146, a decrease of about 27 per cent, while in the same period the population of Austria had increased about 30 per cent. Verdicts of murder, for example dropped from an average of 191.3 for the period 1876-1880 to 62 for the year 1909. But does this indicate a genuine decrease in the actual prevalence of murder? Not at all; indirect proof of this may be derived from the fact that convictions for manslaughter rose during this period from an average of 245.7 to 261 in 1909;

while convictions for serious bodily injury rose from 4,141 to 5,278. Professor Löffler attributes the apparent judicial inefficiency to "the rout of the state's attorney's office by the jury courts," and argues for increased repression of crime through more rigorous sentences.

While we may differ from him as to the motives for eliminating the short jail sentences, there seems to be no question but that the Austrian practice (like that of our own police courts) is a travesty upon the whole principle of imprisonment as a means of correction or punishment. For instance, the sentences for terms of one year and over decreased from 8.91 per cent in 1907 to 8.56 per cent in 1908, and to 7.99 per cent in 1909. Those for from 6 to 12 months decreased from 8.60 per cent in 1907 to 8.21 per cent in 1909. Those from 3 to 6 months also declined slightly. But those from 1 to 3 months increased from 34.79 per cent in 1907 to 35.59 per cent in 1909. And sentences of less than a month rose from 27.86 per cent in 1907 to 29.12 per cent in 1909. All of this might be much better taken as an argument for changing the punitive system in so far as it relies so largely upon jail terms. There may be an alternative to the proposal for increasing the severity of prison sentences. That alternative might well be the indeterminate sentence, or it might be a more liberal use of conditional liberation and probation. Neither of these seems to have occurred to Professor Löffler. (*Die österreichische Kriminalstatistik für* 1909, in *Osterreichische Zeitschrift für Strafrecht,* 1 and 2 Heft., 1913).

A. J. Todd, University of Illinois.

Prussian Prison Statistics.—(*Statistik über die Gefangnisse der Justizverwaltung in Preussen fur das Rechnungsjahre,* 1912. Berlin, 1913.)

The administration of prisoners in Prussia is divided between the Ministry of Justice and the Ministry of the Interior. The daily average of prisoners in 1912 was 52,795 persons, or 131.44 to 100,000 of the population. A list of all officers is given. An agency said to be approved by experience is the Commission of Supervision; composed of a chairman selected by the Minister of Justice, one or two judicial officials, a state's attorney, a prison warden, a chaplain, a physician, and, in some cases, a member of the prisoners' aid society. Short courses of study are held for instructing officers in their duties. The total number of male prisoners in 1890-1 was 328,835, of women, 100,537; in 1912, 339,125 males and 62,322 females. The average number of juvenile convicts in 1899 was 1,562.42; in 1912, 392.95; the decrease being due to increased use of suspension of punishment—3,379 youths in 1899, 13,823 in 1912. Cellular incarceration by day and night was applied to 11,813 persons in 1895-6, and to 21,208 in 1912; the tendency is to keep prisoners from contact with each other, at least for a part of the term. The "provisional release" is more used by the authorities than formerly; in 1912 there were 385 applications, of which 53.51 per cent were approved; in 1912, 562 applications, of which 76 per cent were approved. The aid societies receive subsidies from the state.

The text of the administrative regulations laid down by the Federal Council in 1897 is reproduced in this report. Professor Freudenthal regards them as important.

C. R. H.

Increase of Crime in California.—Claims that a recent wave of crime in California was caused by paroled prisoners, the state parole officer has proven unfounded. Out of several hundred crimes committed, only one paroled prisoner was involved and he is only on suspicion. Out of a total state prison population of 3115 on January 1, 1914, there are 647 prisoners on parole, 52 of whom were paroled in December, 1913. Of all these only 32 are out of work, 16 of whom are sick. Since the parole law was adopted in California in 1893, there have been 2533 prisoners paroled, of which number only 74 have been returned to prison for committing new crimes. Others have been returned for violating the rules of their parole. Since the passage of the parole law in California, paroled men have earned $1,407,261.18, of which sum they have saved $344,751.67. Many have fulfilled the term of their sentence or have been pardoned by the Governor and have gone on earning good wages, which while not included in the above amount, can readily be called money earned by men paroled from prison.

Criticism of the probation system in California cities has been very sharp on account of several serious crimes committed and there are some who are in favor of giving up reformative measures to return to the old retributive system. To such persons we are anxious to show the results of probation in San Francisco during the year ending December 31, 1913.

There are in San Francisco a total of 912 persons on probation, of whom 305 were probationed by the courts during the year 1913. The wage earning capacity of the probationers during the past year is shown by their total earnings of $149,674.00. Money to reimburse persons who lost through the criminal acts of the probationers was collected in many cases. Nearly $20,000 were collected from employers of probationers and applied to the support of defendants. These figures cover only the adult probationers.

W. I. DAY, Oakland, Cal.

MISCELLANEOUS.

Committees of the Institute 1913-1914—

Committee A on "The Employment and Compensation of Prisoners."

Edwin M. Abbott, chairman, Land Title Bldg., Philadelphia, Pa.
William H. Baldwin, 1415 21st St., Washington, D. C.
Dr. Katharine B. Davis, Supt., Commissioner of Corrections, New York City.
Dr. E. Stagg Whitin, 130 East 22nd St., New York City.
Judge Wm. N. Gemmill, Municipal Court, Chicago, Ill.
Judge Robert M. Ralston, Common Pleas Court No. 5, Philadelphia, Pa.
Dr. F. W. Sears, Burlington, Vt.

Committee B on "Insanity and Criminal Responsibility."

Professor Edwin R. Keedy, 31 W. Lake St., Chicago, chairman.
Albert C. Barnes, judge Superior Court, 1223 E. 50th St., Chicago.
Professor W. W. Cook, University of Chicago Law School, Chicago.
Wm. S. Forrest, Esq., 1016 Ashland Block, Chicago.
Professor Adolf Meyer, Johns Hopkins University, Baltimore, Md.
Prof. Wm. E. Mikell, University of Pennsylvania Law School, Philadelphia.
Dr. Harold N. Moyer, 103 State St., Chicago.
Dr. Morton Prince, 458 Beacon St., Boston, Mass.

Dr. Wm. A. White, Supt. Government Hospital for Insane, Washington, D. C.

Committee C on "Judicial Probation and Suspended Sentence."

Judge Wilfred Bolster, Municipal Court, Boston, Mass., chairman.
Roger N. Baldwin, 911 Locust St., St. Louis, Mo.
Judge Charles A. DeCourcy, Supreme Judicial Court, Boston.
Homer Folks, Yonkers, New York.
Louis W. Marcus, Judge, Supreme Court, Buffalo, N. Y.
Edwin Mulready, Court House, Boston, Mass.
Judge Henry N. Sheldon, Supreme Judicial Court, Boston, Mass.
Arthur W. Towne, 105 Schermerhorn St., Brooklyn, N. Y.
Robert J. Wilkin, 211 Clinton St., judge Juvenile Court, Brooklyn, N. Y.
Judge A. C. Backus, Municipal Court, Milwaukee, Wis.
Wm. H. Venn, Probation officer, Detroit, Mich.

Committee D on "The Classification and Definition of Crimes."

Professor Ernst Freund, University of Chicago Law School, Chicago, Ill.
Judge John B. Winslow, Supreme Court, Madison, Wis.
Judge Orrin N. Carter, Supreme Court, Chicago, Ill.
Adelbert Moot, Esq., Buffalo, New York (no reply received).
Hon. Stephen H. Allen, Topeka, Kansas.
Professor W. W. Hitchler, Dickinson School of Law, Carlisle, Pa.
William M. Ivins, Esq., 27 William St., New York City.
Robert H. Marr, chairman, Criminal Code Commission, 609 Hennen Bldg., New Orleans, La.
Nathan William MacChesney, 30 N. La Salle St., Chicago.
A. Bullard, care of the MacMillan Co., 64-66 Fifth Ave., New York City.
Dr. William Healy, Winnetka, Ill.
Joel D. Hunter, 10th floor, County Bldg., Chicago.

Committee E on "A Proposed Draft of a Code of Criminal Procedure."

————————, chairman.
Professor Edwin R. Keedy, 31 W. Lake St., Chicago.
Professor Wm. E. Mikell, University of Pennsylvania Law School, Philadelphia, Pa.
Dean Harlan F. Stone, Law School, Columbia University, New York.

Committee F on "Indeterminate Sentence, Release on Parole and Pardon."

Edwin M. Abbott, Esq., Land Title Bldg., Philadelphia, Pa., chairman.
Professor Charles R. Henderson, University of Chicago, Chicago.
Edward Lindsey, Esq., Warren, Pa.
Robert Ralston, judge Common Pleas Court No. 5, 1326 Spruce St., Philadelphia, Pa.
Samuel W. Salus, senator in Pennsylvania legislature, Philadelphia, Pa.
Samuel G. Smith, St. Paul, Minn., pastor of the People's Church.
Richard Sylvester, chief of police, Washington, D. C.
Henry Wolfer, warden state prison, Stillwater, Minn.
Frank L. Randall, Boston, Mass., state capitol.
E. J. Murphy, Joliet, Ill., warden.
J. C. Sanders, Fort Madison, Ia., warden.

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Dr. Carl Ramus, Marine Hospital, Ellis Island, New York.
Francis A. Kellor, 22 East 30th St., New York City.
Professor Edward A. Steiner, Grinnell, Ia.
Robert Watchern, Loma Linda Sanitorium, California.
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Dr. Wm. A. White, Government Hospital for Insane, Washington, D. C.
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Bleecker Van Wagenen, 443 Fourth Ave., New York City.
Hastings H. Hart, 130 East 22nd St., New York City.
John Melody Webster, Professor in Catholic University, Washington, D. C.
Dr. H. C. Sharp, West Baden, Indiana.
Dr. Wm. T. Belfield, 32 North State St., Chicago.
Father Peter J. O'Callaghan, 911 South Wabash Ave., Chicago.
H. H. Laughlin, Supt. Eugenics Record Office, Cold Spring Harbor, L. I., New York.

Committee I on "Co-operation With Other Organizations."

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Representatives of Other Organizations.

Committee No. 2 on "Translation of European Treatises on Criminal Science."

Dean John H. Wigmore, 31 W. Lake St., Northwestern University, Chicago, chairman.
Professor Ernst Freund, University of Chicago, Chicago.
Edward Lindsey, Esq., Warren, Pa.
Maurice Parmalee, Columbia, Mo., professor of sociology.
Professor Roscoe Pound, Harvard Law School, Cambridge, Mass.
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Committee No. 3 on "Criminal Statistics."

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Chas. A. Ellwood, Columbia, Mo., professor of sociology.
Edward Lindsey, Warren, Pa.
Frank L. Randall, State House, Boston, Mass.
Professor Louis N. Robinson, Swathmore, Pa.
Eugene Smith, 49 Wall St., New York.
Arthur W. Towne, 105 Schmerhorn St., Brooklyn, N. Y.
A. L. Bowen, Springfield, Ill., Secretary Illinois Charities Commission.

Robert E. Chaddock, New York City, Columbia University, assistant professor of sociology.

Professor Arthur J. Todd, Urbana, Ill.

Professor Frank W. Blackmur, Lawrence, Kansas.

R. Beverly Herbert, Esq., Columbia, S. C.

Dr. Isaac Hourwich, 180 Hewes St., Brooklyn, N. Y.

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R. B. Herbert, Columbia, S. C.

E. J. McDermott, Louisville, Ky.

Henry B. Shaw, Burlington, Vt.

Amos W. Butler, State House, Indianapolis, Ind.

Judge James Alfred Pearce, Chestertown, Md.

Philip Weltner, secretary Prison Association, Atlanta, Ga.

Dean Wm. R. Vance, Law School, Minneapolis, Minn.

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Prison Products Begging for Purchasers in New York.—Many county, city and village officials are ignoring the prison law which requires municipalities to purchase necessary goods and materials manufactured in the prisons from the Superintendent of State Prisons, according to a statement made on January 2 by the State Commission of Prisons. If the convicts in the state prisons are to be kept employed as contemplated by the constitution, the public officials of the state and of its political divisions, the commission asserts, must purchase the prison products.

"The constitution," says the commission, "makes it the duty of the legislature to provide employment for the convicts and declares that the products of prison labor shall be sold only to the state or its political divisions. In order to compete as little as possible with free labor the prison industries have been diversified under assignments by the State Commission of Prisons.

"The State Board of Classification, composed of the Fiscal Supervisor of State Charities, the State Commission of Prisons, the Superintendent of State Prisons, and the State Hospital Commission, fixes the styles, patterns, designs, qualities and prices of all prison-made products, and the prison law provides that no article so manufactured shall be purchased from any other source for the state, its public institutons or political divisions, unless the State Commission of Prisons shall certify that the article cannot be furnished. To audit or pay for goods purchased without such certificate is illegal. The State Board of Classification endeavors to fix prices as near the usual market price for such goods as possible.

"State officials generally observe the law, as the state comptroller refuses payment if the bills for articles of a kind manufactured in the prisons are unaccompanied by the proper certificate of release. There is, however, an apparent disposition on the part of many public officials to evade the law. The records of the Superintendent of State Prisons show that up to December 1st the cities of Lackawanna, Newburgh, North Tonawanda, Port Jervis, Tonawanda, Watertown and Watervliet had made no purchases since the enactment of the present law in 1896. With the exception of a straight jacket, purchased in 1912, the city of Glens Falls had bought nothing. No purchases had been made by the cities of Oneida since 1901, Cortland since 1905, Geneva since 1908, Fulton since 1909, Kingston since 1910, Ithaca, Jamestown and Rochester since 1911, and Hudson, Little Falls, Niagara Falls, Oswego and Poughkeepsie since 1912. Cortland, Franklin and Fulton counties had sent in no requisitions for 1913 prior to December 1st.

"Of the 466 incorporated villages of the state, only 15 had made purchases during the same period. These were Addison, Baldwinsville, Briarcliff Manor, Dannemora, Ellicottville, Fonda, Green Island, Gouverneur, Haverstraw, Hoosick Falls, Nyack, Ossining, Peekskill, St. Regis Falls, and White Plains.

"School authorities in some of the municipalities mentioned have purchased school furniture and supplies.

"New York City affords the largest market for prison products. Buffalo makes some purchases from the state as well as from the Erie County Penitentiary, but Rochester's last order for supplies from the state prisons was in May, 1911.

"Of the second class cities, Albany, Troy, Yonkers and Schenectady buy liberally, but orders from Utica and Syracuse are few.

"Rochester and Monroe County officials hold that the Rochester city charter and the Monroe County purchasing act enacted in 1907, which require that contracts for city and county supplies be awarded to the lowest bidder, in effect nullified the provisions of the Prison Law of 1895.

"In response to an inquiry from the State Commission of Prisons, Attorney-General Carmody on August 28, 1913, rendered an opinion to the effect that the local statutes relative to the purchase of supplies in the city of Rochester and

in the county of Monroe do not supersede in those municipalities the prison law requiring municipalities to purchase necessary goods and materials which are manufactured in the prisons of the state. The attorney-general's opinion says in part:

"'The charters of the other cities of the state contain substantially the same provisions as to the awarding of contracts for supplies above a certain minimum cost, after competitive bidding, to the lowest bidder. The second class cities law has a general provision to this effect applicable to all cities of that class.

"'The purpose of these various enactments is to prevent the waste of public funds through dealings by public officers with favorite contractors and supply agents. It is not possible that the legislature intended to exclude these very important municipalities from the general provisions of the prison law, enacted in pursuance of a public policy to give employment to prison inmates, from which there is no logical reason for excepting any of the political subdivisions of the state. I think these statutes can be fairly construed together, and, so far as goods manufactured in prisons are concerned, they must be purchased by the municipalities whose special charters or the general laws applicable thereto require competitive bidding. As to supplies which may be purchased from the prisons, these provisions have no application.

"'As to general supplies purchasable from individuals the provisions as competitive bidding are applicable.

"'But such provisions have no application to prison made goods available for use by the political subdivisions of the state.'

"The corporation counsel of Buffalo had previously contended that the prison law, so far as it compelled municipalities to purchase products of the prisons, was unconstitutional, but the attorney-general held otherwise.

"As a result of the failure of many municipalities to observe the law, hundreds of convicts in the state prisons have been idle during the past year. The prison storehouses are stocked with goods for which the demand has not kept pace with the supply. Co-operation and observance of law on the part of public officials in the purchase of prison-made goods would go a long way toward making the prisons self-supporting.

"There is no doubt that strict compliance with the law by all public officials would create a demand much more than enough to keep all the prisoners throughout the state fully employed. This result is greatly to be desired.

"The prison law requires state, county, city and village authorities to furnish the State Commission of Prisons annually on or before October 1st an estimate of prison-made goods necessary to be purchased during the ensuing year. These estimates are intended as an aid to the superintendent of state prisons in the conduct of the prison industries. Many officials are lax in furnishing these estimates, ignoring repeated requests from the commission to comply with the law. Others send in their estimates but make no purchases, while a few admit, in response to inquiries, that they buy supplies in the open market which might have been furnished by the prisons, in violation of law.

"So far as possible the commission has endeavored to acquaint the responsible officials with the provisions of the law, willful violation of which is punishable as a misdemeanor."

From the New York State Commission of Prisons.