


1914

Notes on Current and Recent Events

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NOTES ON CURRENT AND RECENT EVENTS.

ANTHROPOLOGY—PSYCHOLOGY—LEGAL-MEDICINE.

Expert Testimony.—The following is the report of the Committee on Expert Testimony of the American Medical Association. It was presented in Chicago on Feb. 23, 1914, before the Tenth Annual Conference on Medical Legislation held under the auspices of the Council on Health and Public Instruction of the American Medical Association. The report as we have it here is taken from the *American Medical Association Bulletin* of March 15, 1914, pp. 166-169.—[Eds.]

Dr. Moyer, the chairman of this committee, in his report last year presented a general diagnosis of the present situation of medical expert testimony and outlined the plan along which the committee would work.

The chief desire of this committee is to submit not only a logically correct proposal but one that is workable in a practical way and that will stand the test of constitutionality. This last requirement is often not considered in the framing of proposals which involve the changing of legal procedure. One distinguished member of the medical profession expressed his attitude in the following way: "Why should we allow the constitution to stand in the way of intelligent reform?" Whatever may be one's opinion regarding the desirability of having rigid constitutions, they are at present the basis of our institutions, and experience has shown how difficult it is to secure amendments, particularly of those provisions which apply to certain phases of the present problem. As this committee desires to secure legislation that may be available for the present generation, it is endeavoring to work out a plan that will be upheld under a fair interpretation of the existing constitutions. In view of this fact it was thought desirable that I should present to you a brief discussion of the legal and constitutional problems involved in the various proposals that have recently been made relative to medical expert testimony.

Expert testimony is of two general kinds, viz., testimony as to facts and opinion testimony, and the admissibility of each rests upon different theories. The first kind of expert testimony is admissible because special skill and experience are necessary for the understanding of certain matters. Any person of ordinary intelligence can testify whether a man had a cut in his head, or whether there were yellow or brown stains on linen. But it requires special experience and knowledge to state what arteries, nerves, bones, etc., were injured by the cut, and to determine whether the yellow stains on the linen were due to urine or semen, and whether the brown stains were human blood. It is because the ordinary witness is incapable of understanding the particular matter that the expert is required, and for this reason it is necessary that his special knowledge be shown before he is permitted to testify.

As a general rule of evidence opinion testimony is inadmissible. The reason for this is that the facts being before the jury, it is for them to form a judgment and conclusion upon such facts. The rule against opinion testimony is a product of the jury system. Since in many instances it is impossible for the jury to form a judgment because of the difficulty of the question involved, the opinion of those skilled in that particular

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subject may be obtained for the assistance of the jury. For instance, the jury would be incapable of determining whether the cut in the head mentioned above would be likely to cause death, even though it had before it a description of the wound, hence the opinion of a medical man is of assistance to the jury. In the same way the jury would need the opinion of one skilled in real estate values in order to determine what a certain piece of property in the loop district of Chicago is worth. Thus the function of opinion testimony is the advising of the jury, rather than the proving of the case of one of the parties.

Though the reason for the admissibility of expert testimony, whether as to facts or opinion, is the same whatever the subject-matter involved is yet special problems arise in certain kinds of such testimony and the general question may be affected by the legal character of the proceeding. For instance, the problem of expert testimony, particularly of a medical character, is different in criminal cases from what it is in civil. This is due to certain constitutional privileges of the accused, chiefly the following: That his life or liberty shall not be taken without due process of law; that he is entitled to a trial by jury and cannot be compelled to incriminate himself. Under the last of these privileges the position of the expert witness for the state in a criminal prosecution is much more restricted where the question involved is as to the defendant's mental condition than it is where he is asked to testify as to the physical condition of the accused. Although the tendency of the decision is towards compelling the accused to submit to a physical examination by the medical witness for the prosecution, yet the accused cannot be compelled to submit to a mental examination or to answer any questions asked by the witness because this would violate the provision against self-incrimination. As a result of this, the physical examination without any mental examination is of little value in most cases where the mental condition is in question.

During the past few years many proposals for the regulation of expert testimony have been advanced by organizations representing the different learned professions involved. It is now proposed to discuss these different proposals from the legal point of view.

1. That the court be given power to appoint a disinterested witness. This proposal has appeared in two forms, (1) that such witnesses should be the only expert witnesses allowed to testify, and (2) that the appointment of these witnesses by the court shall not affect the right of both parties to call expert witnesses. The first form of the proposal would seem to be clearly unconstitutional as restricting the parties in the proof of their case. The recent decision of the Supreme Court of Michigan holding unconstitutional, as violating the provision against due process of law, a statute which provided that "in criminal cases for homicide where the issues involve expert knowledge or opinion, the court shall appoint one or more suitable disinterested parties, not exceeding three, to investigate such issues and testify at the trial, this provision not to preclude either prosecution or defense from using other expert witnesses at the trial," has seemed to offer a serious obstacle to the adoption of this proposal. The adherents of this proposal need not be discouraged, however, as certain objections which the Michigan court found in their statute can be remedied without affecting the general plan and the courts of most of the other states are likely to be more liberal

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in their interpretation of the constitution than was the Michigan court. If this proposal should be considered advisable, it is reasonably certain that the constitutional difficulties may be solved.

2. That a fixed group of experts shall be appointed or otherwise determined from which all expert witnesses must be chosen. Though this might be feasible in certain lines of professional activity, it would be impracticable in others. There is a greater diversity of opinion regarding the advisability of this proposal. One of the legal difficulties is that the law in prescribing the qualification for experts, has not required any professional connection with the subject, the test being, does the witnesses have the special knowledge and experience required? A statute providing for the selection of such a group would probably be held constitutional.

3. That expert witnesses be permitted to make a physical and mental examination of the person regarding whom they are to testify. The difficulty of this proposal, where the question involved is the mental condition of a defendant in a criminal case, has already been discussed. In all other cases it would seem practicable.

4. That the expert witness shall submit his testimony in the form of a written report. This plan is possible only where the testimony of the witness is as to facts and opinion based upon such facts. Where his testimony is purely opinion based upon facts testified to by others, there is no opportunity for the preparation of such a report.

5. That the expert witnesses shall consult and agree upon a joint report, the so-called "Leeds" method: There is no legal objection to this plan. A too-partisan lawyer might object to having his witness consult with the witness for the other side, and the witnesses themselves might have difficulty in agreeing. These considerations are, however, of a purely practical character. Where experts are appointed by the court a consultation and agreement by such experts would be highly desirable if not essential.

6. That the number of expert witnesses which each side may call shall be limited. This is possible where the witnesses are to give purely opinion evidence, but not where they testify as to facts. This difference is due to the distinctive character of these two kinds of testimony as set forth in the beginning of this report.

7. That commissions of experts be appointed for the determination of technical matters and that such matters shall not be submitted to the jury. For instance, it has been strongly advocated that in criminal cases where insanity is set up as a defense the jury should find only whether the defendant did the wrongful act and that a commission of alienists shall determine the responsibility of the defendant. In this proposal the true function of the medical expert is lost sight of. Criminal responsibility is a legal question which should be answered by the jury under proper instructions from the court. The function of the expert is to testify as to the mental condition of the accused. A constitutional question is raised every time it is proposed to restrict the functions of the jury in criminal cases.

The committee realizes that the success of any plan regulating the introduction of expert testimony depends upon the skill and co-operation of judge, witness and lawyer. It is impossible to frame any proposal that will accomplish good results without these. The present tendency in the legal profession is towards a less antagonistic attitude in the trial of a case, i. e., the adminis-

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tration of justice is not being regarded quite so much as a sporting proposition. Likewise the courts are becoming more liberal in upholding the constitutionality of reformative measures. Thus there is hope for the adoption and successful operation of a truly meritorious proposal. This committee hopes to be able to submit such a proposal in the form of a bill at the next meeting of this conference.

HAROLD N. MOYER, Chairman of the Committee, Chicago.

PROF. E. R. KEEDY, Northwestern University Law School, Chicago.

Meeting of the Society of Anthropology, Sociology and Criminal Law—

The first convention of the society was held in Rome at the University, April 17-19, 1914. The following subjects were discussed: (1) The segregation of habitual offenders under indeterminate sentence, the protection of them and their families during the period of detention, and the proper conditions and procedure for their release. (2) The application of the science of criminal anthropology in the work of prevention by the police. (3) The personality of the convicted person under the new code of penal procedure. (4) The duty of society to recompense the person injured by a crime, and his right, under the new code of penal procedure, to be a party in the criminal prosecution and to have his damages ascertained. Among those participating in the discussions were Professor Enrico Ferri of the Scuola d'Applicazione geuridico criminale, of the University of Rome; Raffaele Garofalo, President of the Court of Canahun of Rome; Augusto Tambarini, Professor of Psychiatry, University of Rome; Mario Carrara, Professor of Legal Medicine and Criminal Authropology, University of Turin; Agyato Berenini, Professor of Criminal Law and Procedure, University of Parma; Leonardo Bianchi, Professor of Psychiatry, University of Naples.

E. A. GILMORE, State University, Madison, Wis.

COURTS—LAWS.

The Public Defender of Los Angeles County, Cal.—Following is a copy of a letter from the Public Defender of Los Angeles, Cal., addressed to A. C. Umbreit, Esq., of Milwaukee. The opening paragraph explains the occasion of the letter. The copy of the provisions of the charter of the county of Los Angeles referred to in that paragraph is found at the conclusion of the letter.—[Eds.]

Los Angeles, Cal., March 17, 1914.

A. C. Umbreit, Esq.,

Chairman Committee on Public Defender,

Railway Exchange Building, Milwaukee, Wis.

Dear Sir:

"In response to the request of the special committee of the Milwaukee Bar Association appointed to investigate the matter of the appointment of a public defender for Milwaukee, I am enclosing a copy of the provisions of the charter of the county of Los Angeles prescribing the duties of the public defender.

"While the legislature of the state has authority to create the office of public defender for all counties no action has been taken by the legislature up to the present time except to ratify the charter of Los Angeles county

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providing for the office. Under our constitution each county can form its own charter, which must be adopted by vote of the people and ratified by the legislature. During the last year the people of Los Angeles county adopted a charter providing for the appointment of a public defender and his deputies from the eligible civil service list. Pursuant to this charter provision I was appointed on January 6, 1914.

"The work of the public defender is naturally divided into two classes, the criminal and civil. In criminal matters we defend every person accused of any offense in the Superior Court who is financially unable to employ an attorney, upon his request or upon order of the court. It is also our duty to prosecute appeals in proper cases. No provision is made for our appearance in the police courts. Probably this is explained by the fact that the city of Los Angeles has its own charter providing for police courts. The city provides prosecutors for all cases involving violations of the law which amount only to misdemeanors, whether they are violations of city ordinances or of the state law. An amendment to the city charter would be necessary to provide for the appearance of the public defender in the police courts of the city. However, a voluntary public defender is now at work in the police courts. It seems to me that there is need for a public defender in every court where the government provides an attorney to prosecute.

"When we bear in mind that in nearly every criminal prosecution in this state one citizen is arrested upon the complaint of another, and that the law provides an attorney to take the side of the complaining witness, it is astonishing that no provision has been heretofore made for a more effective method of bringing out the points in favor of the accused. It cannot be doubted but that the public demands convictions of the district attorney, demands that he prosecute vigorously, demands that he represent but one side. Indeed, the law itself prescribes the duties of the district attorney, provides that he must prosecute and must present the evidence against accused persons. No provision is made, however, for him to defend. The law has always recognized the right of the accused to be defended. If he has money he can employ his own counsel and conduct his own defense. If he has no money the court appoints an attorney for him. In a great majority of cases these appointments fall to inexperienced youths who seek the appointment for the purpose of gaining experience. In some cases more experienced attorneys are appointed but they receive no remuneration for their work and it is hardly to be expected that they will give the work the same degree of diligence and care that should be given. In fact, experience has shown, and there is no reason whatever to doubt it, that a person accused of crime, under the old system, could not expect to get adequate representation. The government employs a skilled, experienced and ambitious attorney to present the case against the accused. The defendant has a right to enter the court on an equal footing with his adversary. Under the old system it was impossible for the defendant to get the equal protection of the law.

"It has been contended by some that the district attorney himself can safeguard the interests of those who are unable to employ counsel. Doubtless more care is taken by prosecuting officers in cases against the indigent than in other cases, and very properly so. Both in theory and in practice, however, it is impossible for the prosecutor to represent both sides. Under the law it is his duty to prosecute; no provision is made for him to defend. If one officer

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could act for both sides there would be no need for either a prosecutor or a defender, for the judge could handle the matter alone. In practice the prosecutor cannot represent the accused, for long usage has so defined his duties that public opinion, the ultimate arbiter in popular government, demands a vigorous prosecution.

"Prosecuting attorneys daily are pitted against able lawyers employed by accused persons of means. They necessarily become skillful, wary and vigorous in the conduct of the cases. It would not be natural to expect a sudden change from the habit thus formed upon the arraignment of an indigent defendant. In a decision rendered during the month of February last by the Supreme Court of this state, the following language is used:

"The prosecutor improperly commented upon the action of the defendant in objecting, as he had an undoubted right to under the law, to his wife's testifying against him. It is to be regretted that prosecuting counsel, in the heat of contest and the desire for victories, sometimes forget that the function of a district attorney is largely judicial, and that he owes to the defendant as solemn duty of fairness as he is bound to give to the state full measure of earnestness and fervor in the performance of his official obligations.

"Again and again this court has commented upon the course of prosecutors in this regard, but instances of such conduct are all too common. We have no doubt that in the present case the prosecutor's demeanor and his improper questions deprived the defendant of that fair trial which ought to have been his under the law. For this reason he should not be subjected to the result of a verdict so induced."

"Truly in such a case, if the defendant had been unable to employ counsel, justice would demand that a competent attorney safeguard his interests.

"As an example of the work which the public defender can do, I might cite the case of Fred Lacy. This man had pleaded guilty in the Superior Court at San Jose of the crime of forgery and was released on probation by the judge, who knew that there was a charge pending against him for a similar offense in Los Angeles County. The San Jose judge released the man in view of both of these charges, but, under the law, he could not free him from the charge in Los Angeles County and was compelled to turn him over to the Los Angeles officer. Lacy was brought to Los Angeles seriously afflicted with tuberculosis. Life at the county jail was fast tearing him down, yet it seemed that he would be in jail from one to two months before his case could be disposed of. He learned of my appointment, through a turnkey at the jail, and his was one of the first cases that I handled. Upon his telling me the facts I went to the district attorney's office and the district attorney very promptly took steps to have the charge against him dismissed. Lacy was in great need of hospital treatment and we helped him get into a hospital. Probably a month or two in jail would have been so injurious that he could not have recovered.

"Most of the accused persons are afraid to talk freely with the district attorney. In many cases their troubles can be adjusted, or investigation will show that they should be charged with lesser offenses to which they would be willing to plead guilty. The public defender can hear their stories and try to bring out justice for all.

"I have found the district attorney and his deputies all very willing to cooperate with the public defender in his work. Both officers should remember that we are the servants of all the people, that both want to bring about the same.

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results, the fair administration of the law. While the law imposes upon the district attorney the duty of presenting the evidence against the accused person, and upon the public defender the duty of presenting the evidence in his favor, the law does not ask the district attorney to convict an innocent person, nor does it ask the public defender to acquit a guilty person. Both can present their respective sides in the most intelligent and fair manner. It is then a question for the jury and the court to decide.

"Often a defendant in a criminal case is willing to plead guilty, when in fact he has committed no crime or is mentally irresponsible. The plea of guilty involves questions of law as well as fact, but the accused does not realize this. In one case in which I defended a man accused of murder he admitted killing his opponent and through ignorance was willing to enter a plea of guilty. There would be danger that an attorney might allow the plea to be entered and thus save himself labor. Upon investigation, however, it was shown that the man had killed in self-defense and was acquitted. In some cases the defendants are insane, yet their insanity is not apparent except upon investigation. In the short time I have been in office two persons accused of crime have been declared insane and sent to state institutions. In both cases the accused had committed the acts of which they were charged.

"Cases have been brought to my attention where certain lawyers have hung about the jails offering their services to men accused of crime and who were unable to send for the attorneys they really wanted to employ. Some of these attorneys have taken the few cents that the accused might have upon his person at the time of his arrest, then, after taking over the case, have advised the defendant to plead guilty. I heard of one case where the attorney seeking employment obtained a promissory note from the defendant for a large sum of money. He then advised the defendant to plead guilty with the hope of getting released on probation. This was done, but upon the defendant's being allowed to leave jail he was hounded by the attorney who held the promissory note alleged to be due for services which were never in fact rendered.

"One of the most important things the public defender can do is to give advice to the poor concerning their rights, to be always ready to be at their call so that they may know there is an officer with whom they can talk freely.

"Many a man accused of crime does not know that the law allows him ample time to make a defense, that he cannot be held indefinitely without a charge being filed against him and that the state must prove certain well defined things in order to make out a crime of vagrancy. Many innocent men plead guilty because some official offers them the minimum fine.

"Even when the accused pleads guilty and asks for probation, the public defender can be of great assistance. As an example I might cite the case of *People v. Harris and McCormick*, two men who were arrested in Pomona for burglary in the early part of January. I was called upon to defend these men and both pleaded guilty. It was ascertained, however, that they were nearly starved at the time they committed the offense; that they had gone from house to house seeking employment and asking for food. They asserted that they entered the house for the purpose of stealing something to eat. I investigated to find if their stories were true when they told of seeking employment and food. I wrote letters to the people whose names they gave me as having provided work or food for them and I found in each case that these men were telling the truth, that they had in fact diligently tried to get something to do.

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The result was that one of the men was given a much shorter sentence than he otherwise would have received and the other one was released on probation. It is entirely probable that if the court had appointed some attorney who happened to be in court at the time these men were arraigned, no effort would have been made to investigate their stories to show if indeed they were entitled to consideration on account of the fact that they were pressed for something to do, were unable to find work and were indeed in want.

"Probably the class of cases that calls for the services of the public defender most is that class where it is necessary to do some investigating to verify the stories of the accused and to find witnesses in their behalf. Often a defendant, upon asserting his innocence, will give the names of witnesses who might testify to facts tending to substantiate his contention. If no means are provided for making investigation or for examining witnesses for him, and if the attorney appointed by the court and working without pay does not care to do this work, the accused will be left without proper representation and all the facts will not be brought to the attention of the jury.

"In the issue of *The Outlook* of January 24, 1914, there is an article on 'The Schwitofsky Case.' The editor, after citing two cases in which men were unjustly convicted without a proper defense, quotes with approval Mr. Samuel Untermyer, who had long ago suggested that there should be a public defender.

"Too often criminal prosecutions are commenced by people actuated by malice. They impose upon the district attorney or the justice of the peace in having warrants issued. The complaining witness often slights the most important points, the points that tell most favorably for the accused. The result is that the warrant is issued and the powerful forces of the government are put into operation against some indigent person. The government surely should provide some method for the man without means to bring his side of the story before the court.

"I am happy to state that thus far nearly every person accused of crime in the Superior Court, upon being arraigned, has called for the services of the public defender when informed that such an officer was available. This speaks eloquently of the need of such an official. During the period from January 7th to March 13th, inclusive, our office appeared in sixty-four cases in which the defendants were accused of felonies.

Civil Cases.—"Hardly less in importance is the civil side of our work. The number of calls for our assistance in civil matters has certainly been surprising. An average of nearly twenty cases a day have come to the office since its creation. While the charter provides that we shall take claims not over one hundred dollars for poor people, we find that we are asked for advice on nearly every branch of the law. Domestic troubles seem to cause a great deal of unhappiness and many people who are in domestic difficulties are entirely unable to gain the advice of someone conversant with the law. While the law does not prescribe that we shall do anything whatever with these matters, we find that, with the exercise of discretion, we can give advice in many cases where the worthy poor are entitled to it. In fact, our office has been turned into what might be called a legal county hospital. We are trying to remember that we are working for the less fortunate of humanity.

"The costs of securing redress through a paid attorney would, in many cases, be greater than the result would be worth. This condition runs through nearly all of the cases we handle. We find that a letter to the opposite

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party will, in a majority of cases, bring results and enable us to adjust disputes. Both parties, in many cases, would necessarily lose if a suit were filed and each side had to pay a lawyer, for the amount involved would be insufficient to justify the expense. Our office tries to look at both sides in each claim and to tell the parties what are their rights. In case of an honest dispute, if we think the party asking for our advice has an enforceable demand we are ready to take the case into court. We much prefer to adjust matters out of court and find that even a telephone call will often bring about the desired result.

"We have tried to so conduct our office that it shall not be an instrument of injustice, even though at times parties have a strictly legal redress. One young man wanted us to sue a cigar dealer who had offered to pay about half of the claim, but insisted that the plaintiff had shaken dice for the other half and was in his debt. Both parties admitted this condition, but the plaintiff asserted that the gambling debt was not a legal set-off. We informed him that we would not sue for any sum except what was morally due.

"Wage claims are the most important of those that are presented to our office. A number of men have asked our services when they have not had even the price of a meal, to say nothing of funds with which to pay the costs of filing a suit or employing a lawyer. Argument is not necessary to convince that there is a great demand for a free legal bureau to aid men such as these, and it is one of the most pleasant parts of our tasks to try to do something to aid this class of litigants. Our office holds that as a rule a man having a claim for labor under one hundred dollars is not financially able to employ an attorney to collect it. The office indeed was given its civil jurisdiction with the main object in view of securing these small labor claims for people without adequate means to enforce their payment. These small claims for wages are generally more important to the poor than large sums to the wealthy. We have found that the employers in nearly every case are anxious to settle when the public defender takes up the claim for the employee.

"I have been agreeably surprised to know that very few people have tried to impose upon the office. Nearly every person who has come for our assistance in civil matters has had a just claim and has been really unable to employ an attorney. Of the few who have come when they were able to employ an attorney the greater part were sent by other officers who were not thoroughly informed of the charter provisions creating our office.

"The law gives the laborer the right to file a lien for work performed in the course of the construction of a building. This lien at least clouds the title of the landlord and is a drastic procedure. We have made a practice of informing the owner of the building of the request of the laborer that we file the lien, in the hope that such a drastic remedy can be avoided. In fact, we have found that a courteous letter written to the defendant in most cases avoids the necessity of an action in court.

"It is a prevalent opinion among many of the working people of this country that the courts are only for the wealthy. In a limited measure this is true, for hundreds of cases come up in every large city where poor people are compelled to forego their rights for the simple reason that the expense of enforcing their rights is too heavy a burden. Our office is one of the most efficacious means for obtaining justice for the poor man and of making the courts truly the courts of all the citizens.

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"The expense of operating the office cannot be considered as heavy in view of the amount of work accomplished. There are now in the office of the public defender of this county four lawyers and two assistants. The total monthly expense is less than one thousand dollars. When we consider that there are about three-quarters of a million people in Los Angeles county and that the county is one of the richest in the Union, it cannot be considered that the expense is great enough to be a serious objection to the creation of the office.

"Much interest has been aroused throughout the country by the creation of this office in Los Angeles. Bar associations, judges and prominent attorneys from nearly every large city in the United States have written for information on the subject and a number of the leading magazines are giving publicity to the work. In almost every instance the comment has been favorable. In Portland, Oregon, the Bar Association has taken up the question vigorously and has appointed various members of the association to take their turn in acting as volunteer public defender. The lawyers of Houston, Texas, are doing the same thing and leading officials of that state are preparing to present a bill to the legislature for the creation of the office.

"In Los Angeles we have met with the good-will of the entire community and our work is being aided wherever possible. The judges frequently send for us to investigate cases or to take up matters that cannot be handled by other officials." * * * *

Yours very respectfully,

WALTON J. WOOD,
Public Defender, Los Angeles.

PROVISIONS OF COUNTY CHARTER, LOS ANGELES, CAL.

Sec. 23. Upon request by the defendant or upon the order of the court, the Public Defender shall defend, without expense to them, all persons who are not financially able to employ counsel and who are charged, in the Superior Court, with the commission of any contempt, misdemeanor, felony or other offense. He shall also, upon request, give counsel and advice to such persons, in and about any charge against them upon which he is conducting the defense, and he shall prosecute all appeals to a higher court or courts, of any person who has been convicted upon any such charge, where, in his opinion, such appeal will, or might reasonably be expected to, result in the reversal or modification of the judgment of conviction.

He shall also, upon request, prosecute actions for the collection of wages and of other demands of persons who are not financially able to employ counsel, in cases in which the sum involved does not exceed \$100, and in which, in the judgment of the Public Defender, the claims urged are valid and enforceable in the courts.

He shall also, upon request, defend such persons in all civil litigation in which, in his judgment, they are being persecuted or unjustly harassed.

The costs in all actions in which the Public Defender shall appear under this section, whether for plaintiffs or for defendants, shall be paid out of the County Treasury, at the times and in the manner required by law, or by rules of court, and under a system of demand, audit and payment which shall be prescribed by the Board of Supervisors. It shall be the duty of the Public Defender, in all such litigation, to procure, if possible, in addition to general

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judgments in favor of the persons whom he shall represent therein, judgments for costs and attorney's fees, where permissible, against the opponents of such persons, and collect and pay the same into the County Treasury.

PENOLOGY

New Provisions in New Jersey Affecting Prisons.—Prison reform in New Jersey has taken several forward steps as a result of a series of bills enacted into law during the session of the Legislature just closed.

Governor Fielder in his inaugural address, January, 1914, on the subject of prison reform, said:

"The sentiment of these enlightened times demands a change in the care and treatment of prisoners in our penal institutions. The idea that offenders against our laws can be reformed by confinement and punishment alone, is obsolete. Confinement within prison walls and harshness and severity never has and never will check crime, and the proper treatment of convicts must receive more intelligent thought. Criminal tendencies are very frequently the result of mental or physical defects and the lack of education, decent surroundings and bodily nourishment. The state should be more concerned in ascertaining and, if possible, removing the cause for crime, than in administering punishment. With first offenders especially, the state can hope for better results from a more thoughtful and modern system of treatment. A careful mental and physical examination should be made under the direction of the prison authorities of each person sent to a penal institution, and a serious attempt made to cure or relieve the ills that such an examination discloses. Prisoners should be placed at some occupation which they can continue after the expiration of their sentence, for the benefit of their physical selves and to help pay for their maintenance while in confinement and to fit them to earn their own livelihood after discharge. Prison labor contracts should be terminated as speedily as possible and the prisoners placed at work under state direction and an effective state-use system installed. We have taken a step in this direction with the inmates of our state's prison, but sufficient funds have not been made available by the Legislature to make much more than a start. Placing men at work upon the roads, the purchase of a farm and a quarry (the latter not yet actually acquired), will provide for some of the prisoners, but more funds are necessary for these purposes, as well as for the industrial employment in shops of those who cannot be placed at labor outside the prison.

"Intimately connected with this, is the establishment of a business-like plan for the management of prison labor and the disposition of the products thereof. There are too many boards and officials connected with this work and with prison control, and this results in friction, a loss of efficiency and unnecessary expense. I recommend that the Prison Labor Commission and the Board of Inspectors of the state's prison be abolished and that a new board be created to have entire charge and management of the state's prison and of all places at which convicts are put at work; that the keeper of the prison be placed under the authority of the board, as the superintendent of the prison, and be relieved from responsibility for the escape of those engaged at outside work, and that this board have control of the disposition of products of convict labor. Such a plan should lead to better results in the performance of the state's duty to its criminal class, as well as to economy in operation."

The new legislation provides for a needed change in the method of organization of the state prison. The division of authority heretofore existing as between the board of inspectors, the principal keeper and the supervisor, is abolished. The board of inspectors will have full authority so far as the

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general organization and policy of the prison is concerned, the principal keeper becoming directly responsible to the board for the immediate management. One of the chief difficulties in securing this remedial legislation was due to the fact that the principal keeper is a constitutional officer appointed by the governor. While the selection of this officer must continue as provided for in the constitution, he, by the new law, will become directly responsible to the board of inspectors for the conduct of the prison. This will be true also with the supervisor, who up to now has had charge of the business department, including the assignment of prisoners to their work. The new board of inspectors—six men—will have full control over the prison proper, and over all road camps, the farm and the quarry.

Another of the new laws abolishes the parole board, which under the act of 1913 was composed of the principal keeper, the chaplain and the resident physician. The new board will be made up of the board of inspectors, which under the new law is given "full and final authority to grant and revoke paroles." Heretofore the court of pardons, which is composed of the governor and the court of errors and appeals, has been required to pass upon all paroles. This court is now divorced altogether from the parole work. The governor is also relieved from the necessity of approving the work of the parole board. The intent of the new law is to place the responsibility upon the board of inspectors.

Among the new provisions of the law as now amended are the following:

In establishing a minimum sentence, courts may fix such minimum at not less than one year nor more than two-thirds of the full maximum term; and imprisonment for life is construed to be a minimum term of fifteen years. This latter provision brings the New Jersey law into accord with the law of the United States as to life prisoners.

The amended law now provides that the parole board

"shall not receive and consider any outside petition for the release of any prisoner upon parole or grant a hearing to any person or persons interested in securing the parole of any prisoner other than the prisoner himself, and no prisoner shall be paroled by said board who shall not have given satisfactory evidence of his ability and purpose to live at liberty without violating the law. No prisoner shall be released upon parole until suitable work shall have been secured for him or until suitable arrangements have been made for him that will assure to him an opportunity to fulfill all of his parole obligations."

Also it is provided that any prisoner who is returned for violation of parole

"shall have opportunity to appear personally before such board at its next regular meeting and at such hearing the said prisoner shall be advised by said board as to the reasons for his return."

Another of the new laws provides for the reorganization of the present prison labor commission. Under the law of 1911 New Jersey declared for the abolition of contract labor and the substitution therefor of the state-use system. That law provided for a commission whose duty it should be to make a general investigation of the needs of the state and to assign the industries to the state prison and the state reformatory. They were also to have general direction as to the disposal of all products manufactured or produced. The general scope of the commission's work remains the same as originally provided for. The commission as re-organized will consist of the commissioner of charities and corrections, one member from each of the prison and reformatory boards, and three citizens to be appointed by the gov-

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ernor, all to serve without compensation. The commission is authorized to dispose of any surplus articles or products in the open market upon such terms and regulations as the commission may determine. The original act provided for the payment of earnings not to exceed fifty cents a day to prisoners employed under the state-use plan, and who had dependent upon them wives or children. The amended act directs the board of inspectors of the prison and the board of commissioners of the state reformatory to establish a wage system as follows:

"* * * shall establish a wage system under which the inmates of their respective institutions shall be employed, and may expend or direct the expenditure of the earnings of any prisoner for the following purposes or any of them:

- (a) For the care and maintenance of said prisoners.
- (b) For the benefit of the prisoner after his release on parole or discharge.
- (c) For the repayment of the costs of trial in an amount not to exceed twenty-five dollars.

The wage system here provided for shall include within its provisions all prisoners employed in any work or service necessary for the maintenance of said penal, correctional and reformatory institutions, or their inmates."

The only bill that failed of passage was one amendatory to the act under which prisoners may now be employed on road work under the direction of the road commissioner. The conflict of authority heretofore existing between the several heads of the prison have made it difficult for the road commissioner, Col. E. A. Stevens, to establish this work on a sound and economic basis. The failure of the bill referred to is not likely to jeopardize the continuance of the outside work, which it is hoped can be continued and extended under the original act of 1912.

The legislature appropriated \$50,000 for the development of the state-use system within the prison. This money will enable the prison authorities to commence work under the state-use system. About 700 of the prisoners are still employed under the contract system, but these contracts, unless it is found necessary to extend some or all of them in order to keep the men employed, will expire on July 1st of this year.

Some additional provision was made for the development of the farm work. It is quite possible that by the beginning of summer 150 prisoners may be housed and worked at the farm, which was purchased last year. If the road work can be developed along the lines already laid down by the road commissioner, New Jersey should have at least 300 men employed in this work by the middle of the coming summer. Two road camps have been in operation for nearly a year. They each accommodate about 35 prisoners and the results so far have been very satisfactory both as to the conduct of the men and the character and amount of their work. The state is also about to take title to a quarry where it is proposed to establish a branch of the state prison for the purpose of employing from 50 to 100 in the preparation of road and building material.

While the people of New Jersey are becoming more intelligently and deeply interested in prison reform matters, and while many of them were active in supporting the new measures, the legislation accomplished this year would have been impossible except for the personal and persistent interest of Governor Fielder.

JOSEPH P. BYERS,

Commissioner of Charities and Correction, Trenton, N. J.

FEDERAL OFFICE OF PRISONS

Committees on the Federal Office of Prisons—Aims.—The object of the committee of the National Committee on Prison Labor on the Federal Office of Prisons is to conduct a campaign for the establishment of an office under the federal government which shall have control over all federal prisoners and power of inspection over penal institutions, in which they may be confined; and which shall also act as a bureau to make available to local penal authorities the results of the best scientific research in penal and co-ordinate fields. The chairman of this committee is James Gordon Battle, Esq., of New York city.

This Federal Office of Prisons should be established under the Department of the Interior. The federal prisons are at present under the control of the Department of Justice, final authority resting in the attorney-general. Under special instructions from Congress the secretary of the interior has, from time to time, acted in conjunction with the attorney-general in the selection of prison sites and has even had control over the erection of certain prison buildings. Moreover, the warden of the penitentiary for the District of Columbia reports officially to the secretary of the interior. It would seem advisable that all control over federal prisons and prisoners should be centered in one office with responsibility therefor definitely fixed.

The establishment of this office would make it possible to draw into the movement for penal reform many of the agencies under the control of the Department of the Interior, the Department of Agriculture, the Office of Roads and other departments and divisions thereof carrying on outdoor public work.

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, various kinds of outdoor work under the Department of the Interior, the great public works, whether irrigation or highways, must afford opportunity for development in connection with the penal system. Federal aid, restricted we shall hope by all possible safeguards, 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. This is true whether the federal aid be given for highway construction, the preservation of forest reserves or the upbuilding of industrial institutions.

Furthermore, from the national government, city, county or state officials should be able to secure information and recommendations as to the most approved methods of developing a penal system, while from the great training school which the government is conducting, experts should be called upon to aid with their knowledge of scientific engineering.

The Office of Prisons would parallel the Children's Bureau, established in 1911, which is under the Department of the Interior. This bureau investigates and reports upon the welfare of children and child life and especially investigates the questions of infant mortality, the birth rate, physical degeneracy, orphanage, juvenile delinquency, and juvenile courts, desertion and illegitimacy, dangerous occupations, accidents and diseases of children of the working classes, employment, legislation affecting children in the several states and territories, etc.

The Federal Office of Prisons would have similar power as to investigation but would have an even wider field in its control over the United States prisons and prisoners.

FEDERAL OFFICE OF PRISONS

Mr. George Gordon Battle, chairman of the Committee on Federal Office of Prisons of the National Committee on Prison Labor in an address before a conference of the National Committee on Prison Labor on May 5, 1914, said in part:

"I have been asked to appear here and say something on a subject that is very near my heart, one that is of very great importance, and that is the proposed formation of a department or board in Washington to be known as the Federal Office of Prisons, that is to say, an office, a department or a board, to be inaugurated in one of the great departments of state in Washington—preferably in the Department of the Interior, to be called the Federal Office of Prisons and to have charge of and jurisdiction over the federal prisons. This I consider, most essential and most important.

"In the first place, there is abroad now a very general and most acute interest in all this subject of the treatment of prisoners, and in all matters relating to penology, and as to what we shall do with our criminal class, men and women, who, for the most part, are no more criminal than you and I. Certainly there is such a class, but it is found only occasionally. As a rule, these men and women are neither much better nor worse than the average of humanity.

"For a long time, for many centuries, the principal object of penal law was to punish. It was a savage law, intended to punish, and injure and destroy, and to keep people from committing crime by threatening them. There was no idea of reform; no idea of influence or example in the administration of the penal law up to within a century ago. Oglethorpe was perhaps the first of the great English reformers. You all know who he was—the founder of Georgia. He was one of the earliest pioneers to have any enlightened ideas on the subject of the management of prisons—but the leaven he applied worked very slowly and there was very little change in prison administration until about twenty-five years ago. Our prisons have been, and some of them still are, unspeakable sinks of iniquity and cruelty. Men are made worse by them. They manufacture criminals. If a man or woman is put into one of them in a state of innocence—they come out stained; they are failures. It is manifested that as soon as an intelligent public opinion is focused on such conditions the public will, as soon as they appreciate the condition, demand a change. This awakening is apparent all over the country. The present treatment of criminals is not only wicked but inadequate. There are very many plans and schemes on foot (many of them already progressed to a considerable extent and many more on the threshold of accomplishment) by which it is hoped to treat a convicted man as a human being, not as a beast to be caged in a house of stone and permitted to contract diseases of every kind, but to treat him as a human being, with the rights of a human being, with still a soul and mind and body worthy of human treatment. In order to carry out that plan and idea in connection with federal prisons, the National Committee on Prison Labor has come to the conclusion that the best manner to go about is to create a Federal Office of Prisons. As the law now stands the federal prisons in which men and women are confined for violating the Federal laws are governed and administered under the legislative power of laws passed at different times, with the result that there is no system. They are, for the most part, under the care and jurisdiction of the Department of Justice, with the attorney-general as the head, though in some instances they come under the jurisdiction of the Department of the Interior. Until about 1891, the federal prisoners were largely con-

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fined in local state prisons—for instance, we had in New York, previous to 1891, federal prisoners confined in our state prison. At that time a law was passed creating three distinct federal prisons. These are still in existence. One of them is at Atlanta, Ga., where prisoners from this district and the east, generally, are sent. The second prison is at Fort Leavenworth, Kansas, and the third at Walla Walla, Washington, so that these three prisons, as you will see, extend territorially as it were all over the country. There is no general or intelligent system of laws by which these prisons are managed. They are under the general care and supervision of the attorney-general and his staff, but only in an incidental way. The Department of Justice is very much overworked at the present time. Under our present system, by which the attorney-general is the head of the law department, with the duty of managing and controlling our great corporations, you can well imagine that his time is very much occupied and to such an extent that he cannot attend to the proper management of the federal prisons and so this management is given over to the hands of subordinates. It is proposed, if it can be accomplished, to have enacted at the next session of legislature a law to change this condition; to establish a federal office or bureau of prisons, not in the Department of Justice, but in the Department of the Interior. This should provide for the management of these prisons along liberal, progressive, enlightened and humane lines; provide for a proper parole system; for a farm system instead of the system which has existed of locking men up in living tombs for years; to give the prisoners light and air. It is hoped, by these laws, to provide for a humane system of parole by which men will receive as a reward for good conduct a shortening of their terms of imprisonment; also to provide for the farm system, to get the men out into the open air on state farms; to provide for laws in short which will carry out, as far as possible, the modern ideas as to the treatment of criminals. We all know that the most difficult thing in the world to reform is an institution without any head, and that is the difficulty with the federal prisons now. They are managed as an incident to the Department of Justice. As a result, the responsibility is scattered amongst subordinates. If the Federal Office of Prisons is established with a responsible officer at the head, we will be able to introduce into the federal prisons of this country these modern ideas which the people of the country are determined to see as soon as possible introduced into all the prisons of the country. There is another reason why this is important at the present time, and that is the tremendous extension in the scope of the federal laws. Up to a few years ago there were comparatively but few statutes under which men were convicted by federal prosecution. Here and there a petty official in the postal department was convicted for stealing stamps; then there were the pension frauds, and a few other offenses, but with the advance of the modern theory of general governmental supervision all this has been greatly extended. We have the Pure Food Law, a wise and good law, under which there have been many prosecutions and convictions—and I hope there will be more of such convictions. This is a law that should be enforced, and there are many other federal penal laws. The result is that there is a vastly greater number of federal prisoners and therefore it is important that these prisoners should be humanely and intelligently dealt with, and the best way to accomplish that is by the establishment of this Federal Office of Prisons in Washington and by one comprehensive system of law put the whole body of administration of the federal prisons on an intelligent and humane basis. I

PRISON REFORM URGED IN NEW YORK.

know of nothing that is more important than this. Mr. Osborne by his, I might almost say sublime experiment, has focused the attention of the whole country on this subject—people all over the country are awakening to interest in it and there is no branch of the subject more important than the administration of the federal prisons, for there is no abuse more easily remedied. It is all under one Congress. If we effect legislation at Washington creating and instituting this Federal Office of Prisons we shall have taken a very long step toward the era of humane and Christian treatment of criminals.”

J. D. SEARS,

Assistant Secretary of the National Committee on Prison Labor, N. Y. city.

The American Prison Association also has a Committee on Federal Office of Prisons which is charged with the duty to confer with President Wilson on the subject of the establishment of a federal office. The personnel of this committee is as follows: Prof. Charles R. Henderson, University of Chicago, chairman; Frank L. Randall, chairman, Massachusetts Prison Commission; H. Wolfer, warden, State Penitentiary, Stillwater, Minn.; W. H. Moyer, warden, Federal Prison, Atlanta, Ga.; J. P. Byers, secretary, American Prison Association.

R. H. G.

Drastic Prison Reform Urged in New York.—A new turn has been given to the movement to abolish Sing Sing Prison, New York's antiquated mausoleum on the Hudson. The State Commission on Prison Reform, of which Thomas Mott Osborne is chairman, has recommended to Governor Glynn that the place be converted into a receiving station for the observation and study of all persons sentenced to a state prison, for the medical examination and treatment of those afflicted with disease and for weeding out those found to be mentally defective.

Among other recommendations in the report of the commission, made public last week, is one that a Court of Rehabilitation be established, and indeterminate sentences given all persons sent to state prisons, in order that the reformation of law-breakers may be determined as accurately as their guilt.

In urging the abolition of Sing Sing, the commission calls attention to the “incredible fact” that public opinion has for over half a century been aware of the barbarity of confining human beings in the cells there and yet has let the institution remain—“a disgrace to a civilized community.” The commission calls strongly for the erection of a new prison to take the place of Sing Sing. The new prison, it declares, should have a site of 2,000 acres, consisting of forest and arable lands, and should not be more than 100 miles from New York city.

With reference to converting Sing Sing into a receiving station the commission says it contemplates the establishment of a hospital and neurological institute as well as a place of detention and observation. This will require, it points out, the services of a staff of genuine experts, physicians and officials of special training, broad sympathies and knowledge of human nature. The cell block will not be needed for this purpose and should be abandoned.

In urging sentences without maximum or minimum limit for all persons sentenced to state prisons, the commission declares that “the unequal sentences imposed by different judges for the same offense, or even by the same judge at different times, is little short of scandal in the administration of our criminal justice, and creates in those discriminated against a ranking sense of the injustice and inequality of the law.”

PENAL FARM SITE CHOSEN

The idea of a court of rehabilitation to determine when prisoners are fit to be returned to society was first given prominence some years ago by Roland B. Molineaux, and has since been strongly urged in Texas. Such a court, as usually conceived, will be a court of record to try a person for release on the evidence of his conduct in prison. If he has been given an indeterminate sentence, as the commission urges, the court can diminish or prolong his term as it sees fit.

The commission declares: "While perfect justice cannot be expected from any human instrumentality, it is conceived that a single court, acting for the entire state, and sitting as a Board of Parole or Court of Rehabilitation will be much more apt to administer an equal justice than is possible under the present system. Under such a system it will be the prisoner and not the crime that will be tried.

Pending the creation of such a court, the commission recommends the establishment of local advisory boards, of three or five members each, for each prison and reformatory, for the purpose of investigating all applications for pardon or parole.

Believing that the greatest obstacle in the way of real prison reform in the state is the confusion and demoralization in the prison administration, the commission urges as the necessary ground work of all other changes the consolidation of all offices, boards and commissions into a permanent state department of correction. In this it recommends the vesting of the entire penal administration of the state.

Among its other recommendations are a separate institution for the care of all adult mental defectives convicted of crime; the "honest, efficient and business-like administration" of all systems of prison labor in the state; the creation of an employment bureau for paroled and discharged prisoners in the office of the superintendent of prisons; and the establishment of a thorough system of education in the penal institutions under the state commissioner of education.—From *The Survey*, May 23, 1914.

R. H. G.

Penal Farm Site Chosen by Indiana Commission.—The commission, appointed by Governor Ralston to select a site for the state's penal farm for short term prisoners, under an act of the 1913 legislature, has decided to buy the site near Putnamville, Ind., containing 1,567 acres. The total price to be paid for the tract by the state, including rights of way to the Monon and the Vandalia railroads, is \$57,000. The legislature appropriated \$60,000 to buy a tract of not less than five hundred acres.

The commission, as soon as it had decided on the site, made a formal report to the governor, setting out the advantages of the site offered and telling why it had selected it over a dozen others that had been in turn selected from fifty sites offered the commission throughout the state.

In the report the relative values of each tract of land in the thirteen sites finally considered were set out in terms of a scale of requirements, arbitrarily placed by the commission members. The Putnamville site scaled high in such points as stone, for building material and for road and agricultural material, water facilities, drainage and sewage disposal, railroad facilities, stock and fruit raising possibilities and agricultural facilities.

PENAL FARM SITE CHOSEN

The report of the commission to the governor follows, in part:

"In the consideration of the advantages and resources of the site stipulated by the organic act, the commission was early convinced of the difficulty, if not the impossibility, of locating any one square mile of land within the state which would embody all the requirements. While the language of the law, requiring that all or as many as practicable of the enumerated advantages and resources should be given consideration, was liberal enough, the commission, appreciating the objects and purposes of the new institution and the admitted fact that it is in a degree experimental, has kept in mind the determination to secure for it every advantage possible which makes for its success.

"In order that the necessities and facilities might be better measured and understood, the commission by committees visited the two similar institutions at Guelph, Ontario, and Occaquan, Va., and from each much valuable information was gathered which has assisted in the effort to solve the complex problem submitted to us. While the conditions at each of these institutions are unlike in many particulars and are also dissimilar to those existing in Indiana, yet the organic act of our proposed institution contemplates an establishment on the same general lines.

"To the commission the law seems clear and requires little interpretation. Unmistakably it outlines a reformatory institution which should be a beehive of well regulated and varied industries, which is expected to be uplifting and health-giving by reason of their industrial activities in the open air, and which when fully developed should be largely if not wholly self-supporting. It stipulates a site with a minimum of five hundred acres suitable for varied forms of husbandry, fruit growing and stock raising, brick making and the preparation of road and paving material with good railroad, drainage, sewerage and water facilities.

"It is the consensus of opinion that the institution should provide as soon as practicable for a population of five hundred prisoners and ultimately eight hundred or nine hundred. Having in view such a population and a necessity of finding employment for it, the commission reached the conclusion that the site selected must supply abundant raw material for industries requiring mainly unskilled labor, as only short term prisoners will be admitted.

"The land for farming and gardening purposes, although poor and neglected, may be developed and made to yield sufficient products for the maintenance of the population, but the income for improvements, new construction and the like must be derived from the sale of the industrial products. The farm and garden land could at best employ only a limited number of the prisoners and the majority must, therefore, find work in the industries. With this idea raw materials in proper quality and quantity become paramount in the selection of a site.

"The industries other than agricultural suggested by the statute are brickmaking and the preparation of road and paving material, and the required raw materials are clay, shales and stone, and, unfortunately, the best grades of each are not found in the same locality. The report of the geological surveys of Indiana, made by the state and general government experts, show beyond question that the Mitchell limestone produces the best road materials, and that this limestone is not found anywhere in the state in proximity to the knobstone or coal-bearing shales, which furnish the best shales for brickmaking. The commission has, in consequence, found itself confronted with the question of determining whether the proposed industries shall be limited to shale or stone products.

"Its investigations lead to a unanimous judgment in favor of the stone industries for the reason that stone supplies a larger number of industries, including lime burning, ground limestone for land treatment, crushed stone for road materials and stone for building purposes, and, therefore, affords employment for a larger number of men. The clays found covering the Mitchell limestone make a high grade soft

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brick for which there is a limited demand. The shales for brickmaking, especially for paving blocks, are much desired and the demand is seemingly a growing one, but the industry could never be developed sufficiently to employ more than a relatively small proportion of the population of the proposed institution. Moreover, the commission became convinced from its own observation and from the advice of experts that the shale deposits vary in quantity and quality to such a degree that it would be imprudent, if not hazardous, to locate such a large institution on any of the sites offered with the expectation of securing its chief income from shale industries.

"The commission's conclusion in favor of the Mitchell stone-bearing land was reached only after a careful inspection of the best sites offered and a consideration of expert opinion upon the subject of paving and road making materials. * * *

"By the agreement, possession of these lands will be given to the state August 1, of the current year, with the exception of land, which may be in corn, which the owner will have the right to gather. The state, however, reserves the right to enter upon the lands and make such improvements as it may desire.

"The commission will proceed with the duty of transferring these lands to the state and with the payments therefor as authorized by the law and having completed the transaction it will submit an additional report."—From the *Indianapolis News*, Apr. 29, 1914. R. H. G.

Questions Admitted to the Programs of the IXth International Prison Congress, London, 1915, (July 26th).—Section I.—*Criminal Law*.—*First Question*.—Is it proper to leave to the authority which is charged with the duty of prosecution to decide as to its advisability?

If this is granted, ought such authority to be restricted within certain limits and subjected to control?

In this connection, is it proper to give to the judge the right not to pronounce sentence of guilty, even if the fact is substantially established?

Second Question.—Is recidivism in petty criminality sufficiently repressed by measures contained in present laws?

Would it be possible, and, if so, within what limits, to apply the principle of the indeterminate sentence?

Third Question.—Is it desirable to abolish or even to restrict, and in the latter case within what limits, the penalty of deprivation of civil rights?

Fourth Question.—Should measures be taken to facilitate and render more efficacious the communications between the various services of identification, especially by unifying:

- (a) The finger print cards, in relation to forms and order of taking impressions?
- (b) The anthropometric cards, in relation to forms, texts and abbreviations?
- (c) The formulas designed to furnish the police of another country information about the persons to be identified?

Should not every police administration take the initiative in informing the administration of the country when an individual has committed or is suspected of intending to commit crimes?

Section II.—*Penal Institutions*.—*First Question*.—If the system of *supplementary detention* is accepted as a means of repression in respect to recidivists, who have committed a grave offense, how ought this detention to be organized?

ASSOCIATION OF CHIEFS OF POLICE

Second Question.—Is it desirable to establish laboratories in correctional institutions for the scientific study of prisoners?

What results may be expected from this measure in the discovery of causes of criminality and in the individual treatment of delinquents?

Third Question.—Admitting the necessity, as recognized by the Prison Congress at Budapest, of creating establishments of detention specially set apart for delinquents of limited responsibility, what should be the organization of these establishments in respect to construction, methods, administration, etc.?

Fourth Question.—Ought not conditional liberation as well as conditional conviction be combined with a system of friendly supervision ("patronage") and control during the period of probation?

Taking into account the experience of the last ten years, how may these two services best be organized?

Would it be wise to extend the application of these two principles? If so, in what measure and in what direction?

Section III.—*Preventive Methods.*—*First Question.*—What influence should be attributed to pictures and publicity in augmenting criminality; and how, therefore, should we organize the campaign against this influence, particularly in regard to pornographic and criminal publications?

Second Question.—What has been the result of experiments made in those countries where women have been employed in police service?

Is it desirable to make this system general? If so, on what principles?

Third Question.—In what way can the combat against vagabonds and so-called international delinquents best be waged?

Fourth Question.—Can the restoration of released prisoners be promoted by the method of rehabilitation?

In what manner should this method be employed to produce the most useful results?

Section IV.—*Children and Minors.*—*First Question.*—In what cases and according to what rules may children neglected by their parents or under correctional treatment be placed out in selected families?

Second Question.—Should one create special establishments for abnormal children (retarded, feeble-minded) who manifest dangerous moral tendencies, and, not limiting the treatment to primary instruction, take measures to assure their welfare in adolescence and adult life?

Third Question.—Should fines be imposed on minor delinquents?

In what cases and under what conditions?

What steps should be taken in case of non-payment of fines?

Fourth Question.—What are the best means of protecting children whose occupations or parents place them in moral danger?

Subjects for Investigation.—I. The organization of juvenile courts, as they exist in various countries, and the results of experience up to date.

II. The guarantees against the abuse of preventive detention in the laws

III. The results of special establishments for tuberculous prisoners.
of, various countries.

C. R. H.

POLICE.

Convention of the International Association of Chiefs of Police.—The annual convention of the International Association of Chiefs of Police was

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held in the city of Grand Rapids, Michigan, beginning June 16th, and continuing for one week.

The association, which started as the "Police Union" and continued as such until the year 1902, attained its twenty-first birthday when it convened in the Michigan city. With an original membership of fifty persons the organization has prospered and performed a commendable work. Its rolls now include a membership of nearly four hundred chiefs of police, among them representatives from Canada, Austria, Guatamalia, Panama, Havana, Japan and elsewhere, while its contributors to discussions hail from all parts of the world.

The next place of meeting is the home town of the secretary-treasurer of the asociation, Harvey O. Carr, who, together with the police commissioners, is making arrangements for an entertainment of "big city" proportions, although the cry of the president is "less frolic and more work."

On three different occasions the association has been received by its president in Washington, D. C., and among those who honored the gathering there last season with their presence, were, the dintinguished speaker of the House of Representatives, Hon. Champ Clark, Hon. William Borland, of Missouri, Hon. Julius Kahn, of California, Hon. John Barrett, Chief of the Bureau of American Republics, and many other men of note, prominent in public affairs.

An effort is being made by the police directing heads of San Francisco, of which Superintendent White is principal, to secure the meeting of the International Association of Police Chiefs for that city for the year 1915, during the Exposition period. Not only is that energetic agency after the police meeting, but it is now engaged in soliciting anything and everything by way of criminal photographs, measurements and other descriptions as well as informations that may be procured concerning the questionable craft, that may aid the San Francisco department in maintaining a clean slate during the Exposition season.

In this connection the announcement comes that the Pinkertons will have full supervision of the Panama Exposition Buildings and Grounds.

The Bureau of Education and Economics of the Panama Exposition is urging a police exhibit for that event such as was placed in successful effect by President Sylvester of the International Association at the St. Louis Exposition, and which did much to raise the police organizations throughout the country in the esteem of the good citizens and students of civic matters.

R. S.

Condemn the Ridiculing of Police on the Stage and in Moving Pictures.

—The ridiculing of the policeman on the stage and in moving pictures deserves to be condemned by all good citizens, as it has already been denounced by police organizations throughout the country. It is with poor grace that the theatrical manipulator places the individual up for ridicule who may within ten minutes be called upon to save the life or property of that same theater manager or his family. To depreciate thus the insignia of peace and order, to hold up to derision the means provided by law to secure the public in life and property, should be made an offense under the law.

The little child, the growing youth, the bully of the street are by such presentations taught to disclaim and disrespect the representative of the law.

The Washington, D. C., authorities recently requested the withdrawal of

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films in moving picture shows wherein the police were held up to criticism and humor, including the "The Third Degree," and all managements agreed to do so. This is a movement worthy of emulation.

R. S.

STATISTICS.

Operation of the Indeterminate Sentence and Parole Law in Indiana.—On April 1, 1914, the Indeterminate Sentence and Parole law had been in effect in Indiana for seventeen years. A careful record has been kept of the operations of the law and the history is indeed an interesting one.

The State Prison Board has paroled 3,088 men, the Reformatory 4,896, the Woman's Prison 237, a total of 8,221. All of these persons left the institution under the rules and regulations of the respective parole boards, and were thereafter under the supervision of the visiting agents of the institutions. Twenty-six out of every one hundred (2,145 in all) violated their parole. The percentage of parole violators is practically the same in the three institutions: 26.4 per cent at the State Prison, 25.9 per cent at the Reformatory, 26 per cent at the Woman's Prison. Of the 2,145 parole violators the institutions succeeded in apprehending 1,250. The remaining 895 are at large.

Of the total number paroled, 4,788 served their parole period and were released from supervision; the sentence of 455 expired during the parole period and they were automatically discharged; 142 died; 691 remained under supervision April 1, 1914.

These men and women while on parole reported regularly to the institution authorities. Their reports indicate earnings amounting to \$2,284,577.85, expenses \$1,878,406.71. This means that these persons not only earned their own living while on parole but had savings amounting to \$406,171.14, an average of nearly \$50.00 each.

Operations of the Indeterminate Sentence and Parole Laws, April 1, 1897 to April 1, 1914:

	State Prison	Reformatory	Woman's Prison	Total
Served parole and given final discharge	1,809	2,867	112	4,788
Sentence expired	135	296	24	455
Returned for violation of parole	558	656	36	1,250
Delinquent and at large	257	612	26	895
Died	55	79	8	142
Reporting April 1, 1914	274	386	31	691
Total paroled	3,088	4,896	237	8,221
Percentage of unsatisfactory cases	26.39	25.89	26.16	26.09
Earnings	\$875,422.05	\$1,406,602.44	\$2,553.36	\$2,284,577.85
Expenses	674,493.73	1,202,632.14	1,280.84	1,878,406.71
Savings	200,928.32	203,970.30	1,272.52	406,171.14

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Penitentiary Statistics from France.—The report on Penitentiary Statistics from France for the year 1912¹ shows the statistics of transfers, central

¹Statistique Pénitentiaire pour l'année 1912. Ministère de la Justice, Paris, 1914, par M. C. Just, Directeur de l'administration pénitentiaire.

PENITENTIARY STATISTICS FROM FRANCE

prisons, establishment of correctional education, prisons for short sentences, convicts at hard labor. The average population in prisons in 1912 was 29,952; long terms, 6,205 men and 599 women; short terms, 15,669 men and 2,585 women; young prisoners, 3,423 male, 891 female; incarcerated for security, 301 males, 75 females; detention of men at forced labor and to be transported, 204. The total number of days served was 10,964,484. The entire report is full of instructive materials; only a few illustrations can be taken.

Of 6,434 ordinary prisoners on December 31, 1912, the majority had a claim to 4 to 5 tenths of the product of their labor, and 133 to 6 tenths. Only 8.78% were illiterate; only 3.23% had any education beyond the primary grades; 87% had not finished primary instruction. Of the women 39.33 were illiterate.

Only 151 were released on conditions; it is evident that the "indeterminate sentence" and parole system have not yet taken deep root in France.

The 43,653 violations of rules were punished by cell, hall of discipline, dry bread, other reductions of diet or of payments, fines, reprimands and other punishments; The measure most used (9,583 times) was dry bread, and next fines (9,178).

In view of our frequent escapes, in spite of our "bull pen" architecture, whose only excuse is security, read this sentence: "No escape was attempted during the year 1912. The same was true in 1911." Yet French criminals furnish many desperate men. There was not one suicide in 1912.

For each 100 days of incarceration the prisoners were kept at work on the average of 69.6 days. Interesting is the statement relating to the principal industries: brushmaking employed 177 prisoners to 15,300 free workmen; shoemaking 327 to 208,000; cabinetmaking 59 to 243,000; printing 178 to 86,000. Of the product of industry 4.96% went as gratuities to prisoners, and 95.04% to the state; the net value of the product per day was 1.31 francs (about 26 cents). Since 1905 contract labor has been abolished in the central institutions and the state directs all the prison industries; but this is not true of all local prisons.

There were 3,423 boys and 891 girls committed by courts to reform schools, public and private.

In the tables (pp. 109-275) the facts are analyzed very minutely by institutions. We should like to see tables for the principal facts which would cover more than two years in order to note tendencies.

C. R. H.