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Notes and Abstracts

NOTES AND ABSTRACTS

ANTHROPOLOGY—PSYCHOLOGY—LEGAL MEDICINE.

Drug Users in Court.—For the purpose of this paper a group of seventy drug addicts was taken. As no other basis for investigation was required than their use of drugs, we were able to include every case as it came.

Those problems considered worthy of attack in order that the Court might get a more intelligent understanding of these individuals were their physical and mental condition and industrial efficiency.

More particularly was an attempt made to get at the true mental makeup of drug users in order to see what, if any, deviations existed prior to their use of drugs, with the end in view of seeking an explanation for the high percentage of failures in treatment. The apparent futility of cures is a well-known fact. Though they may get off of the drug, the majority of users sooner or later return to it.

Just what were the factors within the individuals themselves that accounted for the apparent failure on the part of fully developed drug addicts to be cured, we wished, so far as the limitations of such a study permitted, to determine.

The following table indicates the offenses for which these individuals were arrested and brought to Court:

TABLE I—ARRESTS.

Offense.	*No. of Arrests.*
Drunkenness	17
Larceny	52
Offenses against chastity	68
Assault and battery	3
Breaking drug law	61
Suspicious person	1
Breaking and entering	5
Surrendered on probation	21
Vagrancy	4
Gaming	1
Disturbing the peace	1
Stubborn child	1
Non-support	1
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Being adicted to habit-forming drugs, it may seem like elaborating the obvious to state that these individuals will not respond to ordinary measures of Court treatment, but require special consideration. This is a fact, and it is demonstrated very definitely in the following table:

TABLE II—DISPOSITIONS AND RESULTS.

No. Given Probation.	*Satisfactory on Probation.*	*Unsatisfactory on Probation.*	*Still on Probation.*	*Not Tried on Probation.*	*Total.*
59	6	34	19	11	70
or	or	or	or	or	or
84.3%	8.6%	48.6%	27.1%	15.7%	100%

84.3% were placed on probation, 57.4% of whom proved distinctly unsatisfactory and had to be surrendered to the Court.

27.1% of the total number of cases are still on probation, of whom more than one-half are at present being handled within non-penal institltions.

8.6% proved satisfactory on outside treatment, while 15.7% were from the first regarded by the Court as inside cases, needing detention rather than outside probation.

In short, 8.6% of these cases have been able to complete successfully their probation period, making entirely too poor a showing to consider the drug user in any sense a profitable case for outside probation.

Correlated very closely with these facts are those of their industrial efficiency.

TABLE III—INDUSTRIAL EFFICIENCY.

Regularly Employed.	*Irregularly Employed.*	*Odd Jobs.*	*Not Working at All.*	*House Work at Home.*	*Total.*
5	19	14	30	2	70
or	or	or	or	or	or
7.1%	27.1%	20%	43%	2.8%	100%

65.8% of these cases, or practically two-thirds, could not be considered self-supporting.

One may very well object that these facts are fairly well known; the failure in industrial efficiency, the unprofitableness of ordinary methods of treatment, the poor showing on probation—these facts are common knowledge and our only excuse for presenting them here is for the purpose of correlating them with the fundamental and underlying causes of these conditions as are found within the individuals themselves.

The following table indicates certain important physical conditions found in this group of cases:

TABLE IV—PHYSICAL FINDINGS.

Chronic bronchitis	3
Tuberculosis	8
Serious physical impairment from drugs	36
Venereal disease	23
Heart disease	3
Chronic Rhinitis	3
Tape worm	1
Abscess in throat	1
Sciatica	1
Pelvic disea, other than venereal	4
Asthma	3
Thyroid disease	1

The industrial inefficiency above referred to may very well find an adequate explanation in such physical conditions. But more important still are the mental data. It is here we will find the most satisfactory answer to the question as to why the drug addict's problem is not solved by merely getting him off the drug; why sure cures do not cure; and why short periods of treatment are so futile.

The application of mental tests to these individuals gave the following levels of intelligence:

TABLE V—MENTAL LEVEL.

9 to 10 Years.	*10 to 11 Years.*	*11 to 12 Years.*	*Sub-normal.*	*Adult.*
12	13	13	18	4
or	or	or	or	or
17.3%	18.5%	18.5%	27.7%	20%

54.3% had a mental level below 12 years; 45.7% above 12 years. Such facts find their fullest significance in the following table of diagnosis:

TABLE VI—MENTAL CLASSIFICATION.

Feeble-minded.	*Sub-normal Mentality.*	*Psychopathic Personality.*	*Epilepsy.*	*Normal Intelligence with Delinquent Traits.*	*Drug Deterioration.*	*Drug Psychosis.*
20	14	10	1	13	10	2
or	or	or	or	or	or	or
28.5%	20%	14.2%	1.5%	18.5%	14.5%	2.8%

81.5% suffered from some form of mental handicap. Either, on the one hand, definite deterioration or disease from drugs; or, on the other hand, mental defect and such prior to the use of drugs.

Is it any wonder that possesing in such a large proportion of cases an innate mental weakness, a mentality that is defective and poorly balanced, or a psychopathic personality, that we find these individuals unable to combat the enslaving effects of narcotic drugs?

If 64.2% of drug users have definitely abnormal mentality prior to their use of drugs, then we have something of far more importance to consider in treating these cases than merely the symptoms of drug abstainence and bad environment.

Most important of all is to be taken into consideration the mentality of the individual and his ability to resist.

In the light of the above findings, we can more easily understand the basis for Reuben's statement that "those who have to treat addicts appreciate the futility of relying wholly on the innumerable pharmaceutical remedies so widely and variedly employed in combating the narcotic drug habit. Successful treatment does not end with discharge from the hospital. The real struggle only begins at this stage."

And this is true because in two-thirds of the cases we are not dealing with normal individuals, but with individuals whose minds are sub-standard, unstable, and poorly balanced.

Reuben very wisely says: "One can see the hopelessness of attempting to treat narcotic drug addiction in private practice, especially while the patient is free to enjoy any quantity of drug he may desire, regardless of his physician's instructions. The honest physician should not undertake to treat such cases under such conditions."

SUMMARY:

The drug habitue in Court is a more or less delinquent individual, appearing frequently because of larceny, offenses against chastity, and such. If put on outside probation, two-thirds of these individuals have either to be surrendered to the Court or put in non-penal institutions. Two-thirds of the cases, above studied, were not supporting themselves by legitimate means, suffered from physical conditions that greatly impaired their industrial efficiency and handicapped them in any fight they may have wished to wage against the enslaving effects of narcotic drugs.

81.5% showed some form of mental defect, psychopathic personality, or

mental impairment from drugs, which in terms of will power meant impaired ability to resist.

In the light of the foregoing facts, we can understand why medicinal preparations alone do not cure; why short periods of treatment are so often futile.

In the light of the foregoing facts we can question the wisdom of undertaking disposition or treatment of any drug case without determining beforehand his individual ability to profit by such.

Further, we can strongly advise against trusting a drug user to cure himself, or expecting satisfactory results from any method that does not provide for prolonged detention, careful physical and mental rehabilitation, and, upon discharge, well-directed medical and social service methods of treatment.

V. V. ANDERSON, M. D.,
Director of Medical Service, Municipal Court, Boston.

Criminal Lunatic Asylums in England and the United States.—Dr. Mario Piacentini's observations on the organization and management of Criminal Lunatic Asylums in England and America.

This, the first of the original articles in *La Scuola Positiva,* is a study of the fundamental difference between the handling of the problem of the criminal insane in Italy and other continental countries of Europe, and in England and the United States. This difference, according to the author, may be summed up as the distinction between theory and practice. Italy, it is well known, has produced a great number of profound theorists, whose methods consist in the first hand observation of the causes of crime. Among these the name of Lombroso is the one best known to American and English writers. These theorists have made a practice of investigating the histories of various criminal insane, but without a corresponding application of their theories to the solution of the problem and it is on the side of practice that the author finds a superiority in the English Institutions. Thus institutions provided with farms, parks, baths, reading rooms and the like with the intention of operating a cure and a betterment by means of hard work and constant employment. both of the physical and mental powers produce good results although the author finds those in charge somewhat unduly optimistic. Their methods, however, produce revolutionary changes when placed in contrast with the medivaelists, who regard the insane as demons or obsessed and they are naturally superior to a cure sought by pouring holy water on the obsessed or by use of charms. The practical treatment of the criminal insane is in a rudimentary state in almost all of the civilized countries of the globe with the exception of England and the United States. The classification of the various kinds of criminals and the treatment adapted to the various cases calls forth the admiration of the writer. The method of committing insane persons to such institutions, the verdict of guilty but insane, and the statutes under which they are tried, are acutely dissected.

The tests of insanity are stated thus:

1. Lack of power to foresee the exact and necessary consequence of one's own actions.

2. Lack of understanding of the exact nature or significance of one's actions.

3. Having a complete and exact consciousness of the nature of one's acts, but lacking the self-control and freedom of action to restrain oneself from doing the act.

The criticism of these principles is that they are not broad enough to comprehend the entire gamut of mental infirmity, whether permanent or transient, such for example as arrested development, idiocy, imbecility, or abnormal development, and even the most frequent case, viz, that of irresistible impulse.

There are tables of comparative statistics from which, however, scarcely any conclusion of value can be drawn. The conclusions to be drawn from the observation of the English system of Criminal Lunatic Asylums are the following:

1. That the English institutions are almost without exception efficient.

2. That in doctrine they are inferior to the Italians; that in the application of theory and in the handling of the Criminal Insane they are far in advance of the Italians, and it is suggested that the English institutions might be imitated with profit.

GEORGE F. DEISER, *Philadelphia.*

COURTS—LAWS.

Power of Court to Suspend Execution of Sentence in a Criminal Case.—Out of a *laissez faire* theory there has grown up in this country, especially in the lower federal courts, a practice whereby judges have assumed to extend favors to convicts of the law. It is easy for an abuse of this kind to

> "Be recorded for a precedent
> And many an error by the same example
> Will rush into the State."
>
> —*Merchant of Venice, Act IV, Sc. I.*

In Ex parte United States Petitioner, 37 Sup. Ct. 72, our great tribunal gives what should be an effective quietus not only to judges of federal courts but to judges of state courts, attempting to exercise a policy, more or less well-defined, of English judges correcting, out of what was denominated the discretion of a judge, the execution of the sentence of the law judicially ascertained.

The Chief Justice in his analysis of the principle, that was recognized at the common law, asserts that it never stood for anything else, whether extended before or after the pronouncing of sentence, than a temporary staying of execution, until the Crown could be appealed to in behalf of a convict.

But in America by some courts it has been asserted that this interposition was inherent in the courts to permanently interpose and prevent the law's enforcement, where the judge deemed that otherwise injustice would be wrought beyond the law's contemplation.

Even under English law, which grew up out of customs and usages, this seems to be a strange view, when at the same time it is admitted that in the kin was reposed the power to grant absolute pardon or to mitigate the severity of sentences as applied to particular cases. Under our law, which recognizes such customs and usages only as they are applicable to our system of government by written law, it seems even less tolerable than at the common law that

our judges should have any semblance to what some of our courts ascribe to English courts.

All official authority in this country is conferred by constitution or statute, and being in derogation of private right it would seem to take nothing by intendment. But, of course, the rule obtains in such cases as in others, that the grant of authority extends to whatever is necessary for its due execution. It is not, however, in due execution of authority, that courts may decline to proceed, in particular cases, to the end of what it is designed to subserve. Discretion, as commonly understood, is as general as the law is general, and it is to aid, not interfere with enforcement of the law.

In the case considered by our Supreme Court, it appears that the judge of a federal district court pronounced the sentence of the law on a convict, and then ordered that "the execution of the sentence be, and it is hereby, suspended during the good behavior of the defendant, and for the purpose of this case this term of this court is kept open for five years." It was not said that there was any precedent for this order. In the face of it, if valid, all the refinement of argument about changing a judgment during or after a term of court disappears. Inherent power declares a term of court to exist as long as a particular case may require that it should exist. Why, if this is so, need there be a special order that it shall exist?

But the "arbitrium judicis" that led to the making of the order is declared by the judge to rest, not particularly in the facts of the case before him, but on "modern notions respecting the treatment of lawbreakers," as, of course, discerned by this judge.

Thus for his reason for this suspension, the judge said: "Modern notions respecting the treatment of lawbreakers abandon the theory that the imposition of the sentence is solely to punish, and now the best thought considers three elements properly to enter into the treatment of every criminal case after conviction. Punishment in some measure is still the object of sentence, but, affecting its extent and character, we consider the effect of the situation upon the individual, as tending to reform him from or to confirm him in a criminal career, and also the relation his case bears to the community in the effect of the disposition of it upon others of criminal tendencies."

But where does he find that the judge who is sworn to administer the law as it stands, is also appointed to theorize, according to his individual notions, in what cases it is to be applied? If another judge would not agree with him as to the triumph of what he calls "the best thought," or should not apply it as he would apply it to a particular case, there might be no doubt that the law has in one case been enforced and in another enforcement has been denied. Error certainly in one of the other case would "rush into the state." This anarchy is by the Chief Justice thoroughly rebuked in his reversal by a unanimous opinion which concludes as follows: "While the conclusions just stated inevitably exact that the rule which is before us (to vacate the suspension) be made absolute and that the mandamus issue, nevertheless we are of opinion that the exceptional conditions which we have described require that we exercise that reasonable discretion with which we are vested to temporarily suspend the issue of the writ so as to afford ample time for executive clemency or such other action as may be required to meet the situation."

As we understand this ruling, there can be nothing done by any judge to declare a suspension of the enforcement of any sentence founded on a fact judicially ascertained, unless this be of a temporary character so as to give to competent authority the right to interpose in any way it may see fit.

A governor may differ from another governor, or a president from a former or a successor president, in any view he may have of "modern notions respecting the treatment of lawbreakers," but as to his interfering with the enforcement of law, he is responsible, as the rest of us may be, for righteous discharge of the duties imposed upon him. If he is vested with discretion in such matters, every case should come to him with no attempt to interfere with its proper exercise.

The aggression of an office-holder, under the plea of the exercise of mercy, needs to be halted at the outset or our servants may become our masters. It has been stated that this decision will affect some 2,000 cases in which similar orders have been made. At this rate, what would a verdict of guilty eventually amount to, and what would stay the force of tears and supplications, of political or financial influence, on judges, whose labors are supposed to be sufficiently exacting in the necessary discharge of their duties?—N. C. C. in Central Law Journal, Feb. 2, 1917.

Ancient Irish Common Law Pleading.—When English procedure supplanted the native Irish Brehon code, the privileges and prerogatives of the English law were granted only to five Irish families or Septs; namely, the O'Neiles of Ulster, the O'Connors of Connaught, the O'Briens of Thomond, the O'Lachlans or McLachlans of Meath and the MacMurroughs, called also Kavenaghs, of Leinster, were received within the pale of English law; but all the rest were esteemed aliens or enemies and could neither sue nor be sued, even down to the reign of Elizabeth. This, in fact, amounted to a total denial of justice for any wrongs inflicted on the natives. When an English settler was slain, the murderer was executed according to the English law; but the death of a native was compensated by an "eric" or fine according to the Brehon code. This immunity from punishment gave to the rich an unlimited right to kill and murder the native Irish. Roll of Pleas 28, Edward III., contains the following plea:—

"Simon Neal complains of William Newlagh, that he with force and arms, on the Monday after the feast of Saint Margaret at Clondalkin, in the County of Dublin, broke the said Simon's close and his herbage with oxen, calves and sheep, consumed and trampled contrary to the peace, etc., whence he says that he is damaged to the amount of twenty shillings; and thereof, etc.

"And the aforesaid William comes now and says that the above named Simon is an 'Irishman' and not of the five bloods; and asks judgment if he be held to answer him.

"And the aforesaid Simon says that he is one of the five bloods, to wit, of the O'Neales of Ulster, who by the concession of the progenitors of our lord the King, ought to enjoy and use the liberties of England and be deemed as freeman," and this he offers to verify, etc.

And the aforesaid William says that Simon is an Irishman and not of the O'Neales of Ulster and not one of the five bloods; whereupon issue is joined, etc. Wherefore, let a jury, etc.

"Which jurors upon their oath say that the aforesaid Simon is of the O'Neales of Ulster, and is of the five bloods, which by the concession of the progenitors of our lord the King ought to enjoy and use the liberties of England, and be deemed as freemen, and they assess the damages at tenpence. Therefore, it is considered that the aforesaid Simon should recover against the aforesaid William the damages aforesaid, and that the aforesaid William should be committed to jail until, etc.'

The plea issue, joinder and rejoinders set forth above, offer a fertile field of research to the legal antiquary. The legal antiquarian, after reading the above, can readily detect the origin of the old Irish phrase, "the cold hand of the stranger."

JOSEPH MATTHEW SULLIVAN, *Boston, Massachusetts.*

To Prevent Procreation of Certain Classes in Oregon: House Bill 162.—For an Act to prevent the procreation of feeble-minded, insane, epileptic, habitual criminals, moral degenerates and sexual perverts, who may be inmates of institutions maintained by public expense, by authorizing and providing for the sterilization of persons with inferior hereditary potentialities.

Be it Enacted by the People of the State of Oregon:

Section 1. There is hereby established and constituted for the State of Oregon a State Board of Eugenics which shall be composed of the State Board of Health, the Superintendent of the Oregon State Hospital, the Superintendent of the Eastern Oregon State Hospital, the Superintendent of the State Institution for Feeble-Minded, and the Superintendent of the Oregon State Penitentiary, whose duties shall be as hereinafter defined. The Secretary of the State Board of Health shall serve as the Secretary of said Board, and the members of said Board shall serve without compensation.

Section 2. It shall be, and it is hereby declared, the duty of the Superintendent of the Oregon State Hospital, the Superintendent of the Eastern Oregon State Hospital, the Superintendent of the State Institution for Feeble-Minded, and the Superintendent of the Oregon State Penitentiary to report quarterly, to the State Board of Eugenics, all feeble-minded, insane, epileptic, habitual criminals, moral degenerates and sexual perverts, who are persons potential to producing offspring who, because of inheritance of inferior or anti-social traits, would probably become a social menace, or a ward of the State.

Section 3. It shall be the duty of the State Board of Eugenics to examine into the innate traits, the mental and physical conditions, the personal records, and the family traits and histories of all persons so reported so far as the same can be ascertained, and for this purpose said Board shall have the power to summon witnesses, and any member of said Board may administer an oath to any witness whom it is desired to examine; and if in the judgment of a majority of the said Board procreation by any such person would produce children with an inherited tendency to feeble-mindedness, insanity, epilepsy, criminality or degeneracy, and there is no probability that the condition of such person so examined will improve to such an extent as to render procreation by any such person advisable, or if the physical or mental condition of any such person will be substantially improved thereby, then it shall be the duty of said Board to make an order directing the Superintendent of the institution in which the inmate is confined to perform or cause to be performed upon such inmate such a type of sterilization as may be deemed best by said Board.

Section 4. The purpose of said investigation, findings and orders of said Board shall be for the betterment of the physical, mental, neural, or psychic condition of the inmate, or to protect society from the menace of procreation by said inmate, and not in any manner as a punitive measure; and no person shall be emasculated under the authority of this Act except that such operation shall be found to be necessary to improve the physical, mental, neural, or psychic condition of the inmate.

Section 5. After fully inquiring into the condition of each of such inmates said Board shall make separate written findings for each of the inmates whose condition has been examined into, and the same shall be preserved in the records of the said Board, and a copy thereof shall be furnished to the Superintendent of the institution in which the inmate is confined and if an operation is deemed necessary by said Board, then a copy of the order of said Board shall forthwith be served on said inmate, or in case of an insane person upon his legal guardian, and if such insane person have no legal guardian then upon his nearest known kin within the State of Oregon, and if such insane person have no known kin within the State of Oregon, then upon the custodian guardian of such insane person.

Section 6. Any such inmate desiring to appeal from the decision of the said Board, or in case the person is under guardianship or disability, then the guardian of said inmate may take an appeal to the circuit court of the county in which the institution, in which the inmate is confined, is located.

An informal notice of appeal filed with the Secretary of said Board, either by the inmate or some one in his behalf shall be all that is necessary to make the appeal, said notice shall be filed within fifteen days of the date when notice of the Board's decision is served on the inmate or his guardian, and said notice of appeal shall stay all proceedings of said Board in said matter until the same is heard and determined on said appeal.

Provided further, that no operation shall be performed, upon any inmate, until the time for appeal from the decision of the Board has expired.

Section 7. Upon an appeal being taken, the Secretary of the said Board where the notice of appeal is filed, must within fifteen days thereafter, or such further time as the court, or the judge thereof may allow, transmit a certified copy of the notice of appeal and transcript of the proceedings, findings and order of the Board, to the clerk of the court appealed to.

The trial shall be a trial *de novo* at law as provided by the statutes of the State for the trial of actions at law. Upon such appeal, if the inmate be without sufficient financial means to employ an attorney, then the court shall appoint an attorney to represent the said inmate and such attorney shall be compensated by the State upon order of the court, and it shall be the duty of the district attorney of the county wherein such trial is had to represent the said Board.

Section 8. If the court or jury shall affirm the findings of said Board, said court shall enter a judgment, adjudging that the order of the said Board shall be carried out as herein provided; if the court fail to affirm the decision of said Board appealed from, then said order shall be null and void and of no further effect.

Section 9. Upon the receipt of the order from the State Board of Eugenics provided for in Section 3, the Superintendent of the institution to which it is directed shall, after the time for appeal has expired, or in case of appeal upon

the entering of a judgment affirming the order of the Board, and it is hereby made his lawful duty to perform, or cause to be performed, such surgical operation as may be specified in the order of the State Board of Eugenics. All such operations shall be performed with a due regard for the physical condition of the inmate and in a safe and humane manner.

Section 10. The criminals who shall come within the operation of this law shall be those who have been convicted three or more times of a felony in the courts of any state and sentenced to serve in the penitentiary therefor.

Moral degenerates and sexual perverts are those who are addicted to the practice of sodomy or the crime against nature, or to other gross, bestial and perverted sexual habits and practices prohibited by statute.

Section 11. The provisions of this Act shall apply to both male and female inmates of any of the institutions designated herein.

Section 12. The State shall be liable, under this Act, only for the actual traveling expenses of the members of the Board incurred in the performance of their duties and the actual and necessary expense incident to the investigations of said Board and an appeal therefrom.

Section 13. There is hereby appropriated from any money in the general fund not otherwise appropriated, the sum of Fifteen Hundred ($1,500.00) Dollars, or so much thereof as may be necessary, per annum, to carry into effect the provisions of this Act and to pay the expenses and expenditures authorized by or incurred under this Act.

PAROLE—PROBATION.

Conditional Liberation in Spain.—Conditional liberation of the prisoners has been established in Spain by law passed July 23, 1914. Liberation is accorded to those condemned for more than one year in prison after they have served out three-fourths of their sentence and when they have been found worthy of this favor by their good conduct. In each chief province there is a Commission of Conditional Liberation, as the French call it, charged with the administration of this law. After this commission has passed upon the matter, its recommendations are taken into consideration by a central commission of the state which makes a selection among those proposed for conditional liberation and recommends them to the king. The liberation is accorded by royal degree. This parole may be revoked if the condemned person does not show himself worthy of release and in that case he is reincarcerated in prison to serve out the remainder of his time. The local commissions are also required to have oversight over those released and are charged also with the protection and employment of those liberated. Those on parole must make each month a report to the president of the commission of the place where he resides, covering the work in which he is engaged and the way in which he is making his living. When a man's parole is revoked, the matter is reported through these same commissions to the National Commission and the degree revoking his conditional release is issued by the king, as was his parole originally. This system of parole is a very interesting modification of the American Parole System.—Revue penitentiaire et de Droit penal, Avril-Mai, 1915, pp. 381-2, translated by J. L. Gillin, Ph. D., University of Wisconsin.

A Probation System for the United States Courts.—The administration of justice has undergone signal changes during the past decade in all civilized

countries. The juvenile court, the domestic relations court, and other specialized courts, notably in Chicago, have been established. Probation laws have been enacted in every State of the Union, save two. Twenty years ago only one State, Massachusetts, had established legal probation for either children or adults. The probation system has brought the trained social investigator into the courts and has shown his work to be indispensable for the securing of either justice or reformation. It has also established a new and effective system for dealing with offenders capable of reform, whether young or old, without imprisonment.

While this great progress has been going on in the State courts, the United States District Courts have stood still. Recently they have taken a backward step. On December 4th, the United States Supreme Court handed down a decision in what is known as the Killits Case denying that judges in the United States District Courts had inherent power to suspend sentence in any criminal case. This decision was contrary to decisions in the highest courts in many states. New York, Massachusetts, New Jersey, Pennsylvania, Illinois, Ohio, have upheld this right so far as the State courts are concerned, apart from the statute right granted by probation legislation., The United States Courts have no probation law, except special statutes relating to the District of Columbia. The Supreme Court decision means that after every conviction in the United States Courts, no matter what the circumstances of the offense or the age of the offender may be, the Court must impose the penalty prescribed by law, which, in most cases, means imprisonment in a Federal prison. Until recently, most Federal judges, like State judges, have frequently, especially in cases of youthful and first offenders, suspended sentence and placed the offender under such supervision as they could command. In Massachusetts alone, it is stated that there are now upwards of two hundred men and boys convicted of Federal offenses, now out on good behavior, many of them under the supervision of State probation officers. The practice has been commonly used in New York and in other states. The Federal Courts are now without discretion to exercise clemency, except in the degree of punishment, and can in no case use the reforming and helpful services of a probation officer.

Few persons realize the magnitude of the criminal work of the United States District Courts and the fact that a great number of boys convicted of offenses under the postal laws, in connection with interstate commerce, under the White Slave Act, and other crimes coming within Federal jurisdiction each year, pass through these courts. During 1915, there were no less than 13,477 convictions in criminal cases. Of the 2,755 prisoners sent to Federal prisons during that year, 247 were under twenty years of age, and 1,432—more than half—were under thirty years of age.

Cases are constantly arising in the Federal Courts where the services of a probation officer are needed. Following is an illustration which occurred in New York State:

"A boy of seventeen years of age, of Polish parents, resident in Schenectady, was convicted of implication in a postoffice robbery. He admitted his guilt simply and honestly. As far as could be ascertained, it was his first offense. He was given a lecture and a suspended sentence on promise of reform. Within twenty-four hours of his release, he was arrested for breaking into a saloon.

As a result, he was sent to the Atlanta Penitentiary for three years. The facts in this case show that the boy was held for considerable time in jail and was then arraigned in court without either the investigation or helpful contact of a probation officer. He was released without supervision or advice, except that given by the court, and naturally relapsed into crime.

"In another case which occurred in New York State, two young men were convicted on plea of guilty for a violation of the White Slave Act. The circumstances of their crime showed that they had brought with them from another state a young woman of questionable character, all of them being somewhat under the influence of liquor at the time. The young men were found to have been of previous good character, this being their first offense. They were placed in the care of a state probation officer by a District Court Judge. This officer reports that they did exceptionally well while on probation, reporting regularly, taking the pledge and abstaining from liquor, working steadily, and giving every indication of permanent reform."

Fortunately, the present intolerable situation in the Federal Courts is temporary. Congress has the power to enact legislation granting the Federal Courts power to suspend sentence and establishing the use of probation. A bill for this purpose has been pending for the past three years and is now being actively pressed for passage. It is known as the Owen-Hayden Bill and provides, briefly, that judges in the United States District Courts may suspend sentence and place on probation, except for a few of the most serious felonies, wherever the circumstances of the offense and the public interest permit. The bill also provides that every Federal judge may appoint one salaried probation officer who shall receive his expenses and compensation for actual services at a rate of five dollars per day. The judges may appoint as many additional volunteer probation officers as they desire. The usual provisions of the best state probation laws relating to the fixing of the period of probation, the establishment of the conditions of probation, providing for regular reports to the probation officer, the collection of money for family support, fines and restitution on installments, and for visiting by the probation officer, are incorporated.

The bill was drafted by the National Probation Association and has its active support, as well as that of other organizations and individuals in the country interested in the work of the courts. At the last session, hearings on the bill were held before the Judiciary Committee of both branches of Congress. The Senate Judiciary Committee on December 20th reported the bill favorably and it is now upon the Senate calendar. The bill is also making progress in the House. The support of everyone interested in the progress of probation and the improvement and humanizing of our courts is urgently needed to secure the passage of the bill at the present short session.

CHARLES L. CHUTE, *Albany, N. Y.*
Secretary National Probation Association.

Life-Termers Can Not Get Parole in Louisiana.—In reply to an inquiry of Robert H. Marr, of the Board of Parole, in New Orleans, in reference to the powers and duties of that board, Judge A. V. Coco, attorney general rendered an opinion Jan. 13; covering the intent of the parole laws passed by the Legislature at its recent session. Judge Coco holds that paroles may only be granted

in cases where indeterminate sentences have been imposed, and retrospectively in cases where sentence was passed in similar cases before the indeterminate sentence was instituted.

The board cannot parole a prisoner whose sentence is determined by law, and he holds, therefore, that life termers cannot be paroled.

In cases where the sentence is indeterminate, Judge Coco holds the board is not compelled to grant the parole, but should use its discretion—broadly speaking, it should judge between the applicant and society. In granting or refusing parole it should look into the conscience of the prisoner as well as the physical parts of the case, and consider the elements surrounding the crime to judge of the character of the prisoner. If the crime was attended with atrocity, the board has the right to consider that as bearing on the character of the prisoner, and as counterbalancing his good conduct while under restraint.—The Times-Picayune, Jan. 14.

POLICE.

New York Police Records.—Police Commissioner Woods has revised the entire system of police records in use in New York City. Arrests, accidents and complaints are now recorded by patrolmen on the street on loose leaf pocket memorandum forms which have been specially prepared in such a manner as to enable the patrolmen to check the pertinent data of each case with a minimum amount of writing. Formerly the patrolmen wrote these reports on scraps of paper or in their personal memorandum books.

In the station house the data of arrests, accidents and complaints are transferred to cards under the direction of the desk lieutenant instead of reports compiled from the books, are sent to headquarters. Each precinct sends its cards to the district inspector daily and the reports and returns from each district office are collected by a mail messenger in an automobile.

At police headquarters these cards of which an average of 2,000 are received daily, are transferred to punched Hollereth tabulating cards, under the direction of Mills E. Case, Secretary of the Department, who is statistician of wide experience.

By means of this system all police activities are so recorded and classified with a minimum of clerical labor that the department has a complete record of every case available at any time and is able to study different police problems by means of these Hollereth cards.

LEONHARD FELIX FULD, *New York City.*

Finger-Print Evidence.—Novelists have made us familiar with the bloody print of a finger tip that is found near the scene of crime and leads to the apprehension of the criminal; and to-day no detective who carries "coke" in his left arm is necessary in a case where so substantial a clue is found as an impress of the lineations of the guilty person's thumb. Moreover, Bertillon has taught the police the reliability of finger prints as a part of a system of identification far superior to the ordinary photograph. We are informed by a correspondent of the New York *World* (Aaron M. Blattman, city finger-print expert, in a letter published December 8, 1916) that identification by means of finger prints originated with the Chinese 2,000 years before Christ, and that as to the possibilities of two finger prints being exactly alike, Bulthazard, a French expert, calculated that the chances are less than one for every one

followed by sixty zeros. But only recently American courts have experienced the sensation of novelty in admitting finger-print evidence.

Apparently the question first arose in this country only a few years ago, when a certain Chicagoan seeking a dishonest livelihood broke into a dwelling house at an early hour of the morning, extinguished the night lamp, awakened the family, killed the father, and got away. The house had been freshly painted; on a railing near the window through which an entrance had been effected were found in the paint the imprint of four fingers of a left hand. At a trial of a suspect against whom there was only circumstantial evidence, enlarged photographs of these prints were compared by experts with photographs of impressions from the defendant's fingers. Concerning the admissibility of this evidence, the court said, in People *v.* Jennings, 252 Ill. 534: "While the courts of this country do not appear to have had occasion to pass on the question, standard authorities on scientific subjects discuss the use of finger prints as a system of identification, concluding that experience has shown it to be reliable. (10 Ency. Britannica,—11th ed.—376; 5 Nelson's Ency. 28; see also Gross' Crim. Investigation,—Adams' Transl.—277; Fuld's Police Administration, 342; Osborne's Questioned Documents, 479.) These authorities state that this system of identification is of very ancient origin, having been used in Egypt when the impression of the monarch's thumb was used as his sign manual; that it has been used in the courts of India for many years and more recently in the courts of several European countries; that in recent years its use has become very general by the police departments of the large cities of this country and Europe; that the great success of the system in England, where it has been used since 1891 in thousands of cases without error, caused the sending of an investigating commission from the United States, on whose favorable report a bureau was established by the United States government in the war and other departments. . . . When photography was first introduced it was seriously questioned whether pictures thus created could properly be introduced in evidence, but this method of proof, as well as by means of X-rays and the microscope, is now admitted without question. (Wharton on Crim. Evidence, —8th ed.—sec. 544; 1 Wigmore on Evidence, sec. 795; Rogers on Expert Testimony,—2d ed.—sec. 140; Jones on Evidence,—2d ed.—sec. 581.) We are disposed to hold, from the evidence of the four witnesses who testified and from the writings we have referred to on this subject, that there is a scientific basis for the system of finger-print identification and that the courts are justified in admitting this class of evidence; that this method of identification is in such general and common use that the courts cannot refuse to take judicial cognizance of it. Such evidence may or may not be of independent strength, but it is admissible the same as other proof, as tending to make out a case. If inferences as to the identity of persons based on the voice, the appearance or age are admissible, why does not this record justify the admission of this finger-print testimony under common law rules of evidence? The general rule is that whatever tends to prove any material fact is relevant and competent."

Subsequent to the rendering of that decision the same question came before the courts of New York and New Jersey; and in each jurisdiction the court took the view that, although the subject was a new one, yet the evidence was

admissible, on well recognized common law principles, to prove the identity of the person accused with the person by whom the crime was committed. And so evidence was received as to prints that had been made by a burglar on a balcony post (State *v.* Connors, 87 N. J. L. 419); also, prints made in blood by a murderer on the clapboards of a house (People *v.* Roach, 215 N. Y. 592); and made by a murderer on the hatchet with which the crime was committed (State *v.* Cerciello, 86 N. J. L. 309). In England, the same rule has been adopted where finger prints were found on a candle left by a burglar (In re Castleton, 3 Crim. Appeal Rep. 74).

A conviction of breaking and larceny has been sustained by the High Court of Australia where the only evidence of identification was obtained from finger prints found on a bottle. Parker *v.* The King, 14 C. L. R. Austr. 681, 3 B. R. C. 68. The prints in that case appear to have been exceptionally reliable, inasmuch as the natural lineations were reinforced by peculiar scars on one of the defendant's fingers. The court, however, based its decision on the general ground that the individuality of the corrugations of the skin on the human fingers makes the finger print "in reality an unforgeable signature."

Expert testimony as to finger prints is admissible for the reason that identification by such means is a science requiring study, although some of the reasons which guide the expert can be understood by any man of ordinary intelligence and eyesight. Cases which hold that expert opinion as to foot prints is not admissible do not conflict with this view, because conclusions as to foot prints can be more readily drawn by a jury than can conclusions as to finger prints. See People *v.* Jennings, 252 Ill. 534, and the note to People *v.* Roach, Ann. Cas. 1917A.

The courts have apparently not yet determined the question that will arise when some cautious defendant objects to having impressions of his finger tips taken for comparison with those found at the place of crime. In the New York case it seems that the defendant submitted to various experiments while awaiting trial. In State *v.* Cerciello, 86 N. J. L. 309, it appeared that the defendant while in custody was taken to the office of an expert on finger prints and was there induced, without threats, to sign his name on a sheet of paper, which act incidentally impressed his finger prints upon the sheet. The court admitted this evidence, holding that the act of the defendant which resulted in making the impressions was voluntary; but the court said that a condition on which the testimony is received is that so far as the defendant is concerned, he shall not have involuntarily contributed to its production, so as to cause him in legal effect to serve as a witness against his will to furnish testimony to convict himself under the rule adopted in New Jersey as part of the common law. It would seem, however, that an impression of the finger tips could be taken without any voluntary act on the part of the defendant, if only the defendant refrains from opposing the act of the officer; and in that case, it is submitted, the taking of finger prints bears a closer analogy to an ordinary identification or a searching of the defendant for evidence of guilt than it does to making him serve as a witness against himself. Furthermore, there is authority for the proposition that a person arrested on a charge of felony may before trial

be measured by the police department according to the Bertillon system, which includes the taking of finger prints. Downs *v.* Swann, 111 Md. 53, 73 Atl. 653. When criminals begin to realize the importance attached by prosecutors and courts to finger-print evidence, the rights of the accused on this point will be investigated and declared; or will "unforgeable signatures" fall into the disfavor of the better class of cut-throats and safe-crackers, and tell-tale marks be quietly omitted from the record of crime?—S. W. W. in *Law Notes*, Feb., 1917.

New York Police as Employment Agents.—Commissioner Arthur Woods has reported that during 1916 New York policemen found work for 700 former convicts. The policemen were not actuated by sentimental motives. "We have done it," said Mr. Woods, "because we believe it is one of the best ways of preventing crime."

Here is a line of work suggestive in its possible application to Chicago. Unemployed former convicts add greatly to the burden of police responsibility. Every ex-convict is a source of worry to the conscientious police official who is eternally expecting trouble. Further, the difficulty which released prisoners experience in obtaining work is notorious. And when out of work, like other members of the human race, they are much more likely to become law-breakers.

Assisting them to obtain work establishes a bond of friendship and it reduces the police problem of preventing crime. The convicts are glad to receive the assistance as long as—in the words of one of them—they are not affronted with "the prodigal son stuff." Again, this job-finding activity adds a human interest to the sometimes deadly routine of patrolling the beat. Commissioner Woods has come upon a useful idea. It is commended for local consideration. —Chicago Herald, Jan. 13, 1917.

Comparative Costs of European and American Police.—In the April Review[1] the writer presented some comparative statistics of British and American cities which indicated a much greater relative cost for the cities of the United States than for those of Great Britain. Since the publication of the article, the writer has received a number of inquiries as to the factors of this greater cost. Some of the correspondents have called attention to the different salaries paid all classes of employes in the two countries and inquired how far this difference explains the higher governmental costs noted. The answer to these inquiries has come to hand, with reference to costs of municipal police, in two recent publications. They are (1) a book published by the Century Company of New York entitled "European Police Systems," written by Raymond B. Fosdick, former commissioner of accounts of New York city, and (2) a volume on general municipal statistics issued by the census bureau as for the fiscal year of 1915, although most of the figures presented relate to the calendar year 1914. From the two publications is compiled the following table of minimum and maximum salaries of patrolmen of twelve European and thirteen American cities:

[1]See National Municipal Review, vol. V, p. 252.

City.	Minimum Salary.	Maximum Salary.	City.	Minimum Salary.	Maximum Salary.
London:					
Metropolitan force..	$336.96	$436.80	New York	$1,000.00	$1,400.00
City of London.....	355.68	549.12	Chicago	900.00	1,320.00
Liverpool	336.96	449.28	Philadelphia	821.00	1,095.00
Manchester	336.96	449.28	St. Louis	780.00	1,080.00
Glasgow	313.04	436.80	Boston	730.00	1,400.00
Berlin	333.20	499.80	Cleveland	1,000.00	1,218.00
Hamburg	464.10	666.40	Baltimore	780.00	1,040.00
Dresden	404.60	499.80	Pittsburgh	960.00	1,200.00
Paris	405.30	482.50	Los Angeles	800.00	1,200.00
Vienna	283.18	503.44	Milwaukee	960.00	1,140.00
Amsterdam	292.60	344.85	Washington	900.00	1,200.00
Rome	231.60	231.60	Minneapolis	900.00	1,080.00
Madrid	180.00	225.00	Seattle	1,020.00	1,200.00

From the foregoing exhibit it may be seen that the salaries of police patrolmen in the European cities were the highest in Hamburg and next highest in London. They were lowest in Rome and Madrid being less than one half as great as in the two cities first mentioned and not much more than one half of those of most other cities referred to in the table. It may be mentioned, however, that they were equally low in other Italian, Spanish and Portuguese cities.

The salaries paid by the American cities mentioned in the table, all with populations exceeding 300,000, may well be studied in connection with those of the minor cities, with populations between 30,000 and 300,000. In none of them did the minimum salary of patrolmen fall below $700, and in but few was it less than $800. In Oakland, California, the maximum salary was $1,404, and in Jacksonville, Florida, it was $1,460, or more in both cases than in any large municipality. For the minor cities as a whole the average salary was not greatly different from that of St. Louis, Baltimore and Minneapolis.

In turn comparing the salaries of European and American patrolmen, it is to be noticed that the highest paid policemen of the largest European cities receive about one half the compensation of those of the average American city. Further, it is to be seen that the patrolmen of Italian and Spanish cities receive as a whole not more than one fourth to one sixth of the policemen of the American city of the same population.

The salaries quoted are in all cases *cash*. In British cities and in some other European municipalities, unmarried policemen are lodged, either without expense or with small expense to them, and married and unmarried men are provided with some, if not all, their meals at cost. In these and other ways, the purchasing power of police salaries in Europe as compared with American salaries, is somewhat larger than is indicated by the figures of the exhibit.

As the compensation of patrolmen constitutes for all cities, European and American, from one-half to three-fourths of all expenses of police departments, it can readily be seen that the different compensation of police employes is the principal, if not the only material cause of the greater cost of police service in American cities to which I called attention in the April National Municipal Review.—Le Grand Powers, *Washington, D. C.,* in National Municipal Review for Jan., 1917.

MISCELLANEOUS.

The Increasing Cost of Crime in Ohio.—Ohio has large and increasingly expensive problems in the handling of offenders against the social order. Delinquents in four correctional institutions under the care of the Ohio Board of Administration on the last day of March, 1916, numbered four thousand nine hundred and fifteen. The same day found something over fifteen thousand insane, feeble-minded, and epileptic, in the care of state institutions. Roughly then, one quarter of the annual budget of the Ohio Board of Administration, of about five million dollars, goes for the maintenance of those who have committed offenses against the social order.

The state, as a state, however, is dealing only with the end-product, in the attempts to reform and restore these delinquents. Counties and cities with their officers and institutions for the arrest, detention, trial, and conviction of criminals, are spending enormous sums of money. They also maintain correctional institutions, formerly called workhouses.

Evidently then, to come to any adequate idea of the community expenses incurred in Ohio on account of offenses against society's statutory regulations, we must ascertain the expenses of counties and cities, as well as those of the state government.

In order to give an idea of the *rate* of *increase* of expenses for crime, two years, representing the extreme of an eight-year period, have been taken for comparison. Eight is the extreme number of consecutive years for which analyses of expenses of cities and counties are available in the Bureau of Inspection and Supervision of Public Offices.

The following figures relative to the cost of delinquency in Ohio have been prepared from the "Comparative Statistics for the Counties and Cities of Ohio," published and held as manuscript by the Bureau of Inspection and Supervision of Public Offices. The reports for 1906 are the first of this sort published in Ohio. The manuscript reports from city and county auditors for 1914 constitute the latest returns complete for a year. The data for state expenses for the four correctional institutions were found in the "Ohio Bulletin of Charities and Correction," Vol. 14, No. 4, and Vol 21, No. 2, published as a report of the Ohio Board of State Charities.

The year, in each case, for cities ended December 31, for counties, August 31, and for state institutions, November 15. The figures, in each case, cover a full year, the largest part of which was in the calendar year designated. There is no overlapping of the city, county, and state expenses. The expenditures are *net* in every case, all income being already deducted

It is impossible to make a clear-cut separation of expenses on account of crime, because of the manner in which the data have been assembled, and because of the mixture of criminal and other actions in the same offices. For instances, the salaries of judges of common pleas courts and of sheriffs, are not wholly chargeable to crime. We charged all expenses of the common pleas courts and of the sheriffs' and prosecuting attorneys' offices to crime, but included no charges from the probate court. This court incurs many expenses on account of crime. We included no charges for maintenance of courthouses and jails. This item in 1906 amounted to $528,147.36 and in 1914 to $1,011,517.14, an increase of ninety-two percent. All of the jail, and much of the courthouse maintenance, is chargeable to crime. We are, therefore, pre-

sumably very safe in charging to delinquency all of the items in the following tables. Certainly some very large items directly chargeable to offenses against the social order we have not so charged. In any event, all items are the same for each of the two years, and therefore the percentage increases are valid.

TABLE I—Cost of Crime in Ohio Cities for 1906 and 1914. Years ended December 31. Figures summarized from "Comparative Statistics. Cities of Ohio, 1906," and from manuscript reports of City Auditors for 1915.

	Year 1906.	*Year 1914.*
Police Department	$2,260,559.00	$3,500,579.61
Court Costs	46,303.59	35,615.31
Jury and Witness Fees	5,698.26	86,016.20
Police Courts	61,697.88	209,516.27
Justices' Courts	57,490.06	62,958.61
Workhouses	230,028.44	459,266.43
Total	$2,661,777.23	$4,353,952.43

TABLE II—Cost of Crime to the Counties of Ohio for 1906 and 1914. Years ended August 31. Figures summarized from "Comparative Statistics, County of Ohio, 1906," and from manuscript reports of County Auditors for 1914.

	Year 1906.	*Year 1914.*
Maintenance of Workhouses	$ 47,166.78	$ 40,520.48
Clothing, etc., for Inmates of Industrial Schools	31,178.98	436,197.04
Common Pleas Courts	855,394.37	1,020,218.38
Juvenile Courts	9,350.24	135,870.84
Justices' and Mayors' Courts	60,892.40	88,642.43
Police Courts	47,722.43	59,050.53
Criminals, including Salaries of Jail Matrons	177,776.87	504,143.37
Sheriffs' Offices	182,917.88	595,011.76
Prosecuting Attorneys' Offices	252,374.74	234,447.07
Fees of Attorneys defending Prisoners and Prosecutions by Humane Societies	60,895.03	35,776.19
Total	$1,725,669.72	$3,149,878.09

TABLE III—Cost of Maintenance, less total receipts including payments for clothing and board of inmates, at the four Ohio correctional institutions for the years 1906 and 1914. Years ended November 15. Figures taken from "Ohio Bulletin of Charities and Correction," Vol. 14, No. 4, pp. 47, 49, 51, and 53, and Vol. 21, No. 2, p. 104.

	Year 1906.	*Year 1914.*
Ohio Penitentiary	$ 44,430.98	$ 327,583.07
Ohio State Reformatory	101,981.01	291,450.57
Boys' Industrial School	114,810.49	184,306.83
Girls' Industrial School	50,008.00	105,427.26
Total	$ 311,230.48	$ 908,767.73

TABLE IV—Summary statement of city, county and state expenses for delinquency for 1906 and 1914, with percentage increases of each for the eight-year period. Total expenses for delinquency show an increase of seventy-nine per cent in eight years.

	Year 1906.	*Year 1914.*	*Percentage Increase in Eight Years.*
Ohio Cities	$2,661,777.23	$4,353,952.43	64
Ohio Counties	1,725,669.72	3,149,878.09	82
Four Correctional Institutions of Ohio	311,230.48	908,767.73	192
Total	$4,698,677.43	$8,412,598.25	79

Some of these increases are to be explained by changes in law and practice. The juvenile court was very new in Ohio in 1906. In 1914 such a court was operating in each county. In 1906 the Ohio Penitentiary was under the contract labor system. In 1907 an actual profit of thirty-four hundred dollars was shown. It has been a matter of no little expense to change from a penal to a correctional basis in the operation of this institution. When opportunity is provided for each prisoner to work, and the idle house is abolished, the penitentiary will again be self sustaining, and the plan of the reformation of the prisoners, will have been rationalized and the reformation facilitated.

The population of Ohio as calculated by the United States Bureau of the Census for July 1, 1906, was 4,533,064, and for July 1, 1914, 5,026,898. In these eight years the population of the entire state increased, therefore, about eleven percent. The actual average daily populations of the state institutions increased twelve and one-half per cent in the same time, but the commitment rates increased eighteen percent. This indicates a speeding up of the correctional work, or rather a shortening of the average residence, probably because of the increased commitment rate without proportionate increase in facilities for caring for the large numbers.

With an increase of eleven percent in the population of the state, we find an increase of seventy-nine percent in the aggregate expense, of the cities, the counties, and the state, on account of crime, in these same eight years.

TABLE V—The increases, and percentage increases, in jail populations; total numbers of sentences, to the Ohio Penitentiary, and Ohio State Reformatory; and the charges with felonies. These increases compared with the increase in population of Ohio in eight years.

	Year 1906.	*Year 1914.*	*Increase.*
Population of Ohio	4,533,064	5,026,898	10.9%
Jail Population in Ohio	18,591	26,307	42.0%
Total Numbers of Sentences in Ohio	4,894	7,036	44.0%
Sentences to O. P. and O. S. R.	974	1,595	64.0%
Charged with Felonies	4,039	8,079	100.0%

As to the character of crime it is significant that while the jail populations increased forty-two percent from 1906 to 1914, those charged with *felonies* in the latter year exceeded by one hundred percent those so charged in 1906. Charges for *misdemeanor* increased thirty-five percent. Charges of *violation of ordinances* decreased about twenty-five percent. These figures exhibit the serious aspect of the crime situation, and a further cause of the increased expense of criminality to the community. It costs more to apprehend and convict a given number of culprits, when the offenses are more grave. That thirty-eight percent of twenty-one thousand preferred charges in 1914 were for felonies, whereas only twenty-six percent of fifteen thousand preferred charges in 1906 were for felonies, affords significant explanation of some of the increased cost of crime in Ohio in this period of eight years.

During the eight years under consideration, the foreign born element in jail populations in Ohio increased about parallel with the increase of the total jail population. The foreign born in jail during 1906 and 1914 constituted eighteen and nineteen percent of the total jail populations for the respective years. There was a slightly greater increase in the number of jailed persons born in other states. In 1906, 3,600 of the total 18,591, or nineteen percent,

were born in states other than Ohio. In 1914, 6,867 of the total of 26,307, or twenty-six percent, were born in other states. The increase in expenses for crime can not, therefore, be charged in any large measure to migration, either from foreign countries or from other states, into Ohio.

In reckoning the cost of crime to the community, we must consider that these money expenses are only a few of several items in the bill. These offenders, if producing their fair share of the means of subsistence, would be contributing more to the happiness of the rest of the human family than they now take away by the expenses of their apprehension, conviction, custody, and attempted reformation. Further than this, the talent employed in these various activities set in motion by the offenses in question, would, if released from pursuing, detaining, and reforming criminals, contribute an even greater amount to the happiness of the human family, than would the properly directed energies of the delinquents themselves. The economic waste of crime in Ohio is far in excess of the eight and a half million dollars it cost us in actual money expenditure in 1914.

The offenders are temporarily upon the scrap heap of humanity, like the insane, the feeble-minded, the epileptic, and persons suffering from incurable diseases. They are, for the time, a waste product, like the adrenalin and thyroid extract which the meat packers formerly wasted, like the scrap lumber, and coal, and oil, which are wasted today, and like the soil of his hillsides which the Kentucky mountain farmer helps to slide from its rock foundation into the bed of the stream below. In common with waste products, and wasteful processes of production, whether mining, lumbering, farming or manufacturing, this waste of human energy dictates the application of intelligence to prevent the waste—to conserve human energy and direct it into lines of contribution to the happiness of the community. It indicates research into the causes of this waste, and into methods not only of preventing the waste, but conserving the building up into productive citizens the potential destroyers of the social order. We must learn to stop these wastes before they occur. We must prevent crime, as we prevent other disease.

In the rapid advances made in the applications of science to bettering the conditions of life of the human family, some have realized that society's duty to the criminal is not primarily to punish him, but to seek to reclaim and make of him a productive and happy member of society. These same persons who have some fundamental conceptions of the make-up of human character, and some vision of the evolution of human society, see that it is far more important to analyze the mental causes lying back of crime—to find the reason for anti-social behavior, than to develop keenly analytic and close sweeping methods for crime detection. These latter are very useful. It is most important that, by a bacteriological examination of the nail scrapings of a suspect, it be ascertained that he is the person who buried a babe in the edge of a stream, or, by the examination of a cigar holder found near a corpse that it belonged to the irregular teeth of the nephew of the dead man. All these applications of our best science to the detection of criminals, are in the interests of protecting society from anti-social persons.

But a wider and deeper vision of the crime situation dictates much more fundamental applications of science to the social problems involved. Wherever

an industry finds a waste which can be saved, it makes the saving. Many industries spend as much in their scientific laboratories to discover ways in which the processes of manufacture may be cheapened and the product improved, as they spend on their departments of advertising and sales.

In the work of reformation of criminals we can proceed intelligently and economically only when we know the mental and physical condition of the individual, which led up to his anti-social act. When we know these conditions, we shall know some are not reformable, and we shall cease to parole them, recognizing they are bound to repeat their offenses every time they are paroled. But these casual conditions, being ascertained in other cases, will suggest means of speedy correction. All medicine and psychological medicine must be called to aid in this diagnosis of causes of crime, for the purpose of preventing further crime. Such use of science, though, will enable us to correct social, biologic, and economic conditions, which are producing anti-social acts, and thus prevent the occurrence of the anti-social behavior. This is the radical and common sense way of cutting down the bill of expense for crime. By investigating causes of crime, we shall learn how to prevent the occurrence of social and mental conditions which lead to anti-social acts.—Thomas H. Haines, M. D., Bul. No. 4 of the Bureau of Juvenile Research, Columbus, O.

First Annual Report of New York Bureau of Attendance.—This report for the year ending July 31, 1915, is a most valuable contribution to public safety literature. The Bureau of Attendance in New York City is a bureau of the Department of Education, which exercises functions relating to compulsory school attendance, juvenile labor activities, school census and general child welfare activities.

The first report of the Bureau, which is a volume of 216 pages, outlines clearly the functions of this Bureau and its policies; describes in considerable detail the excellent administrative procedures which have been formulated to accomplish the work of the Bureau; presents adequate statistical data in support of the most important parts of the text; narrates several case histories to give the critical reader a clear insight into the character of the work which the Bureau is prosecuting and contains valuable constructive recommendations for the development of the Bureau's work during the next year.

Since the relation between truancy, juvenile delinquency and adult criminality appears to be a close one, it is evident that effective work against truancy will result in lessening the work of the other public safety authorities. It is on this account that the first report of the New York Bureau of Attendance should be carefully studied by public safety authorities throughout the United States, in order that each city may adopt as many of the policies described in this report as may be found suited to the needs of the city.

The report has been prepared in an unusually lucid and readable form, so that it will appeal to the layman as well as to the professional public safety official and public school officer. The director of the bureau is John W. Davis, who in the report pays to the assistant director, George H. Chatfield, a well-deserved tribute. Few reports come to our desk which show such large initiative, constructive ability and personal energy in the discharge of official duties as are reflected in this First Report of the New York Bureau of Attendance.

New York City. LEONHARD FELIX FULD.

War Boosts Juvenile Crime in England and Germany.—England just now is wrinkling its brow over the boy problem. The increase in juvenile crime since the outbreak of the war is attracting public attention. There is an epidemic of larceny among youths less than 16 years old.

With so many fathers in the trenches there is an absence of the former parental control. A growing demand for juvenile labor at comparative high prices has given boys more money to spend, and many spend it in a way which brings them trouble. Employers say the youths have the "swelled head" and are "saucy," because if they lose one position they need only go to the place next door and perhaps get higher wages.

Teachers are scarce and in many places shortened school hours give the boys more leisure, which leads to mischief. The darkened streets at night make vandalism safer. Tales brought back from the trenches have filled the lads with an adventurous spirit. And the movies come in for strong censure for leading boys to police courts.

The authorities recently received a letter from a father stating that he had found his boy trying to choke his sister. He had seen a film in which a man choked a woman, the boy explained. Youths often steal to get money to go to the movies, it is said. A board of censors for films is being planned.

Many boys are taking to gambling, the authorities state. In certain places where the boys loaf there is a game in which a dart is thrown at a mark, the thrower being entitled to a prize if he hits the mark. The dart throwing game seems to be a fad.

Another gambling game is known as "Rush" or "Tip It," and is popular in some cafes. An equal number of boys line up on either side of the table. A coin is hidden by one of the "sides" and the boys bet as to which hand it is in. In such places, the authorities say, youths gamble away their wages and sometimes must resort to stealing to get the price of dinner.

One of the great causes of crime in London, the city probation officer declared, was the prevalence of touts, who tempt boys to steal goods, which are sold to street stalls and the poorer classes of shops. For his first theft the boy is paid the promised figure. The second time the boy gets little money, and when he complains, the tout threatens to expose him if he isn't careful. And once in the net the boy, under threats of exposure, must go on stealing for the tout.

The increase of juvenile crime is not peculiar to England. Judging from reports in German newspapers, it is said the epidemic has been worse in Germany than in England. Not only in London has there been an increase, but practically all the towns in which inquiry was made the same condition was found.

In comparing the three months ending February 29, 1916, with the corresponding period twelve months earlier, it was found that in London the number of juveniles charged with punishable offenses had increased from 1,304 to 2,005, in Liverpool from 578 to 702, and in Birmingham from 248 to 402. This return applied to children less than 16 years old. And the preceding year, 1915, also was an abnormal year of war, whose figures were above those for 1914.—London Times, Nov. 8, 1916.

Our Irrational Fining Systems.—Folk lore may be appealed to with as much reliability, perhaps, as legal precedent, in tracing the history of practices

like the fining system. The older inhabitants back in the Kentucky mountains still sing:

"Say Paw, say Paw, have you brung me any gold,
Any gold for to pay my fine?
* * * * *
O you won't love and it's hard to be beloved
And it's hard to make up your crime.
You have broke the heart of many a true love,
True love, but you won't break mine."

—From the Hangman's Song.

There is more assurance, however, in the definite results of study of the use of fines, such as appear in a document[1] recently prepared for the Philadelphia Yearly Meeting of Friends by John E. Orchard. Use of the system was originally no more nor less than a bargain on the part of the person convicted, whereby he arranged to escape punishment or get release from captivity (*finen facere*). Then the fine came to be used as a mode of punishment. The third stage is that of putting people in jail for debt.

This evolution is open to criticism from beginning to end from the standpoint of modern treatment of the criminal. Yet out of the second stage, viz., the use of the fine as a substitute for punishment, one may draw a helpful conclusion by saying that the principle is not so bad if we should conceive of the imposition of a penalty in the way of payment of money not absolutely but in relation to the offense; in other words, the principle of restitution.

Mr. Orchard's brief tracing of this development in the laws of Pennsylvania is a commendable piece of research. The gradual emancipation from the rule of imprisonment for debt in that commonwealth has come about in two stages. First, in 1887, county courts were permitted to discharge prisoners serving for fine only, as a matter of public economy. Secondly, in 1909, a plan of collection of fines under the parole system was inaugurated. The mercenary aspect of this development cannot be ignored. Apparently, the most forceful argument used for the parole system in Massachusetts, New York, Illinois and elsewhere is that it pays. Its supporters have even calculated the percentage of profit on the investment.

This study contains a deal of useful data on the fining system. For example, the following description of conditions in Pennsylvania:

"In the 67 counties of Pennsylvania are found almost 67 different methods of treating prisoners who are unable to pay their fines. In five counties there is an iron-clad rule: an offender is imprisoned for thirty days if his fine is less than fifteen dollars; if it is more, his imprisonment is fixed at ninety days. In other counties the offender may enter a plea of insolvency after ten or fifteen days. In some counties the prisoner is not detained unless he has been fined for certain specified offenses. Eleven counties believe that a man should be held one day for every dollar in the fine. In three counties he is held for ninety days and then permitted to enter a plea of insolvency. In another county, the plaintiff is detained for ninety days and then allowed to give note for the amount of his fine. Many counties report a brief or indefinite sentence, the

[1] *The Fine System.* Issued by the Sub-Committee on Prison Reform, Philadelphia Yearly Meeting of Friends, 150 N. 15th Street, Philadelphia.

prisoner being released at the discretion of the court. As was noted above, one county places a prisoner on probation and allows him to pay his fine in installments."

This is a gross evil in the American system of treatment of crime, than which none may be more reasonably condemned on the grounds of injustice and of inefficiency. At the same time, it is prevalent universally. Zenas L. Potter says that seventy per cent. of offenders coming before the lower courts are disposed of by petty fines. I was told by an authority in Virginia recently, of a jail where all but one of nearly three hundred commitments were made in lieu of payment of fine. The solution recommended by Mr. Orchard is that we follow that part of the resolutions of the International Prison Congress of 1905 which suggests that the authority charged with the execution of judgment be given power to permit the payment of fines by installments or by public work.

One may draw the practical conclusion that we have here located a dangerous lesion in our system of treatment of crime. The fining practice is irrational, un-American, and foreign to modern humanitarian principles. It is so parasitic, and at the same time so permeating, that it ought to be made the object of a specific, country-wide reform, corresponding, for example, to the anti-tuberculosis movement. We do wrong to allow the evil longer to hide its ugly head behind problematical issues like bad jails and outworn legal procedure.

W. T. Cross, *General Secretary,*
National Conference of Charities and Correction, Chicago.

Intoxication: How Proved.—Traffic Court Bulletin No. 1, by Frederick B. House, Presiding Magistrate, New York Traffic Court, is a ten page pamphlet, which contains a clear and concise exposition of the ten leading New York cases on the manner in which intoxication may be proved. Expert testimony is not necessary to establish intoxication; a witness may testify as to the defendant's appearance, conduct and language, and then express his opinion based on these facts whether or not the party was intoxicated, or the witness may directly state the fact of intoxication without going into details. This bulletin will be found of distinct practical value and helpfulness by lawyers and magistrates. The typographical arrangement of the pamphlet which was printed by Clarence S. Nathan, Inc., is excellent.

Leonhard Felix Fuld, *New York City.*