

1921

Notes and Abstracts

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Notes and Abstracts, 12 J. Am. Inst. Crim. L. & Criminology 121 (May 1921 to February 1922)

This Note is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

NOTES AND ABSTRACTS

COURTS—LAWS

Defining the Crime of Murder.—A bill to define the crime of murder in the first degree, to prescribe the penalty therefor, to prescribe the necessary regulations, to execute the penalty imposed in certain cases, and to repeal Sec. 15,192 of the compiled laws of 1915.

The People of the State of Michigan Enact:

SECTION 1. *Murder, First Degree:* All murder which shall be perpetrated by means of poison, or lying in wait, or any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate any arson, rape, robbery, or burglary, shall be deemed murder of the first degree, and shall be punished by death or by confinement at hard labor in the state prison for life, at the discretion of the jury. Upon trial of the defendant charged with murder, the jury, if they find the defendant guilty, must designate in their verdict whether he shall be punished by death or imprisonment for life at hard labor, and the judgment of the court shall be in accordance therewith. But upon a plea of guilty the court shall determine the same.

SECTION 2. *Death Penalty—Execution:* The punishment of death, prescribed by law shall be inflicted in every case by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application and continuance of such current through the body of such convict until such convict is dead. The death penalty shall be inflicted before the hour of sunrise upon such day, not less than one hundred days after conviction, as the court may adjudge. The warden of the state prison, or in case of his death, disability or absence, his deputy, shall be the executioner.

SECTION 3. *Warrant for Execution:* Whenever any person is sentenced to death, the judge of the court in which sentence is pronounced, at the expiration of two weeks thereafter, shall issue his warrant, under the seal of the court, reciting the conviction and sentence, and directed to the warden of the state prison, commanding him to proceed, at the time and place named in the sentence, to carry the same into execution as provided in the previous section, and shall intrust such warrant to the sheriff of the county, to be by him delivered to the said warden, together with the condemned person, as provided in the following section.

SECTION 4. *Sheriff's Duty:* Immediately upon receipt of such warrant the sheriff shall transport each condemned person to the State Prison at Jackson, and shall there deliver him and the warrant aforesaid into the hands of the warden, and shall take from the warden his receipt for such person and warrant, which receipt the sheriff shall return to the office of the clerk of the court where the judgment of death was rendered.

SECTION 5. *Prisoner Confined—Who May See:* Upon the receipt of such condemned person by the warden of the state prison, he shall be confined therein until the time for his execution arrives, and, while so confined, all persons outside of said prison shall be denied access to him, except his physician

and lawyers, who shall be admitted to see him when necessary to his health or the transaction of business, and the relatives, friends and spiritual advisers of the condemned who shall be admitted to see and converse with him at all proper times, under such reasonable regulations as may be made by the Board of Control and warden of the prison.

SECTION 6. *Execution Inside Prison:* The execution shall take place inside the walls of the Michigan State Prison at Jackson, in a room arranged for that purpose. It shall be the duty of the warden and the Board of Control of said prison to provide the necessary room and appliances to carry out the electrocution as provided in this act.

SECTION 7. *Who May Be Present:* The following persons may be present at the execution, and none other: The warden, and such persons as may be necessary to assist him in conducting the execution; the Board of Control of said prison, two physicians, including the prison physician, the spiritual adviser of the condemned; the chaplain of the prison, and any of the relatives or friends of the condemned person, not exceeding ten in number, that he may request shall be admitted.

SECTION 8. *Escape—Re-Arrest:* If the person condemned escape after sentence and before his delivery to the warden, and be not re-arrested until the time fixed for execution, any person may arrest him and commit him to the jail of the county in which he was sentenced; and thereupon the court of such county, on notice of such arrest being given by the sheriff, shall again appoint a time for the execution, not less than thirty days from the date of such appointment, which appointment shall be by the clerk of said court immediately certified to the warden of the state prison, and such clerk shall place such certificate in the hands of the sheriff, who shall deliver the same, together with the warrant aforesaid and the condemned person, to the warden, who shall receipt to the sheriff for the same, and proceed at the appointed time to carry the sentence of death into execution, as hereinbefore provided.

SECTION 9. *Escape from Warden:* If the condemned person escape after his delivery to the warden, and be not retaken before the time appointed for his execution, any person may arrest him and commit him to the state prison, whereupon the warden shall certify the fact of his escape and recapture to the court in which sentence was passed; and the court shall again appoint a time for the execution, which shall be not less than thirty days from the date of such appointment; and thereupon the clerk of such court shall certify such appointment to the warden, who shall proceed at the time so appointed, to execute the condemned, as hereinbefore provided.

SECTION 10. *Respite—Death—Pardon:* When execution of sentence is suspended or respited to another day, the same shall be noted on the warrant, and on the arrival of such day the warden shall proceed with such execution, and in case of the death of any condemned person before the time for his execution arrive, or of his pardon, or of the commutation of his sentence by the governor, or of the reversal of the judgment of conviction, no execution shall be had, but in all such cases, as well as when sentence is executed, the warden shall return the warrant and certificate, with a statement of any such act, and with his proceedings endorsed thereon, to the clerk of the court in which sentence was passed, who shall record said warrant and retain in the record of the cause.

SECTION 11. *Execution of Women:* The provisions of the foregoing sections in relation to the infliction of the death penalty shall extend equally, so far as applicable, to the case of any woman convicted and sentenced to death.

SECTION 12. *Pregnancy of Female Prisoners:* If a woman sentenced to death appear to be pregnant, and the physician of the prison shall certify in writing to the warden that in his opinion such woman is pregnant, the warden shall forthwith give notice to the judge of the court by which the judgment was rendered, and shall also deliver a copy of such certificate of such physician to such judge. Such judge shall thereupon appoint a time at which an inquiry into such pregnancy shall be had at said prison; and may summon three physicians of the state to inquire into the supposed pregnancy. Notice thereof shall be given to the prosecuting attorney of the county in which the judgment was rendered, stating the time and place of said inquiry.

SECTION 13. *Report of Physicians—Filing:* The report of said physicians shall be in writing and filed in the office of clerk of the court in which said judgment was rendered.

SECTION 14. *Execution Suspended—Governor's Warrant:* If it appears by said physicians' report that such woman is with child, the warden shall suspend the execution of the sentence, and shall transmit a copy of said physicians' report duly certified by such clerk, under the seal of the court, to the governor. When the governor becomes satisfied that such woman is no longer pregnant, he shall issue a warrant appointing a day for her execution.

SECTION 15. Section 15,192 of the Compiled Laws of 1915 is hereby repealed.

Re Bureau of Identification in Minnesota (No. 703, S. F.).—A bill for an Act relating to the prevention and detection of crime and the apprehension, conviction and punishment of criminals; creating the office of State Public Safety Commissioner, providing for the appointment of a commissioner, deputy commissioner and subordinates in his office, fixing the compensation of the commissioner and defining his powers and duties; defining certain official duties of certain public peace and prosecuting officers, fixing penalties for violations thereof and appropriating money therefor.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. There is hereby created the office of "State Public Safety Commissioner" for the State of Minnesota, who shall be appointed by the governor for a term of four years; shall receive a salary of four thousand dollars per annum; and before entering upon the duties of his office, shall take and subscribe the oath required of state officials and give bond to the State of Minnesota in the sum of \$5,000 to be approved by and filed with the secretary of state conditioned for the faithful performance of his duties. He shall be provided with a suitable office and equipment at the seat of government and shall have authority to appoint a deputy at a salary not to exceed three thousand five hundred dollars per annum, an identification expert, a statistician and such other assistants, clerks and employes as occasion may require, and fix their compensation. The expenses of the commissioner and his subordinates and employes necessarily and actually incurred in the discharge of official duties shall be paid in addition to compensation, upon itemized vouchers approved by the commissioner or his deputy.

SECTION 2. The state public safety commissioner shall (a) co-operate with all public peace and prosecuting officers of the State of Minnesota and of the political subdivisions thereof in preventing the commission of crimes and in apprehending persons violating or charged with violating the criminal laws of the state; (b) maintain an identification bureau for the collection and preservation of identification records to be at all times available for use by all public peace and prosecuting officers in connection with the performance of their official duties as such; (c) collect, compile and preserve statistics and information covering criminals and criminal operations within the state available for use by all public officers; (d) co-ordinate the activities of all public peace officers in the state in the apprehension of persons charged with violations of the criminal laws of the state; (e) upon request of the governor or attorney general or of any sheriff or county attorney, assist in investigating the facts in connection with any felony alleged to have been committed within this state; (f) co-operate with federal authorities and with the authorities of other states in the collection, compilation, preservation, exchange and dissemination of records, information and statistics relating to criminals and criminal activities; (g) supervise and direct the activities of all public peace officers of this state and of the political subdivisions thereof in connection with the pursuit and apprehension of persons charged with the commission of felonies, and for such purpose shall have authority to direct any such public peace officer to extend his activities beyond the territorial limits for which he may be elected or appointed, within the state; (h) furnish prompt information to public peace and prosecuting officers as to crime and the perpetrators thereof; (i) furnish to public peace and prosecuting officers in this state, by means of schools of instruction or otherwise, the opportunity of acquiring a working knowledge of the science of criminology and of the methods pertaining to the detection of crime and the punishment of criminals; (j) do and perform every act or thing necessary or incidental to the exercise of the powers and authority herein conferred, to the end that co-operation shall at all times subsist between the state public safety commissioner and the various public peace and prosecuting officers in this state, the performing of official duties by public peace officers shall be co-ordinated, the commission of crime shall be prevented, and the detection of crime and the apprehension, conviction and punishment of persons charged with violations of the criminal laws of the state shall be facilitated.

SECTION 3. It shall be the official duty of all public peace and prosecuting officers of this state and of the political subdivisions thereof to co-operate with the state public safety commissioner in furtherance of the purposes of this act, and it shall be the official duty of all public peace officers of this state and of the political subdivisions thereof to promptly comply with all reasonable directions of the state public safety commissioner issued or given hereunder.

SECTION 4. Any such official or any peace officer in this state who shall wilfully refuse or neglect to perform any official duty imposed by this act shall be guilty of malfeasance and nonfeasance in office, shall be removed therefrom by the governor in the manner provided in Sections 5724 and 5725, General Statute, 1913, and shall be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed and shall forfeit not less than \$100 nor more than \$500, to be recovered in an action against him personally or on his official bond, or both.

SECTION 5. For carrying out the purposes of this act there is hereby appro-

priated from any moneys in the state treasury not otherwise appropriated, the sum of five thousand dollars, immediately available, the sum of twenty-five thousand dollars, available for the fiscal year ending June 30, 1922, and the sum of twenty-five thousand dollars available for the fiscal year ending June 30, 1923.

SECTION 6. The provisions of this act shall supersede the provisions of any home rule charter of any city inconsistent herewith.

SECTION 7. This act shall take effect and be in force from and after its passage.

Re Hospitals and Asylums in California (Senate Bill No. 933).—An act to establish, construct, complete, maintain and manage a state hospital for the care, custody, confinement, maintenance and treatment of insane convicts, and of certain other insane persons charged with the commission of a felony, near the state prison at Folsom, California; to provide for the government, management and conduct thereof; to authorize and direct appropriation of public money and funds therefor; to empower, authorize and direct the use and expenditure of public money and funds heretofore authorized and appropriated by that certain act entitled "An act to provide for the erection at Folsom State Prison of a building for the accommodation of insane prisoners and making an appropriation therefor," approved March 26, 1903, and all acts amendatory thereof or supplemental thereto.

The people of the State of California do enact as follows:

SECTION 1. The grounds, building and property situate near the state prison at Folsom and heretofore set apart and partially improved for and as an institution for the care of convict insane and certain other insane persons and heretofore known as the Folsom State Hospital are hereby declared to be the central state hospital to be used exclusively for the purpose of holding in custody and confinement and caring for and treating such insane or mentally irresponsible persons as may be committed to said hospital by the superior courts throughout the State of California as hereinafter provided and such other insane persons who have been convicted of a felony and are now confined in other state hospitals for the insane of the State of California or in either of the state prisons of the State of California.

SECTION 2. The said central state hospital shall have a board of five managers which shall be known as the managers of the central state hospital, said managers shall be appointed by the governor, one for one year, two for two years and two for three years and thereafter for terms of four years or to hold office until their successors are respectively appointed and qualified. The first board of managers hereunder shall be appointed within thirty days after this act takes effect. Said central state hospital shall be under the control, direction, supervision and management of said board of managers and any board, officer or agent that is now acting or presuming to act in the care, supervision, management or control of said grounds, building or property near the said state prison at Folsom shall immediately after the appointment and qualifying of said board of managers, relinquish, surrender and deliver to said board of managers all and any control, management, supervision and care of said grounds, buildings and property, together with any and all records, files, books and documents thereof or relating thereto and also any money, public or otherwise, that

may belong to or which has been appropriated for the use of said hospital for the insane at or near the state prison at Folsom.

SECTION 3. The said board of managers shall annually elect from its own number a chairman and a vice-chairman whose terms of office shall be one year and until their successors shall be duly appointed and qualified.

SECTION 4. The said board of managers may from time to time establish such by-laws, rules and regulations not inconsistent with the laws of the state as they may deem expedient for the efficient management and government of said hospital, for the transaction of its business and the holding of its meetings.

SECTION 5. The managers shall perform their services without any compensation, but shall be entitled to their necessary expenses while attending to the business of the hospital and while attending regular meetings of the board of managers.

SECTION 6. The said board of managers shall in addition to other powers in this act conferred, have the power and they are hereby directed to immediately and within thirty days after their appointment and qualification, proceed with the erection, completion and occupancy of the present building or buildings situate on the site of said Folsom State Hospital at or near the state prison at Folsom and shall have power to add to, modify, alter, reconstruct or change said building, buildings and property as in their judgment and discretion is necessary or proper.

SECTION 7. The board of managers is authorized and required to purchase such equipment, furniture, supplies and materials as it may deem suitable for the proper completion and furnishing of said buildings and said hospital and for the operation and maintenance of said hospital subject to such supervision or control as is by law vested in the state board of control and the state purchasing agent.

SECTION 8. As soon as the board of managers shall deem it necessary for the proper completion, furnishing and managing of said hospital and as often thereafter as a vacancy occurs, said board of managers shall appoint a medical superintendent. The medical superintendent must appoint by and with the consent of the board of managers such officers and employees as the board of managers may deem necessary. The medical superintendent and other officers and employees shall receive such compensation as may be fixed by the board of managers in no case to exceed the salaries paid in other state hospitals for the insane for similar service.

SECTION 9. Except as herein otherwise provided the said state hospital and its managers and officers and employees shall be governed by and be subject to and the said state hospital shall possess all of the rights and be affected by all of the limitations and requirements of the provisions of chapter one of title five of part three of the Political Code.

SECTION 10. No person shall be admitted to said hospital except convicts now or hereafter confined in present state hospitals for the insane who may be transferred directly to the central state hospital by the state commission in lunacy and such insane persons charged with the commission of a felony who are now or who may be hereafter confined in any of the present state hospitals for the insane and whose transfer is deemed by the state commission in lunacy to be for the best interests of said hospital and the public, and such persons may also be directly transferred to the central state hospital by the state commission in lunacy; and such convicts as are now or may hereafter become

insane in the California state prisons who may be committed to the central state hospital in the manner now provided by the Penal Code of California for the commitment and confinement of insane convicts; and such other insane persons or near insane and mentally irresponsible persons who may be charged with or under conviction of a felony in any of the superior courts of any of the counties of the State of California who may be committed to the central state hospital by said court or by any judge thereof upon suspension of judgment or suspension of execution of judgment in accordance with the provisions of sections one thousand one hundred ninety-two and one thousand two hundred three of the Penal Code of California and such other persons who have been charged with and tried for unlawful homicide and who have been acquitted by the jury in said superior court of said unlawful homicide on the ground of insanity which said persons may, after such examination and trial as is now provided by law for the trial of insane persons, be committed by said superior court or a judge thereof directly to the central state hospital.

SECTION 11. Whenever any convict in the central state hospital under and by virtue of this act shall continue to be insane at the expiration of the term for which he was sentenced he may be retained therein until he has recovered or is otherwise legally discharged. The medical superintendent of the central state hospital may discharge and deliver any patient whose sentence has expired and who is still insane, but who in the opinion of the superintendent is safe to be at large, to his relatives or friends who are able and willing to comfortably maintain him without further public charge. Whenever any convict who by reason of his insanity shall have been retained beyond the date of the expiration of his sentence, shall recover, he may be discharged by the medical superintendent. Any convict in the central state hospital whose term of imprisonment has expired by commutation and who is not recovered, may, upon an order of the state commission in lunacy, be transferred to any state hospital for the insane.

SECTION 12. Whenever any convict who shall have been confined in the central state hospital as an insane person, shall have recovered before the expiration of his sentence and the medical superintendent thereof shall so certify in writing to the warden of the state prison from which such convict was received, such convict shall forthwith be transferred to said state prison by the medical superintendent of the central state hospital or to such state prison as the state board of prison directors may direct and thereupon the warden of such state prison shall receive such convict into such state prison and shall in all respects treat him as when originally sentenced to imprisonment. Any inmate of the central state hospital not a convict, held upon an order of a court or judge in a criminal proceeding, may be discharged from said central state hospital upon the medical superintendent's certificate of recovery, but before such discharge shall become effective the same must be made to and approved by such court or judge.

SECTION 13. All moneys heretofore appropriated by any and every act of the Legislature of California for said Folsom State Hospital which are unused and which have not been expended and particularly all moneys appropriated under the provisions of an act entitled "An act to provide for the erection at Folsom State Prison of a building for the accommodation of insane prisoners and making an appropriation therefor," approved March 26, 1903, and also all moneys heretofore appropriated by an act entitled chapter CCLVII, statutes

1905, and also all moneys unused and unexpended which were appropriated by chapter 467, statutes 1909, are hereby reappropriated and directed to be used and expended by said board of managers for and to carry out the purposes of this act and there is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of one hundred thousand dollars for the purposes of this act.

SECTION 14. The controller of the state is hereby authorized and directed to draw his warrant from time to time as such board of managers shall require in favor of said board of managers and upon their requisition for the same to carry out the provisions and purposes and objects of this act and the state treasurer is hereby directed to pay said warrants so authorized and ordered drawn. Nothing in this act shall deprive the state board of control, the state board of charities and corrections, the state commission in lunacy or the state civil service commission of any powers now vested in such bodies respectively, by law.

SECTION 15. All acts and parts of acts in conflict herewith are hereby repealed.

SECTION 16. This act shall take effect and be in force from and after its passage.

Re Pawn Brokers in California (Assembly Bill No. 1203).—An act to amend section three hundred thirty-nine of the Penal Code, relating to registers to be kept by pawnbrokers.

The people of the State of California do enact as follows:

SECTION 1. Section three hundred thirty-nine of the Penal Code is hereby amended to read as follows:

339. Every person who carries on the business of a pawnbroker, or who purchases gold bars, gold quartz or gold bullion or mineral containing gold, who fails at the time of the transaction to enter in a register kept by him for that purpose, in the English language, the date, duration, amount, and rate of interest of every loan made by him or an accurate description of the property pledged, or estimated value of the property purchased or the name, residence and thumbprints, on forms to be furnished by the police department, of the pledgor or seller, or to deliver to the pledgor or seller a written copy of such entry, or to keep an account in writing of all sales made by him, is guilty of a misdemeanor.

MISCELLANEOUS

National Conference of Social Work.—The next annual meeting of the National Conference of Social Work will be held in the City of Milwaukee from June 22 to 29. A program of especial value to all those interested in the subject of delinquents and correction has been prepared by Division II.

Subjects to be considered in the six meetings of the division follow:

“Social Hygiene.”

1. The Next Steps in Social Hygiene.
2. The Nature of the Interdependence of the Physician and the Social Worker in a Sound Social Hygiene Program.
3. Slides showing the Special Social Hygiene Work of the Philadelphia Municipal Court.

"Juvenile Delinquency." (Joint meeting with Division I—Children.)

1. Delinquency in Rural Communities.
2. The Public School as a Factor in the Prevention of Juvenile Delinquency.
3. Some Important Problems of Juvenile Delinquency.

"Detention Homes and Reformatories."

1. The Functions of the Detention House.
2. The Elimination of Girls' Reformatories.

"Judicial Procedure with Sex Offenders."

1. Child Marriages in Criminal and Juvenile Courts.
2. A Study of Court Methods of Dealing with Sex Delinquents.
3. Resources and Facilities of the Juvenile Court Law in Dealing with Sex Offenses.

"The Immediate Objectives in the Penological Program."

1. The Social Inadequacies of Present Criminal Procedure.
2. The Humanizing of the Prison.

"Prohibition and Delinquency."

It is anticipated that among others who will speak at these meetings will be: Dr. William A. Snow, Mrs. Helen T. Woolley, Dr. William Healy, Mrs. Mina Van Winkle, Judge A. H. Reid, Dr. George S. Kirchway, Professor J. L. Gillin, and Dr. Carrie Weaver Smith.

The conference will hold its meetings in the Auditorium, which is the most remarkable building of its kind in the United States. It has all the requirements necessary for the ideal convention hall, ample seating capacity, perfect appointments, accessibility and adaptability, absolute safety, complete accessories in the shape of wardrobes, toilets, telegraph and telephone, storage accommodations with ample provision for exhibition space, banquet and assembly rooms, and committee rooms. It occupies an entire square just north of the main thoroughfare of the city and is readily accessible from all railway stations and interurban lines and forms the nucleus for the projected Civic Center of the City of Milwaukee.

The main auditorium is constructed without a single pillar or post to obstruct the view. It is located on the ground floor, and all parts of the hall may be reached from the street without ascending the stairs. It has a flexible seating arrangement so that from 5,000 to 10,000 persons can be comfortably seated, and the acoustic properties are exceptionally good. All meetings of the conference, both general and divisional, will be held in this one building. In addition to the great General Assembly Hall, there are four other large halls seating from 900 to 1,200 persons each. This will be the first time in the history of the National Conference that all the meetings could be held under one roof without crowding or inconvenience.

Milwaukee in June is an ideal convention city, located as it is on the shore of the lake, with ample parking and beach facilities. No section of the city is without a public park within ten blocks of it. Over 1,200 acres, all connected by a boulevard system, constitute the park system of this great city of the central west. In addition to its parks, the city has forty public playgrounds.

There are daily boat lines with large steamships from Chicago, and from cross lake ports. It is possible for visitors to come to Milwaukee by all-lake line from Buffalo or by part-way lake travel from Chicago, Detroit, Grand

Haven and other ports. The Chicago North Shore Electric Road operates hourly trains from Evanston.

Hotel accommodations are ample as has been proven by the fact that Milwaukee has entertained so many large conventions in the past few years.

A large number of allied organizations will hold meetings in Milwaukee either immediately prior to or during the week of the National Conference meeting. Among these allied organizations will be: The Lutheran Inter-Mission Society; Social Service Dept. of the Protestant Episcopal Church; Public Health Nurses' Association; the National Urban League for Social Service Among Negroes; the Jewish Conference of Social Welfare; the Canadian Conference of Public Welfare; Foreign Community Workers; National Board of the Y. W. C. A.; the National Association for Community Organization; the American Association of Hospital Social Workers; National Federation of Day Nurseries; Interstate Conference on Illegitimacy; National Probation Association; National Conference on Education of Backward, Truant, and Delinquent Children; American Association for Organizing Family Social Work; National Children's Home Society; National Child Labor Committee, and National Travelers' Aid Society.

On the Administration of Justice in San Francisco (Preliminary Report to the California Branch of the Institute of Criminal Law and Criminology).—An examination of the San Francisco records for the fiscal year 1919-20 reveals the following: 3,377 persons were arrested for felony; 608 were held to answer; 2,769 dismissed. Of the 2,769 dismissed 532 were cases not prosecuted. Of the 608 persons held to answer about 100 eventually reached San Quentin. The largest number put on probation in any one year in San Francisco in felony cases is 283. It is therefore apparent that, if the very worst that can be said for probation and for parole is true—that 20 per cent relapse into crime—it accounts for but a small fraction of these arrested for felony who are turned loose on the community without punishment. It is evident from the figures that the fault lies elsewhere. Yet it is impossible to ascertain from statistics or figures just where the fault lies. A careful analysis of the probation and parole portion will be made in a few days, when the latest figures will be available and will be checked up.

Of the 3,377 arrested for felony in San Francisco in a year, over 2,500 are turned loose without probation, and for reasons other than lack of prosecution. Where does the responsibility lie? From a consideration of individual cases it seems that the fault is widely distributed. In the first place the prosecuting witnesses often take little or no interest in the case, and it is impossible to obtain a conviction.

(1) In many cases prosecuting witnesses use the criminal law, or attempt to do so, for the purpose of obtaining a settlement;

(2) It would seem probable that too many arrests are being made;

(3) If anyone interested in the prosecution desires to block it, it is very difficult to obtain a conviction; the police, for example, have certain favorite criminals whom for reasons of their own they desire to protect. In some cases the protection is a matter of friendship or pull;

(4) The district attorney's office must share the responsibility: (a) the office also has certain criminals whom it desires to protect; (b) on account of

pressure of business prosecutions are not carried on with diligence and expedition, and as a result of the delay a conviction becomes impossible;

(5) The police judges also have the power of dismissal which they exercise with too great liberality;

(6) The superior judges sometimes insist on probation where probation should not be granted. There are superior judges, for example, who refuse to send a young man to San Quentin, and thereby brand him as a felon. This does credit to the heart, but not to the head of the judge, for it is a matter of common notoriety that the most dangerous holdup thugs are young men from 18 to 25;

(7) The responsibility of the probation system, the parole system, and the indeterminate sentence law, and suggested improvements in these institutions will be considered later when the facts are ready;

(8) Occasionally there is a reversal in the appellate or supreme court, but this happens so seldom, and is usually for good cause, that it has but little influence in the administration of the criminal law. The same may be said of the pardoning power of the governor.

From what has been shown above it would seem that there should be some method whereby the whole process can be speeded up and the responsibility for failure placed definitely. Accordingly we recommend:

(1) That a system of uniform records be instituted by the police department. It should be possible with a little care to have records which would show every complaint made, the results of the investigation of the complaint, the arrests, the complete record of the person arrested, and the exact condition of the case at any moment. A system properly arranged would permit checking up every two or three months, just as is done in any good business house.

(2) Improvements in the police system: (a) enlargement of the functions of the state bureau of criminal identification. It appears that many crimes are committed by professional criminals who operate all over the country for years with impunity. Under our present system it is very difficult to apprehend them. The City of Fresno, for example, cannot spend the time, the money, and detail the men to follow the trail of these criminals to Stockton, Sacramento, Alameda, Bakersfield or other towns in which they may operate. The apprehension of professional criminals would be greatly facilitated by state police, who could run them down and stay with them until they were apprehended. The only opposition to state police seems to come from the fear that they would be used in labor disputes. It would be perfectly practicable to provide in California that the state police should not be militarized, and should not be used for labor or economic investigations; (b) higher standards of admission to police departments; (c) better equipment.

(3) Closer co-operation in the various departments responsible for the administration of the criminal law. At present defendants are arrested, their records are not ascertained, priors are not charged against them, and the fact that they are habitual criminals is not discovered until they reach San Quentin, and possibly in some cases not even then.

(4) A speeding up in the time from arrest to imprisonment: (a) the district attorney must be held responsible for active prosecution. The fault for this may lie with the district attorney or it may lie with the people in failing to provide a sufficient number of assistants. It should be possible to determine the number of full-time men necessary to carry on the work of the office. It

should then be a simple matter to provide that number of full-time men, or, if it is considered better to have a larger number of part-time men, provide for that number; (b) There is no question but that the police judges should give their entire time to the work; (c) The reasons for dismissal should appear in the record; (d) The whole matter would be greatly facilitated by a unified court, with a superintendent of justice. This, however, would require a constitutional amendment, and as part of a larger plan is hardly within the scope of this committee.

(5) Tentatively it is suggested that the entire plan of probation be abolished, that every effort be concentrated on a speedy trial after arrest. The defendant will be found either guilty or not guilty. If guilty he should be sent at once to San Quentin for the time imposed under the indeterminate sentence law, and his future disposition during that time should depend upon a state board.

(6) The administration of the probation and parole system should be placed in a board. This board should have representatives of the police departments, the attorney general's office, and the judge of the superior court. It should also have the services of a specially trained psychiatrist. The state prison itself should also be provided with full facilities for the medical, psychiatric and sociological examination of everyone sent there.

(7) It has also been recommended, in accordance with the plan of Dr. Adler, State Criminologist of Illinois, that all persons convicted of crime should thereafter be wards of the state. This may be too drastic at the present time, but it is suggested that in the case of persons convicted of crime a second time, the indeterminate sentence should be for life, and that thereafter when paroled it should be under the supervision of the parole board.

Nothing in the foregoing has been said as to the fundamental and underlying causes of crime and the various influences—economic, social, religious—which may influence the situation. Nothing has been said in regard to the problem of the jails, a question which demands serious consideration.

SUGGESTIONS FOR RECOMMENDATIONS

Meeting 7:30 to 11 P. M., December 16, 1920.

This body recommends that the City and County of San Francisco compile statistics showing:

- (a) Total number of cases—felony cases, that are brought before the police courts.
- (b) Total number of cases that are held to answer.
- (c) Total number convicted.
- (d) Total number who received probation.
- (e) Total number that failed on probation.
- (f) Total length of time served by the man convicted.
- (g) Total number of failures of those that were granted parole.

Suggestion 2

Recommend the classification of factors responsible for delinquency:

- (a) Mental.
- (b) Physical.
- (c) Social.

Suggestion 3

Recommends that record be kept of the number of cases held over from each individual police court to the superior court, and the number of convictions which resulted from said police court. For instance, the total number of convictions that resulted from cases held over to the superior court from say Court No. 1, or Court No. 2, or Court No. 3, or Court No. 4.

Suggestion 4

Recommends further information regarding disposition of felonies:

- (a) That 20 per cent in round numbers of the men arrested for felony are held to answer;
- (b) That one out of every six hold-overs are finally committed to the penitentiary;
- (c) The average number of persons who were granted probation in felony cases (to be secured from probation officer);
- (d) That the average number of persons violating probation is approximately fifty (50) annually.

Suggestion 5

From examinations made of delinquents in this city and in this state and in various other states, we may say that the criminal population is made up in part of

- (a) Feeble-minded25 per cent
- (b) Psychopathic20 "
- (c) Insane10 "
- (d) Physically incapacitated12 "

These figures suggest the need for intensive individual surveys of delinquents. It is apparent that the responsibility and disposition of delinquents should be determined after conviction.

Report of the Toledo Crime Survey.—This is the report of a survey conducted by the Commission on Publicity and Efficiency of Toledo, and was completed in January, 1921. Following are the conclusions of the report:

The survey has disclosed the fact that while there has been a general increase in the number of important crimes, the increase has not been in the nature of an avalanche and it is questionable whether it could be characterized as a "Crime Wave." The spectacular crimes such as robbery and safe-blowing have shown more increase, but the number of larcenies has increased less rapidly, and homicides show an actual decline.

It is interesting to note that in all the crimes the year 1918 showed a remarkably low record. This same thing was found true with respect to Detroit in a recent survey of crime made by the Detroit Bureau of Governmental Research. This was recognized as an abnormal year with all crimes decreased.

Detroit like Toledo showed an increase in the number of robberies, a considerably greater increase in fact than that for Toledo. Homicides in Detroit were also greater in number rather than showing a decline as was found true in Toledo.

The results of the survey would seem to indicate that there is no particular cause for hysteria or undue alarm over the crime situation. There is, however, need for bringing the efficiency of the police department to the highest point

obtainable, and for making the utmost possible use of the available force. This is particularly true in view of the developments since the first of the year, which would seem to indicate that this year may break previous records in complaints of major crimes.

There is no question that the department is undermanned for handling a city of Toledo's size in a situation that is just now abnormal. There is more need of adequate equipment, however, than of additional men. The important cause of the successful robberies that have occurred increasingly during recent weeks, has been the use of fast cars by the criminals. Toledo's police have no cars that can compete with them.

This Commission recommends therefore that rather than add 100 additional men to the permanent force, it would be less expensive and far more efficient to purchase six goods cars and supply 60 additional men to man them.

The Commission found that the men on the force are giving loyal and unstinted service in this emergency. Many of them are taking less time off than they are entitled to, and are putting in long hours in the effort to meet the present difficult situation. The least the city can do in return is to provide them with equipment without which they are working against tremendous odds. If there is any way of financing the project therefore, the Commission strongly urges that this equipment be provided.—THE COMMISSION OF PUBLICITY AND EFFICIENCY, J. D. Hurlbut, Pres., S. O. Richardson, Jr., Charles F. Weiler, Peter A. Bykowski, Wendell F. Johnson, Secy.

A Juvenile Court Judge on Causes of Juvenile Delinquency.—The report recently published by the Hon. Franklin Chase Hoyt, Presiding Justice of the Children's Court in the city, and which shows a reduction of the number of children brought before the courts in the several boroughs during the past year as compared with prior years, has occasioned some comment from the daily newspapers, especially in view of the claim that all over the country, and in New York City as well, that we are having what is known as a "Crime Wave." The report of Justice Hoyt, therefore, suggests thought and study. What constitutes juvenile delinquency, and what are the causes that bring so many children to the court?

To answer this, one has only to recall the various unsocial acts that are committed daily, to the annoyance and disadvantage of the inhabitants of the city. Property is stolen; property is maliciously destroyed; persons are injured through assaults, either with or without a weapon, many of them of the most serious character, sometimes producing death and many times of a lighter degree. The citizens are annoyed in many various ways through acts of rowdiness, and in fact all of the various incidents which would be crimes in adults, are causes that bring children under a charge of juvenile delinquency. In addition to this, the fact that the parent has lost control of the child, which has necessitated a charge of ungovernableness, or the fact that the child has run away from his home, and abandoned the house of his parents, are additional definitions of juvenile delinquency.

What applies to one part of the city is equally true of all of the other boroughs. Of course, in the Borough of Manhattan there are a great many more children to be considered and cases to be studied than in the other boroughs, but the general character of juvenile delinquency is the same.

Why the decline in number? Forty years ago, perhaps a little longer, the

child was treated practically as an adult. If he was arrested for committing any overt act, whether it involved moral turpitude or not, he was taken before the local police justice, and a criminal charge was made against him. If he was not permitted to go with his parents to his home, he was locked up in the common jail, together with other malefactors, and if finally it was necessary to apply some remedy, it was usually in the form of a penalty either by incarceration, a fine, or in some other way, in the same manner as with an adult.

Children's cases in the courts occasioned no particular remark, until about 1875, when the case of "Little Mary Ellen" was brought to the attention of the authorities, and so much ado was made of her unnecessary sufferings, and the final punishment of her tormentor that the public recognized a condition existing, and in the same way that the ordinary manufacturer would do when he discovered that a non-productive condition existed, the subject was studied.

One reform after another was tried, new phases of the subject were studied; social machinery was established; and the natural result of such work has been produced. From the most rudimentary almshouse and truant school to improved conditions, both as to housing and care, all along through the gamut of Societies for the Prevention of Cruelty to Children, of industrial schools, of special custodial institutions for the study and care of special children, to the Children's Courts, the Big Brother and Big Sister movements, and all of the other investigating and beneficent efforts, we have come to the present day, and it is therefore no surprising thing that we have this improved condition. Church work, especially for the children, by those of the same religious faith as the parents of the children; outside family interest, by those who were specially trained for the particular work they were expected to do; the helping hand now so freely offered by the business men of the community, and all of the other uplift efforts have brought about this result.

Has the last word been said on the subject? Have we reached a goal from which we can stand afar off and let things stay as they are, or is this only a resting place from which we can look back and see what has been accomplished, and forward to see what we can do next for the community at large, which, after all, means in the final analysis "for us ourselves."

No expenditure of money alone will do. No appointment of more public officers, or more machinery, or mechanical appliances will produce the result. That is, that result which we hope to attain by a still greater reduction in the number of unsocial children in the community.

During the late great war the wisdom of the mayor prompted him to select a committee of prominent interested citizens to study the problem, especially with the idea of ascertaining if there were to be an increase in juvenile crime, and if so, how to meet it when it came. After a number of well-attended meetings, in the Children's Court building in Manhattan, the committee decided to recommend certain projects which it was hoped would meet the situation. One was to put a limitation on young girls and young boys remaining in the public parks in the evening. Another one was, and this was presented in a proposed ordinance to the Board of Aldermen, and was passed by them, but wisely vetoed by the mayor, to provide that boys and girls under a certain age must not, under any circumstance, be on the public streets after a certain hour at night. Both of these were like a great many of the laws of the state at the present time. They were repressive measures, which affected all alike, but did not provide for an adequate carrying into effect of the provisions.

0

There are a large number of laws on the statute books of this state today which those who proposed them evidently had in mind the reformation of great throngs, but which have been forgotten and are not measures, for the reason that they are either impracticable or impossible of enforcement, or that those who were interested in their passage made no attempt to have them put into effect, or to have the public interested in their enforcement. Each one of these laws today is consequently a dead letter, and means nothing, although each one takes up so much of the pages of our statute law.

With regard to the children, however, and the laws relating to them, this has not been the case, because wisdom has prompted that only such statutes should be put in the law books as were first practical for enforcement; second, had the support of the public conscience, and third, had a wide awake, live and active private body of citizens behind it to see that their beneficent provisions were carried into effect.

You can make any law you please. Put it on the statute book with all the form of the authority of the great State of New York, and if it is impossible of enforcement, or if it has not the interests of the community behind it, it will be as inert and as dead as anything can be. Merchants, manufacturers, employers of all kinds want honest employees. Employees, those working in all kinds of public and private employment want honest associates. The community at large and the state want honest citizens.

It is an old saying that "no stream rises higher than the source," therefore, every man in business, every man in employment, our citizens at large, have got to be interested in the children.

We have made a very progressive step in their behalf already, the Boy Scouts, the Big Brother and Big Sister Associations of the various religious faiths, and the church itself, is doing yeoman service in behalf of the children, and the good results are being shown in reports such as those made by Justice Hoyt.

This work has got to be continued. Too long have we left real reform measures to professional reformers. It is the business man and the ordinary citizen in the community who has got to take hold, and put his shoulder to the wheel, if we are to attain the result we all hope for. I feel that that is our disposition now, and therefore I am glad of the opportunity of presenting what I feel to be the real kernel of the nut, and that is personal interest and personal service. If our churches are going to be successful, we must have that. If your business is to mean anything to you, you must have that, and if our community is going to be worth the more all the time to be living in, then we must have personal interest and personal service, and I believe we are going to get it.—ROBERT J. WILKIN, Judge of the Juvenile Court, Brooklyn, N. Y. Presented at Brooklyn Chamber of Commerce, N. Y.