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Notes and Abstracts

NOTES AND ABSTRACTS

Courses in Criminology and Mental Hygiene.—Dr. Ernest Bryant Hoag, Director, Dr. Rufus B. von KleinSmid, Judge Bertin A. Weyl, Dr. Edward Huntington Williams, Dr. Miriam Van Waters, Mr. W. H. Holland, Lecturers.

These two courses, Criminology and Mental Hygiene, while related in some respects, are in the main different in character and content.

Criminology.

The work in criminology will lay special emphasis on juvenile delinquency not only as it is actually encountered in the home, the school, and the court, but more particularly as it is related to conditions in which it originates. *Prevention* will be the keynote of the course. In this connection special studies will be made of the problems of feeble-mindedness, juvenile insanity, epilepsy, unstable personalities, and the general problems of mental complexes which result in such conditions as lying, truancy, stealing, arson, and various other forms of misbehavior. The problem of the pre-delinquent child, his recognition and correction will be particularly stressed. Los Angeles affords unusual opportunities for institutional visits and clinical studies in juvenile delinquencies. The consideration of adult crime will not be neglected. In this connection special lectures will be offered by President von KleinSmid of the University of Southern California, an authority on criminology in general. Lectures will also be given by Mr. W. H. Holland, Chief Probation Officer of the Los Angeles Juvenile Court, Dr. Miriam Van Waters, Referee of the Girls' Court, Judge Bertin Weyl, of the Superior Court, Juvenile and Psychopathic Divisions.

Mental Hygiene.

In this course the subject matter will be presented from two points of view—that of the public, and that of the individual. In this respect mental hygiene is comparable with physical hygiene with its special problems of public health and personal health. The great social problems of mental hygiene include those of pauperism, criminality, prostitution, feeble-mindedness, insanity, and the like. The personal problems include a study of the elements of heredity, environment, and the education of the individual, those elements which make or mar his personality. The principles of the new mental hygiene concern no one more than college students, teachers, and social workers, and it is to these that this course will be particularly directed.

Some of the main topics to be presented:

The problem of heredity.
The problem of environment.
Elements entering into personality.
Educational relations to mental hygiene.
The bases of various nervous disorders, including particularly those originating in various fears.
The causes, control and prevention of insanity.
A discussion of abnormal personalities not included in the above.

Dr. Edward Huntington Williams, a distinguished writer on mental hygiene and other medical subjects, will contribute several lectures in this course.

Digest of Report on Survey of the Cook County Jail (Chicago).—Recommendations for a new jail of the detention cottage type, inexpensive brick construction, three or four stories high, rather than the monumental structure of the ordinary jail type, built of stone and steel, with separate detention homes for women and for boys under twenty-one years of age, with important recommendations for restricting the jail population and reducing the period of detention, are the outstanding features of the jail survey made by the Chicago Community Trust and presented to President Ryan, of the Board of County Commissioners.

The Directors and Advisory Council of the Community Trust include:

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The survey, which was made on request of the county commissioners, has been directed by Dr. George W. Kirchwey, formerly Dean of the Columbia University Law School, with the assistance of several experts, among whom were Winthrop D. Lane of New York, who reported on the Physical and Living Conditions of the Jail; Mrs. Kenneth F. Rich, who made a comprehensive study of the Detention of the Woman Offender; Dr. R. B. Preble and Dr. Joseph L. Miller, who reported on Health and Medical Conditions in the Jail; a committee of the Chicago Dietetic Association which reported on Food Conditions; John L. Whitman, State Superintendent of Prisons, on the Disposal of the Surplus Population of the County Jail. There are reports, also, on Jail Reports and Records and the results of a Character Study of the Jail Population and of the Bail Bond System by Arthur L. Beeley of Chicago University. The complete report consists of more than 300 typewritten pages.

The survey was thus a co-operative enterprise carried on by a considerable group of workers, aided by an advisory committee of experts, with Prof. Robert H. Gault of Northwestern University, chairman, and by numerous local organizations.

The keynote of Dean Kirchwey's report is struck in the words: "The Cook County Jail is not a place of punishment." He goes on as follows: "It is a place of detention for persons, innocent and guilty, who are under suspicion of having committed criminal offenses and who are unable to secure bail. Whatever the practice may be, this, at least, is the theory." "This," he declares, "is the significant fact which furnishes the clue to any study of the jail problem."

The report then goes on to give the history of the jail and refers to the conditions of filth, disease and overcrowding which have made it a place of

punishment, worse than any prison, for the 10,642 men and women, innocent and guilty alike, who were crowded into its cells during the year 1921. It shows that 82 of these were children from 13 to 16 years of age and from 50 to 72 per cent reported that they had never been in trouble before, and that over 2,000 were boys under 21. It further shows that of the total number so held, something like 36 per cent, nearly 4,000 in all, were ultimately found innocent, after having been confined three, four, six, nine months and longer.

The danger of moral contamination is explained in a chapter on the morals of the jail population, which sets forth an indescribable condition of moral filthiness to which the youngest and most decent of the inmates are subjected.

The report insists that far too many men and boys are committed to the jail, many of them on insufficient evidence of wrong-doing and many others of good character and reputation who might more wisely be released on their personal bonds. For this latter class the report recommends probation while awaiting trial, especially for such as are likely to be released on probation if they should be tried and convicted.

For this excessive intake of the jail the report blames the police for indiscriminate arrests and the Municipal Court for holding men for trial on insufficient evidence. Statistics are given showing that of 100 persons held for trial on felony charges in Cook County only 25 to 29 are found guilty, 71 to 75 being discharged, while in England and even in Canada these figures are almost exactly reversed, 79 per cent being convicted and 21 acquitted or otherwise discharged. The report concedes that this difference may be due in part to the superior efficiency of the English and Canadian trial procedure, but believes that it is principally due to the superior respect for the legal rights of the accused, who in those countries are rarely held for trial on insufficient evidence.

But the report finds the greatest evil of the jail situation to lie in what it calls "The clogged outlet," the unnecessary detention of the accused for many months before being brought to trial. It is this, more than anything else, that causes the frightful overcrowding of the jail with all its attendant evils. The cause of this is the indifference of the Criminal Court to the fate to which the inmates of the jail are condemned and to the lack of co-operation between the court and the state's attorney which results in countless delays. Dean Kirchwey comes out strongly for the unified court for Cook County which is proposed in the new constitution to be submitted to the people in the fall and cites the success attained by the unified Recorder's Court of Detroit, which in two years more than half emptied the jail of that city by reducing the period of detention from a month or two (the average time in the Cook County Jail is from two to four months) to a few days or weeks, 66 per cent of the felony cases being now disposed of within seven days after arraignment and 84 per cent within 28 days. In March 31, of this year, there were only seven prisoners who had been in jail over 25 days. Dean Kirchwey insists that what Detroit could do, Chicago can do, and he points out that the courts of Cook County with their flexible organization and their ability, of their own motion, to increase the number of criminal court judges to any number that may be required, can, if they will, do a similar work of "jail delivery" here in the same space of time.

It is this question of the population of the jail and the obvious possibility of reducing it to one-half or less, perhaps much less, that the report regards as the central fact in the jail problem in this county on which the size and character of the new jail must depend. For this reason it suggests an expectant attitude and a tentative solution of the problem. We don't know what the size of the jail population will be 50 to 100 years from now nor how Chicago of the future will want to confine and treat those held for trial. Therefore, it objects to the erection of an expensive, monumental jail of the usual type, but recommends, instead, the policy of erecting one or more groups of buildings of a less durable and costly character, on an area of eight or ten acres of land in the neighborhood of the Criminal Court building. It believes that "it is better to spend money for land than for buildings." The buildings erected are to be of the cottage type and adapted to the purpose of keeping apart the different classes of prisoners, the young from the old, the first from the older and more hardened offenders. "The word 'jail,' with all its infamous associations" is to be "banished from the vocabulary of this community," and the institution is to be known as "The Central House of Detention."

In view of the time that must elapse before the new project can be carried into effect, it is further proposed that the population be reduced (1) by transferring the prisoners serving sentence in the jail, as far as possible, to the House of Correction; (2) by transferring the women to the present Juvenile Detention Home, which is to become vacant in the fall, and (3) by transferring some 200 of the boys and younger inmates to the John Worthy School, which has long been unoccupied. These measures, it is believed, will so reduce the population of the jail as to make it possible to carry out many improvements which are recommended in the physical and living conditions of the old structure.

Scheme for Extending the Henry Fingerprint Classification.—The usual Henry classification is not to be altered, but simply added to for the proper and convenient splitting up of certain large groups that become cumbersome in the larger collections. For this purpose after the little finger count in the classification is set down a fraction consisting of five digits, representing the fingers of the right hand for the numerator and the fingers of the left hand for the denominator, likewise consisting of five digits.

Arches.

Until the collection numbers about 500,000 the application of this extension will probably not be necessary in other than the all-arch group, i. e., $\frac{1\ aA3a,}{1\ aA3a,}$ which, quoting Renoe, is about 1,111 in a collection of 500,000.

Description.

1. Plain, without inclination.
2. Plain, with inclination to the right.
3. Plain, with inclination to the left.
4. Dotted.
5. Approximating the loop.
6. Approximating the tented arch.
7. Alternating ridges.
8. Irregular.

Thus, after our regular Henry classification, $\frac{1\ aA3a,}{1\ aA3a,}$ we may have a fraction varying all the way from $\frac{11111}{11111}$ to $\frac{88888}{88888}$ or a number of divisions or groups equal to eight raised to the tenth power.

Loops.

In addition to the regular Henry classification for the all-loop series, the ring finger count is utilized for a third factor in the sub-secondary. If the count is 13 or less it is designated Inner; if 14 or more it is Outer. In addition the count of the left little finger classification may be used. Thus in an all ulnar set, we would have $\frac{1\ U\ 1111\ 10,}{1\ U\ 1111\ 10,}$ in addition to which we would have the present scheme a fraction, as explained under arches.

Description.

1. Single rod core.
2. Double rod core.
3. Multiple rod core.
4. Eyed rods.
5. Staple.
6. Double staple.
7. Forks and spurs.
8. Enclosures.
9. Intricate cores.

Whorls.

In addition to the regular Henry classification for the all-whorl series, the ring finger tracing is added to the sub-secondary and both little fingers are counted, the right little from the left hand delta and the left little from the right hand delta, which amounts to the same thing as considering the whorl as an ulnar and making the count from the proper delta. This tracing if the ring fingers has been utilized for some time in the west and is mentioned here for that reason. However, it is not absolutely necessary as the present scheme of the final fraction we believe ample to take care of any collection.

Description.

1. Ovoid pattern with closed origin.
2. Ovoid pattern with open origin.
3. Circular pattern with closed origin.
4. Circular pattern with open origin.
5. S type (Henry twin loops or lateral pockets) ovoid shaped with two cores and two envelopes.
6. S type, ovoid shape with two cores and common envelope.
7. S type, other than ovoid with two cores and two envelopes.
8. S type, other than ovoid with two cores and common envelope.

This scheme need not necessarily be limited to the all-arch, all-loop or all-whorl series, but may be adapted to mixed series when necessary. The number of combinations possible under this scheme of final fraction is equal

to the number of factors utilized raised to the tenth power, which should be ample for a collection of millions.

The patterns and cores here utilized are taken from the charts of the Larson Single Fingerprint System.—August Vollmer, Berkeley, Cal.

The Larson Single Fingerprint System.—INTRODUCTION—The purpose of this work is to tie the man on the job to the man in the files, if present, regardless of how much of the pattern obtained in the latent. The present work treats each pattern individually in the strictest sense of the word. Not only are patterns filed according to type, but characteristic features of a pattern are so classified that one portion may be searched independent of the other.

Wherever possible rules of procedure as outlined in existing classifications will be followed and the same definitions used. In general the pattern to be identified is classified according to the gross configuration of characteristic formations. This relegates the pattern to its type. There are then several subdivisions according to particular characteristics which tend to differentiate patterns of the same type from each other. These are primary divisions. Next in importance, the pattern is classified according to the general slope of the pattern as a whole. Thus a pattern may slope to the right, the left, or have no inclination whatsoever. Wherever there is a core present further subdivisions are possible. In patterns where there is a core formation still further subdivisions are secured by classifying the ridge surrounding the core. Further subdivisions are secured by the classification of the delta and the first ridge in front of the delta.

TYPES

The types used in this work are similar to those used in the Henry System, namely: *Arches, Loops S Type* or the Henry *Twin Loop* and *Lateral Pocket, Whorls, Central Pockets* and *Combinations* or *Accidentals.*

ARCHES

In patterns of the arch type the ridges run across the pattern and there is usually no delta, but if there is a delta no ridge must intervene between the core and the delta, unless this ridge be part of the delta. There must not be a single recurving ridge. There must be no ridge count. Of all the patterns the arch, because of its often extreme simplicity, gives the most trouble in the attempt to devise a satisfactory and yet simple system of classification. The problem is, given the simplest form of arch, to classify it independently of all other arches. The only safe method is to deal with the individual ridges and classify according to their particular characteristics. In the identification of the simple arch by ridge characteristics, obviously the problem is to find the starting point. It was finally decided to use the first bifurcation at the bottom of the print. If two investigators should vary as to this point they will come together by the ridge sequence, which is ultimately the same.

A. Primary classification.
   - I. Natural arch. The simplest form of arch.
   - II. Dotted arch. Many dots and very short ridges.

III. Tented arch. Defined according to the Henry System.

IV. Arch approximating loops. In this type there is a core present, an apparent delta or a delta fused with the core.

V. Transitional arch. Intermediate between the natural and the tented arch.

VI. Staircase arch. In this form of pattern there is a characteristic apeparance due to a series of long and short ridges.

VII. Irregular arch. This group is a combination group.

B. Subclassification.

I. Inclination.
1. Non-inclination.
2. Inclination to the right.
3. Inclinaton to the left.

II. According to core, if present. In natural arches there is no core, but there may be one in the tented arches, arches which approximate the central pockets there are the following divisions.
1. Junctions.
2. Spiral-like origin.
3. One rod.
4. Dots.
5. One-eyed rod.
6. Enclosure.
7. Compound form, which consists of a dot in the apparent delta and a rod for the core.
8. Enclosure combined with a staple.
9. Archipelago, which consists of an irregular formation such as might result from a scar.
10. Forks or bifurcations.
11. Two forks with inclination in the opposite directions.
12. Enclosures, staple and dot.
13. Tented ridges.
14. More than one rod.

In the case of the tented arches the core may consist of one intricate series of ridges. This net work can be handled by a series of simple formulas.

Forks.—F. R.-L.; that is, the fork opens to the right or left.

Junctions.—J. R.-T.-L. Thus the function may be at the right, top or left side. These may be plain or parted.

III. According to the ridge characteristics.

Wherever there is a core present the first ridge above the core forms the starting point for the enumeration of the ridges. If no core is present the first fork is used. If ever necessary a subsidiary set of ridges have been devised. Here there are several hundred divisions, but the chief point of differentiation from the first set is that there is an exact orientation. That is, if there happens to be five forks and four enclosures it is possible to know where each characteristic is in respect to the other. The chief objection to this set is that it is

not as practical for use with latents. Therefore the former set is used in the bureau.

All types of ridge characteristics may be resolved into a few groups. To label a ridge it is essential that its entire course be followed, unless otherwise indicated. The shape assumed will depend upon the pattern, but the character remains the same. The main divisions are as follows:

1. Simple forks.
    a. Right-angled bifurcations, single.
    b. Simple forks, single.
    c. Two bifurcations, the two forks being on the same side.
    d. Two bifurcations, the two forks being on opposite sides.
2. Composites, consisting of junctions, closed formations, and spur-like configurations.
    a. Consists of bifurcations, enclosures and ridges. Here is about as complex an arrangement as may exist, for there may be forks united with enclosures and in addition there may be single or complex ridge systems intervening the branches of the bifurcations. There are three subdivisions and these comprise from 1 to 30 divisions in each.
        i. Mifurcations 1 to 30.
        ii. Enclosures 1 to 30.
        iii. Ridges 1 to 30.
            Recurving ridges.
            Combinations of recurving ridges with enclosures.
            Combinations of recurving ridges with forks, enclosures and ridges.
            Combinations of enclosures and bifurcations.
            Combinations of bifurcations, alone, more than two.
            Bifurcations with included ridges.
3. All natural ridges.
4. Interrupted ridges.
5. Dots.
6. Enclosures.
7. Recurving ridges.
8. Archipelago, such as left by a scar.
9. Adhering ridges.
10. Abrupt or fractional ridges.
11. Combination of two recurving ridges which envelope the pattern.

Loops

Loops as to type are defined according to Henry; modified as follows:

When a ridge passing between the core and the detal is part of a simple bifurcation which forms both the core and the delta the pattern is classified as an arch.

A. Primary classification.
    I. Natural loop.

II. Indented loop.
III. Aproximating the S type.
IV. Approximating the central pocket.
V. Approximating the arch.
VI. Approximating the tented arch.
VII. Irregular loop.
VIII. Adhering ridges.
IX. Converging ridges.
X. Bifurcated or the invaded loop.

B. Subclassification.

I. Inclination of the pattern.
1. Inclination to the right.
2. Inclination to the left.

II. Core. There are approximately 1,000 cores. Every main division is left open so that new ones may be added, if found.

The subdivisions are as follows:

1. Combinations.
2. Composite cores.
3. Enclosures.
4. Junctions.
5. Rods.
6. Double rods.
7. Eyed rods.
8. Multiple rods.
9. Forks.
10. Forks and rods.
11. Staples.
12. Double staples.
13. Double staples and rods.
14. Eyede staples.
15. Forked staples.
16. Triple staples.

The foregoing are filed alphabetically.

III. Envelope. Every ridge characteristic given off the first ridge about the core is identified and labeled. The main divisions are as follows:

1. Plain envelopes or staples.
2. Envelopes with one or more bifurcations.
   a. Eyed envelopes.
   b. Envelopes with both bifurcations and enclosures.
3. Junction or connection between two staples.
   a. One or more enclosure on inside staple.
   b. One or more forks on inside staple.
   c. Both enclosures and forks on inside staple.
4. Horseshoe enclosure which extends either partly or wholly over the top.
   a. With enclosures.

b. With bifurcations.
c. With both enclosures and bifurcations.

5. Recurving bifurcation.
   a. With enclosures.
   b. With bifurcations.
   c. With both enclosures and bifurcations.
6. Two recurving ridges.

IV. Delta. The delta defined as in the Henry System and further classified as follows:

1. Open form.
   a. Combination of forks and enclosures.
   b. Dot being the closure.
   c. Enclosure on one of the diverging ridges.
   d. Fork on one of the diverging ridges.
   e. Plain.
   f. Rod being the closure.
2. Closed form.
   a. Combination of forks and enclosures.
   b. Enclosure on one of the diverging ridges.
   c. Fork on one of the diverging ridges.
   d. Plain.

RULE.—When there are dots or rods forming the closure the number of each is indicated. In addition to incicating the form of closure the two diverging ridges which constitute the type lines are classified. These type lines are followed from the origin as far as 1 line drawn through the center of the core.

When forks or enclosures are given from the type lines the lines are classified as R, L, M, meaning that the forks are on the right or left side and go in that direction, or that the two diverging lines come together as in the closed form. Here the letter M (meeting) is read, and this is followed by R or L (fork on the left side). If one type line is plain and the other has a fork or enclosure the letters T and L are prefixed to the respective sides. Only the forks and enclosures which come directly from the type lines are considered. O. D. R. P. L. F. means that the delta is of open formation with a dot for the closure. The right type line is plain, while the left has a fork.

V. First ridge in front of the delta. This is the first ridge directly in front of the delta or point of divergence of the type lines. It is classified according to the divisions of ridge characteristics, previously enumerated. If the course of the ridge is long its course is never followed further than the point of recurve at the top. It may be considered limited by a line drawn through the center of the core and is never followed beyond this point of recurve.

S TYPE

The Henry twinned loop and lateral pocket fall into this division. This pattern is treated as though composed of two distinct loops. There must be two deltas and two sets of recurving, not converging, ridges present.

A. Primary classification.
   I. The patterns here have an ovoid configuration. There are two distinct cores and two separate envelopes.
   II. Same as I, only there it but one envelope, which is common to both cores.
   III. All patterns not in the first two classes, which have two envelopes.
   IV. All patterns not in the other classes which have a common envelope.

B. Subclassification.
   I. Inclination.
      1. None.
      2. To the right.
      3. To the left.
   II. According to the inclination of each core. From here on the formula for the loop which is the uppermost is placed in the numerator of a fraction and that for the lower loop in the denominator.
   III. According to the core of each loop. The formula for the upper loop is placed in the numerator and that for the lower one in the denominator. The ridges are only followed to the place of recurving. The same cores are used here as in the core of loops.
   IV. According to envelope of each loop. If there are two envelopes the formula for the upper loop is placed in the numerator and that of the lower one in the denominator. The same envelopes are used as in loops.
   V. According to the type of delta. The formula for the right hand delta is placed in the numerator and that for the left delta in the denominator.
   VI. According to the first ridge in front of the delta. That in front of the right hand delta is placed in the numerator and that in front of the left delta in the denominator.
   VII. Acording to the exist of the ridges in reference to the deltas. Here there are 30 subdivisions.
   VIII. According to the ridge count. The count for the upper loops is placed in the numerator and that for the lower loop in the denominator. The envelopes are excluded from the count.

Whorls

In patterns of the whorl type there are two deltas and the ridges made at least more than two complete circuits.

A. Primary divisions.
   I. Circular enclosures. In this division there is one or more enclosures in the center of the pattern. The contour is circular.
   II. Ovoid enclosures. Here there is one or more enclosures, but the pattern as a whole has an ovoid configuration.

III. Spiral or open origin. The pattern as a whole has a circular contour.

IV. Spiral open origin. The pattern as a whole has a distinct ovoidal or elliptical appearance.

V. Adhering or bifurcated ridge type. It is characterized by a series of ridges which are joined to each other either by a series of ridges of the junctional or recurving type or many ridges seem to adhere to one or both sides of the pattern.

B. Subclassifications.

I. Inclination.

1. None.
2. To the right.
3. To the left.

II. Cores.

1. Simple core formation within a circle.
2. Same as number one, except that some of the central core is united to the enveloping enclosure.
3. Composite enclosures.
4. Combinations of two enclosures with minutiæ.
5. Combinations of three enclosures with minutiæ.
6. Combinations of four enclosures with minutiæ.
7. Combinations of more than four enclosures with minutiæ.
8. Junctional enclosure with adhering ridge form, without enclosure.
9. Junctional adhering ridge form, without enclosure.
10. Spirallar origin.
11. Open cores cut off from the pattern.
12. Transitional groups, intermediate between the whorl and S types. There are over five hundred of these cores, but each division is left open so that new ones may be added.

III. Envelopes of whorls.

1. Spurs and bifurcations from a central enclosure.
2. Recurving ridge united with the central enclosure.
3. Combinations of recurving ridges with spurs, bifurcations and the central enclosure.
4. Adhering ridges combined with the central enclosure.
5. Simple spirals.
6. Spirals with bifurcations.
7. Spirallar recurving ridges.
8. Spirallar recurving ridge with bifurcations.
9. Spirallar formation with adhering ridges.
10. Junctional and combinations.

IV. According to ridge tracing. Here there are three divisions as in the Henry system. These are the Inner, Meeting and Outer whorls. These divisions depend upon whether the lower limb of the left delta meets, goes on the inner or outer side of the right delta. Use definition given by Henry.

V. According to the type of delta. The same formula is used as before. Here there is this difference, however, the formula for the right delta is placed in the numerator and that for the left in the denominator.

VI. According to the first ridge in front of the delta. The formula for the ridge in front of the right delta is placed in the numerator and that for the left in the denominator of the fraction.

The Combination Group

This group comprises all of those forms not covered in the other types. The chief combinations are:

I. Arch and loop.
II. Arch and whorl.
III. Arch and central pocket.
IV. Loop and whorl.
V. Loop and central pocket.
VI. More than two loops.
VII. Any other combination.

The above are primary divisions and the subdivisions depend upon the specific forms. As these are compound forms the formulas are expressed as fractions.

The order of sequence is arch, loop, whorl, S type and central pocket.

Thus in classifying the arch and loop combination group the classification of the arch is placed in the numerator and that of the loop in the denominator.

Central Pockets

This type represents a group which is intermediate between the loop on one hand and the whorls on the other. It may possess the characteristics of both the whorl and the loop. It is defined as in the Henry System with this important difference. There may be at least two complete circuits of ridges forming the core and the pattern is still a central pocket. However, if there are more than two the pattern is a whorl.

A. Primary classes.
   I. Open formation with adhering ridges.
   II. Open formation without adhering ridges.
   III. Closed formation with adhering ridges.
   IV. Closed formation without adhering ridges.

B. Subclassification.
   I. Inclination.
      1. To the right.
      2. To the left.
   II. Core formations, same as in whorls.
   III. Envelope formation, same as in whorls.
   IV. Delta, only the external, same as in loops.
   V. First ridge in front of the delta, or external, same as in loops.

—John A. Larson, Police Dept., Berkeley, Calif.

On the Right of the Prosecutor to Comment on Defendant's Refusal to Take the Stand.—Ohio has, by its recent amendment, taken a very great step forward, at least in the minds of those who favor that kind of step. For four years just preceding the time when the amendment became effective, and just following its becoming effective, I was in the trial of criminal cases almost daily, having been in the prosecuting attorney's office in Franklin County, in the City of Columbus. Personally, I want to be understood as being in favor of the position which is now the position of Ohio, by reason of the adoption of the amendment, which gives to the prosecuting attorney the right to comment on the failure of the defendant to take the stand. I can appreciate—as you all doubtless do, because many of you have been prosecutors in your time, or at least closely associated with that line of criminal law—there was a reason for the failure to comment upon a defendant taking the stand in his own behalf. There was a time when the defendant, the accused, was not permitted to take the stand to testify at all in his own behalf, and, of course, being deprived of that right, in other words, having no discretion to exercise in the matter, he could not be and properly should not be rebuked for failing to do something which the law did not permit him to do. The Constitution of the State of Ohio preserves every right of the defendant in a criminal case. It aims at the preservation of the rights of the state, and the speaker who has just preceded me has sounded a note in his remarks which I think is quite pertinent. The mere fact that the defendant may take the stand in his case, is not to be presumed in the slightest, in my opinion, as an act by which he can be said to be called upon as a witness against himself. The state, through the prosecuting attorney, presents its side of the case. There is a mistaken judgment, many times, on the part of the people unacquainted with the intentions or with the acts of the prosecuting attorney, leading to the belief that the primary purpose of the prosecuting attorney is to convict. There may be some prosecuting attorneys who have that state of mind, and whose pole star, perhaps, is conviction. I know that was not the motive that actuated me when I was in that class of work. Nor do I believe that any one of the four or five men who were directly associated with me in that work ever looked at their duty in that light. In fact, there have been numerous cases, more cases than I can tell you, or that I can recall, wherein it was a great pleasure to be able to go into court, as the representative of the State of Ohio to see that the facts were brought out in the presence of the jury, and perhaps even to state that the prosecution had no case. So that the trial of an accused by the state in the hands of the prosecuting attorney should not be assumed to be for the one purpose of convicting the man, but rather for the purpose of bringing out all of the facts pertinent to the question, which has been placed before the prosecuting attorney, by reason of the act of the grand jury. Of course, there are different rules that govern the presentation of an accused for trial. I am not familiar with all those rules, and I do not pretend to be, but in this state, of course, a man can't be tried on a felony charge without having been indicted by a grand jury. The indictment, in itself, of course, in principle, doesn't in the slightest degree rob the accused of the presumption of innocence. I have often wondered, however, if this is understood by jurors

generally. Perhaps some of you have thought of the same thing. You know, in impanelling a jury, the question is asked, "Does the fact that this man stands here charged with this crime, and having been indicted by the grand jury, in any respect, in your opinion, disturb the presumption of innocence in his favor?" Almost every time a juryman will answer that it does not. I know of instances, and I feel that there are many other instances wherein the very jurymen who answered that question in that way were in the habit of asking themselves, "If this fellow isn't guilty, why is he here? Why did the grand jury send him here?" Those things in the mind of a prosecuting attorney, who has the pursuit of righteousness in his heart, always cause him to be very careful lest he should do a real harm to a defendant. I remember one case particularly, in which I believe I suffered more, far more than the defendant. The evidence was overwhelming, apparently, but it was circumstantial in character in some respects, and direct in others, but the source of the direct evidence, while we couldn't detect flaws in it, made us suspicious; and it was only at the close of the case that we felt that justice was being done by the conviction of the man—and it entailed a sentence of life imprisonment. It was an incest case, one of those cases in which a young girl was involved, and we were most anxious about it. The defendant did not take the stand; he could have explained the whole situation, and the fact that we were certain that his conviction was correct, was brought about by reason of his being kept off the stand, and by the attempt on the part of his attorney to introduce a little Bible, which, upon examination by an expert in handwriting, disclosed the fact that certain dates had been changed, and the memorandum which they had relied upon in connection with a partial alibi defense, disclosed the fact that we were being imposed upon. We were convinced, however, as to his guilt later on, but everyone worked with one thought in mind, and that was to prevent the miscarriage of justice, and we never believed that the jury was convinced of his guilt. Now, on the question of the defendant taking the stand, one of the strongest arguments that is urged against the right of the prosecutor to comment on the failure of the defendant to take the stand, rises out of this fact: that many people, innocent or guilty, when called to the witness stand are timid, and do not present the best side of their character, or the best side of their claim in the presence of the judge and jury during the trial of the case. But, I have never found that to be true. Never yet have I found a defendant on the stand who was so timid that he didn't get better consideration from the jury by reason of that very fact. I think one of the most flagrant miscarriages of justice in the County of Franklin occurred in connection with a law suit that I am not going to designate now by name or number, by reason of the fact that the defendant died a horrible death a short time ago, and I don't care to recall anything personal about the matter. But he took the stand; he was very, very timid, or pretended to be, and it developed in the course of the evidence in the case, that one of the officials who dealt with him at the time he was apprehended and first accused of the crime, used some very harsh methods. In our opinion they were fully justified—everything that was done was fully justified, because it was a heinous crime, and yet the man was acquitted—acquitted in the face of overwhelming evidence,

and simply on the ground that he was not able to take care of himself. So that, I can't see the argument that the timidity of the witness is going to affect his case in any way adversely, or rather that his failure to present his case on account of his timidity is going to be an argument against the prosecutor being permitted to comment on his failure to take the stand—if he doesn't take it. Because when he does take the stand, in nearly every instance he benefits by it. Of course it is a well known fact that certain matters that probably could not be brought out in the trial, in any other way, are possible of disclosure by reason of the defendant taking the stand.

But why should that not be true? Why should courts exist, and why should there be criminal prosecutions? Is it for the purpose of protecting criminals? Is it for the purpose of handicapping the state in its efforts to bring about a full disclosure of all the facts attendant upon a crime committed, or alleged to have been committed by the accused, who has had his day before a grand jury? In this state 12 out of 15 men must present a true bill, otherwise the defendant cannot be called into court. There are many provisions throughout the country that make it very, very difficult for prosecuting attorneys to conduct cases for the best interests of the state. The agitation in this state that led up to the adoption of this constitutional amendment, in the Constitutional Convention of 1912, covered a long period of time. That Ohio enactment is expressed in these words: "No person shall be compelled, in any criminal case, to be a witness against himself, but his failure to testify may be considered by the court and jury, and the same may be made the subject of comment by counsel." I don't believe there ever was a criminal case tried anywhere, where there was any doubt as to the facts, and the defendant failed to take the stand, that the jury itself didn't immediately question the act of the defendant. So that, comment by counsel, by the prosecutor, I think, is of little moment. Sometimes, of course, a prosecutor, who is, perhaps, a little over-zealous, may paint a glowing picture by reason of the defendant remaining off the stand, but I think from my experience that the ordinary jury that one finds in a criminal case, is able by viewing the defendant, and connecting the facts and observation and the demeanor of the defendant all through the case, to pass upon the motive of the defendant in failing to come forward and throw what light he could on the question of any disputed fact. I would say that experience in Ohio, since the adoption of the amendment, has fully justified its adoption, and if there is any widespread fear of it, or dissatisfaction with it, it has not come to my notice. Now, of course, a defendant comes into court clothed with the presumption of innocence; he comes into court to answer a charge, and he must stand in that court as having answered that charge. He must plead to the charge, and if he doesn't plead to the charge and stands mute, a plea will be entered for him. In other words, he stands in court answering the charge as not guilty; otherwise he is not tried until preliminary questions may be settled and determined.

We have had several cases in the Supreme Court. In fact, we had one case that turned pretty much upon that question, but the question was not passed upon that ground; the conviction was sustained on the ground that substantial justice had been done, and the court didn't go into the

question of comment by the prosecutor. I have never seen a case where it has made much difference. To my notion, the only case that offers, perhaps, a situation where more stress might be placed upon the failure of the defendant to take the stand, is an alibi case, where there is dispute as to where a man was, and if there is anybody in the world that knows where he was, it is the man himself, and if he doesn't tell, God knows I don't know what rights he should have or expect from people who are trying him and who are sworn to pass upon the facts. If the living man there before them refuses to tell them when he knows, and if there is a question raised that casts the guilt upon him. I am with the jury every time that says that his failure to enlighten them on that subject should lead to his condemnation and conviction.

I think it has in a great many cases caused defendants to take the stand, where otherwise they would not have done so. That applies more particularly, perhaps, to defendants who have a criminal record, who have been in the penitentiary, and for that reason are averse to taking the stand. In my experience I have found that in 90 per cent of the cases where the defendant did not take the stand, it was because he had a criminal record, and the worse the criminal record, the more inclined he would be to keep away from all inquiry.

If it be argued that the case of a defendant might be damaged by taking the stand, by reason of the fact that through his taking the stand it was disclosed that forty or fifty years before he had been convicted of a crime, and in the interval nothing had happened about which society could complain, I would be prepared to take the other end of the argument that that would be a positive benefit to the defendant rather than a detriment, and that any kind of a lawyer—anyone who was gifted at all in defending cases, could acquit him on that fact alone. It seems to me with the handicap of forty years back and the pure life in the interval between, that unless there was positive, absolute proof, aside now from the disclosure which you say is so important, that he would be acquitted by nine juries out of ten. I think it would be a benefit rather than a detriment.—John G. Price, Attorney General, Columbus, Ohio.

It has been pointed out in discussions of this subject that the only case in which an injustice might be done would be an alibi case. Let us assume for a moment a case of murder, in which the plea is self-defense. The defendant has been convicted within recent years of assault; a number of witnesses are produced by the defendant, who establishes his self-defense beyond any question. Astute, and perhaps not even astute, counsel says, I will not confuse this issue by putting my defendant on the stand, because then the jury will know that he has already been convicted of assault. The issue is, did this man commit unjustifiable homicide? Witnesses are produced for the prosecution and for the defendant, bearing upon that issue. Why should the defendant there jeopardize his liberty, or perhaps his life, by confusing the issue, as it will be confused by the evidence of previous conviction? In a case of that kind comment by the district attorney would lead to positive injustice and wouldn't help to ascertain the real truth. Furthermore, the comment which the

district attorney may make is necessarily speculative. If a man is not on the stand because his attorney has kept him off on account of previous conviction, the district attorney may not assert that that is the fact, because he is restricted in other directions. Therefore, the district attorney, having usually the record in his hand, must necessarily comment indirectly upon something—giving the jury a hint, but without giving them the fact—so that the jury go away speculating about a fact of which they have no proof. How about the case of an apparently inadequate prosecution being started, and a lawyer saying to his client, "I am going to test this case and see whether there is enough evidence here to convict you. Stay off the stand!" Under our system of jurisprudence, the man is allowed to do that, and test that question. Why should not that particular thing be allowed to continue, and if it is not to be allowed to continue, you practically compel a man to go on the stand and confess his guilt in a case of that sort. This is in no sense that his guilt should not be tested, but if we have no system of testing the state's case, then we should not follow fragmentary speculative comment upon the man's failure to take the stand; and as a last argument against the thing, it has always seemed to me that despite instructions to the contrary, juries will unquestionably give weight to the silence that everybody, in popular language says, is "confession"—the adage "silence is consent." We have that adage in common life, and jurors undoubtedly give weight to it. Under our present system, I don't believe that should be commented upon, because we don't know what the silence is due to. If it is due to guilt, perhaps it is justifiable that comment should be made, but if it is due to the practice of the law—if it is due to prior conviction—if it is due to testing the state's case, I say that under those circumstances comment which is speculative may lead to positive untruth and injustice.—Louis Fabricant, New York City.

During my seven years as prosecutor in the State of Illinois I have never needed this sort of statutory amendment to let the jury know that the defendant did not testify, and I don't think anyone else needs it. Take, for instance, the case of a man who has been formerly convicted of a felony, perhaps in the very early years of his life, but has lived a clean life for twenty or thirty years, and then is arrested charged with crime and can add nothing as a matter of defense, except to go on the stand and say he did not commit it, which he has already said by his plea of not guilty. In other words, he may be absolutely innocent of the charge, and yet he can't prove it; all he can do is to say he is not guilty. Now, if he goes on the stand the prosecutor can immediately introduce the record of former conviction, and he is convicted not because he has been proven guilty of the crime with which he has been charged, but because thirty years ago he was convicted of something else. I think I am about as much of a prosecutor at heart as anybody is, but I have never felt that this was a matter of any serious importance in the administration of criminal law. While I was president of the States' Attorneys Association in Illinois, we, through the association, at the request of the majority of the state's attorneys, asked the legislature to permit the prosecutor to comment on the failure of the defendant to testify. The legisla-

ture very promptly denied the request, but I didn't feel that we would have gained anything if we had got it. If the defendant doesn't testify, the prosecutor can very properly say, as he brings out his several points of the evidence, "By whom is this disputed, and what contradiction of this point is there in the record?" You can tell them every two minutes that the defendant didn't testify, and it is perfectly proper to tell them that; at least the Supreme Court in Illinois has said it, time and again, and that makes it proper in Illinois. The question has been repeatedly before the court on the ground that the prosecutor has commented on the failure of the defendant to testify. In other words, where the prosecutor did point out that this "is not denied in any respect," "there is no contradiction of this proof," etc., you see the evidence in the case was perfectly clear that no one could have denied it except the defendant; and necessarily it was called to the attention of the jury that the defendant had not denied it. There is nothing improper about that. You don't need any constitutional amendment to permit you to do that, nor do you need any statute to permit you to do it.—Floyd E. Thompson, Illinois Supreme Court.

There is one phase of the situation I would like to ask you about, in reference to the question of not commenting on it. While there is the law that the defendant need not testify, the statute of our state says that no comment shall be made upon that. Now, however, instructions are offered by the defendant to the court asking him to tell the jury that the fact that the defendant doesn't take the stand, must not be taken by them as any indication at all of the guilt of the defendant, or must not be construed against him. I have always construed the statute as meaning that neither the state nor the defendant could comment on it. I refused the instruction, namely, that the defendant did not testify should not be taken as any indication against him, on the theory that the statute said nothing should be said about it, and the defendant had no more right to call attention to that fact that the state had. But the Supreme Court held that I must give that instruction, and I have had some difficulty in reconciling the two positions. Doesn't that, however, change the situation? The fact that the defendant does offer that instruction and the court must give it. Doesn't that make it a little bit stronger in the minds of the jury that that must not be considered, the fact that the defendant didn't take the stand—where you have it buttressed by instructions given by the court to the effect that you dare not take that into consideration?

I think it is inconsistent for the defendant to insist that the state cannot comment on it, and then comment on it himself by offering the instruction. The point I wanted to make is this: the reason I think such an amendment to the constitution is dangerous is because of the over-zealous prosecutor. If all the prosecutors were intellectually honest and weighed questions judicially, I don't think there would be any danger from them. But we know that prosecutors are not all thus, and we know that many prosecutors would take advantage of such a law, and with very little evidence of guilt would spend an hour commenting on the fact that the defendant didn't testify, make a great speech about it and

build up a beautiful argument, which would very likely mislead the jury. In other words, it seems to me, it is wholly immaterial. The jury knows he didn't testify; the jury makes the argument itself; somebody on the jury is going to do the arguing when they get into the jury room; and the state can point out that the evidence has not been disputed, and that it is before them uncontradicted. And if that isn't all the comment amounts to any way, I would like to know what it is. The only possible case where it could be of any benefit to the prosecutor to be permitted to comment upon the failure of the defendant to take the stand is that in which an alibi was the defense, and other witnesses had testified to the fact that that defendant was not at the place of the commission of the crime, and could not have been there. Now, of course, the prosecutor could not say that there has been no dispute of the proposition that the defendant had been at the place when the crime was committed, because other witnesses had testified to it. I am not so sure that he could not say who were the people who said the defendant was not there and then name them. I think he might very properly say that because it is in the record. I don't see any objection to it. But I think there are so many things that are of real importance in the reform of criminal procedure that really do cause miscarriages of justice, that we ought to work for them rather than for something like this, which seems to me doesn't give us any advantage after we do get it. Possibly it hasn't caused any great harm, but the opportunities to cause harm are great; it seems to me they outweigh all the advantages we might get from such a law or such an amendment.—Hugo Pam, Superior Court, Chicago.

The Question of the Unanimous Jury.—At the Cincinnati, Ohio, meeting of the American Bar Association James M. Beck, Attorney General of the United States, made a very thoughtful address on the subject of the present lawlessness existing all over this country. I think anyone who listened to that address, who was a lawyer, must have come away with the feeling that it was up to him to do something that would be correctional in its character. It seems to me that there is a very serious defect of the criminal law, and that is this, that it requires unanimity of a jury to bring in a verdict. In 1910, or thereabouts, in this state, there were a great number of miscarriages of justice in civil cases, some of them so glaring that comment was caused upon the failure of jurors to do their work properly. At that time I advocated that nine out of twelve might be permitted to bring in a verdict, and promptly was the recipient of a number of communications, both verbal and in writing, to the effect that there must be something radically wrong with my mental make-up to make such a suggestion as that. But, upon consideration, the matter grew in importance, and in 1912, when the other amendments to our constitution were adopted, they adopted a provision making it possible to have a jury bring in a verdict by nine or more affirmative votes out of the twelve, and since then, we have had that sort of verdict in the State of Ohio. I don't believe that there is any lawyer actively engaged in practice in this state who will not say that it

has been beneficial, and that it has resulted unquestionably in doing justice in cases where justice has been denied before. Before that time we had many cases of mistrial, where there was apparently no reason why there should be. There were many cases of gross compromise, such as has been spoken of by the Public Defender from New York, among others, where, for instance, in a damage suit, one member would have an idea that there should be a verdict for the defendant, another that there should be $5,000 damages, and another $500 damages, and the result was there would be some sort of a compromise verdict reached for a few hundred or a thousand dollars, and that was, of course, a denial of justice to that extent. I don't know any special reason why you should require that twelve persons, selected without any special mental fitness—very frequently some of them with such gross bias that you would expect some of them standing in such relationship to the attorneys and parties in those cases to have that they are incapable of considering those matters in an absolutely disinterested way—I don't see why you should expect unanimity from such a jury in a criminal case any more than in a civil case. It is a fantastic idea for protecting the rights of the defendants in such cases. If in the Supreme Court of the United States, consisting of highly trained men, one is the majority required to pass upon the most serious matters that come up in the country, I see no reason why a jury sitting in a criminal case might not be perfectly safely invested with the right by nine votes out of twelve to bring in such a verdict as would protect the public—and there is a feeling today that criminal law does not protect the public; and that is evidenced by another serious difficulty. We have had four cases in the city of Cincinnati, Ohio, of men who committed serious crimes and who were tried in our Federal Court. Two of them wrecked one of our largest banks here. Very promptly after these men get into trouble, their health fails, and it is a long time before they can be brought to trial. These cases always go to the Court of Appeals, after having the best and highest priced counsel, and the Court of Appeals affirms the District Court. In the last case, the matter went to the Supreme Court of the United States, which refused to act upon it a year or more ago. Now then, in the first three cases that I spoke of, very great pressure was brought to bear upon the President to pardon, and the men were pardoned; one man because his health was failing to such an extent that he would die in prison if he were not pardoned. As a matter of fact, he has been out of prison about two years, and I can't see that his health has failed to any marked extent. Another man who was connected with the same affair, was placed at liberty because of the pardoning of the first man, who was the chief offender. Now we have convicted another man here, and great pressure has been brought to bear before he was even sent to the penitentiary at all, to have the President pardon him. And great pressure was brought to bear upon the Attorney General of the United States, to cause that man to be pardoned. His health has failed also, and it would be a terrible thing—an awfully cruel and inhuman thing to have that man sent to the penitentiary! It is that maudlin, sickly, sentimental attitude favoring the high priced crooks that disgusts the public. What you want is an even-handed justice that will treat your wealthy offender, your casual offender, or your man who has political friends and those

who can assist him in various ways, so that he will have no better chance than anybody else, but will be treated with exact, even-handed justice, and nothing more, just the same as the ordinary offender. And until you have that, you will have this popular outcry of the public—you will have this contempt for the administration of justice, which is the most destructive thing in the world to our American institutions. Certainly something should be done in the way of creating a sentiment that will prevent that sort of thing from being brought to pass. If it is necessary it should take the form of law, then some law should be established that will take the pardoning power away from the President, so that these men who are going unwhipped of justice shall not be allowed to stand before the public in such a way as to make a laughing stock of the administration of justice. Those cases string along—two of them from 1913 until 1918 before the men were committed at all. It seems to me these things are important for such bodies as the Institute of Criminal Law to consider, if you want an effective administration of justice in criminal matters.—Walter A. Knight, Cincinnati.

Criminal Responsibility of the Feeble-Minded.—Our views upon this question are naturally affected considerably by whatever theory we may happen to entertain of penal responsibility in general. Purely as an example, and if I were to adopt a working hypothesis, I would consider that of Iarde in his "Penal Philosophy" perhaps as good as any, and he founds it upon two propositions which he calls personal identity and social similarity. That is, that the act, together with all its pertinent features can be brought home to some definite personal identity and that that person possesses a sufficient amount of similarity in his mental constitution to compare with the mass of people in general. Now it is easily recognized, of course, that there are many conditions due to mental disease, where it would be the general or common sense verdict, that the individual in question, who had committed the unlawful act, by reason of mental disease did not have such attributes of mind as would correspond to that definition, or did not have a sufficient mental capacity so that we would say, under such a view that he should be held responsible. If the term is intended to include the class generally known as idiots and imbeciles, they have for long been taken into consideration, although it has been recognized that their mentality, or lack of it, is due to a defect rather than to a diseased condition. But I think it probable that the term feeble-minded ordinarily includes an additional class not included in the term idiots and imbeciles, but who, nevertheless, have a certain amount, varying amounts, of course, of mental defect; a class that sometimes has been called morons. Now, in the first place, it would seem to me that we have no different question here from the general question of irresponsibility due to the particular mental condition of the actor. In other words, what we have to determine is whether under the theory of responsibility that we adopt the individual has a mentality sufficient to satisfy that theory; whether his suspected defect may be due to disease or to congenital defect doesn't matter, and, of course, the difficulty arises entirely, it seems to me, with the application of our theory to the particular individual. For instance, if we adopt the legal

theory of responsibility as formulated by the committee of the Institute some years ago, which is in substance that the test to be applied is whether the individual had sufficient mentality so that at the time of the commission of the act he had the mental qualities or attributes which were essential constituents of that act, the inquiry would be, in regard to murder in the first degree, for example, as sometimes defined at least—was he capable mentally of forming the intent to kill? Was he capable of doing that wilfully? That is to say, was his mentality sufficient so that he had the power of volition, including in that probably, the ability to choose—the element of choice as a psychological element of the will in that sense? Did he have mentality sufficient to deliberate upon the act? I thoroughly agree with the conclusions of the committee that it is for the law to formulate the definition of responsibility or irresponsibility. I thoroughly agree with the formulation of it which they have made. I am inclined to think, however, that that is the law at present; that has been the law and I am not altogether sure that while that is a correct statement of the law, that even the enactment of it in statutory form would entirely solve the difficulty with which we are confronted. That is to say, it seems to me that although that has actually been the legal theory that there was a search made for tests which would enable the determination of whether that definition so laid down applied to the particular case in hand or not. And unfortunately some of the tests suggested, at least in some jurisdictions, have received a rather narrow construction and have been, so to speak, hardened and petrified until in those jurisdictions they are the only thing considered in formulating the legal definition of responsibility or irresponsibility. It seems to me that it is in that way that it has come about that there has been, perhaps, too large an emphasis on the test of ability to distinguish right and wrong, as Dr. Gordon has suggested, and too frequently that has been the sole test that has been applied by the trial court in the consideration of the question of the mental condition of the accused. In some jurisdictions, however, there has been, in addition to the right and wrong test, the test adopted as to whether the accused had a sufficient mental capacity so that he acted with volition, thus bringing in the element of choice. That is to say, it is sometimes put whether or not he acted under an irresistible impulse. This test has been expressly repudiated, as Dr. Gordon says, in some of the jurisdictions. It would seem, however, that that might and probably would, at least in many cases, be included in the condition which would be required under the definition suggested by the committee of the institute. For instance, in the crime of murder in the first degree under the statute, in defining it and using the word "wilful," as one of the elements in it, that would necessarily imply that the accused must appear to have mentality sufficient to exercise, not simply a violation to discharge a gun or to stab, or something of that kind, but also that he must have had the ability to choose between acting and not acting. So that it seems to me that so far as the feeble-minded are concerned, we have no different question presented from that with regard to the responsibility of the insane, but that the difficulty arises in applying our tests and in determining in the individual case whether or not responsibility exists. And it may be that even under this statute we may still be confronted more or less with this dilemma

that in attempting to apply the definition, in attempting to clear up the question in the particular case as to whether the accused is responsible or irresponsible, there may be the effort to obtain more definite tests, just as has occurred in the formulation of the right and wrong test. I should say this, however, that in very few jurisdictions, at least in this country, I think, is a right and wrong test applied quite as badly as that, and it is more generally broadened at some stage; as, for instance, in New York, in defining the nature and quality of the act that the accused must have mentality sufficient to fully appreciate the nature and quality of the act and know what was right and wrong.—Edward Lindsey.

The Sixteenth Annual Conference of the National Probation Association. —Providence, R. I., June 20-26, 1922:

HEADQUARTERS: BALL ROOM, PROVIDENCE-BILTMORE HOTEL

PROGRAM

First Session—Tuesday, June 20, 8:00-10:30 P. M.

1. "The State's Welcome."
   Hon. Harold J. Gross, Lieutenant Governor of Rhode Island.
2. "The City's Welcome."
   Hon. Joseph H. Gainor, Mayor of Providence.
3. "The Social Court as a Community Force."
   Address of the President, Hon. Charles L. Brown, President Judge, Municipal Court, Philadelphia.
4. "Psychology and Probation."
   Dr. Charles Platt, Honorary Vice-President, National Probation Association, Philadelphia.
5. "Child Study and the Prevention of Delinquency."
   Dr. Maximilian P. E. Groszmann, Director, National Association for the Study and Education of Exceptional Children, New York.

Second Session—Wednesday, June 21, 9:30-11:00 A. M.

Round Table Group Discussions

(A) Section on Women and Girls.

Symposium on Methods of Successful Probation and Parole Administration.

Chairman: Miss Franklin R. Wilson, Superintendent State Industrial Home for Women, Muncy, Pa.

Five-Minute Reports by the following members of the committee:

1. Mrs. H. O. Wittpenn, Deputy Chief Probation Officer, Hudson County, Hoboken, N. J.
2. Mrs. W. F. Dummer, Chicago.
3. Miss Sabina Marshall, Executive Secretary, Women's Protective Association, Cleveland.

4. Miss Alice C. Smith, Probation Officer, Women's Court, New York.
5. Miss Bertha L. Freeman, Probation Officer in Charge, Women Misdemeanants' Division, Municipal Court, Philadelphia.
6. Mrs. Mortimer Menken, Jewish Board of Guardians, New York.

(B) Section on Adult Probation and Parole.

Chairman: John J. Gascoyne, Chief Probation Officer, Essex County, Newark, N. J.

"Family Courts"—Report of the Committee.

Hon. James Hoge Ricks, Judge, Juvenile and Domestic Relations Court, Richmond, Va., Chairman.

"The Family, the Law, and the Courts."

Prof. Harold S. Bucklin, Department of Social and Political Science, Brown University, Providence.

Discussion Opened by:

Alfred C. Crouse, Chief Probation Officer, Court of Domestic Relations, Cincinnati.

(C) Section on Juvenile Court Problems.

"Detention Homes"—Report of the Committee.

William F. Zuerner, Chief Probation Officer, Juvenile Court, Milwaukee, Chairman.

Discussion Opened by:

Arthur W. Towne, Executive Director, Joint Committee on Methods of Preventing Delinquency, Commonwealth Fund, New York.

Dr. Ruth Hilliard, Superintendent, Essex County Parental School, Newark, N. J.

Third Session—June 21, 11:00 *A. M.*-1:00 *P. M.*

General Session

1. Report of the Committee on Probation Education and Extension.
   Leon Stern, Educational Department, Municipal Court, Philadelphia, Chairman.
2. "Training for Probation Work in Schools of Social Work."
   Prof. Henry W. Thurston, New York School of Social Work, New York.
3. "Training for Probation Work in Colleges and Universities."
   Dr. James E. Hagerty, Ohio State University, Columbus, Ohio.
4. "Training in Case Work and Special Administrative Problems in a University."
   Miss Edith Abbott, University of Chicago, Chicago, Ill.
5. General Discussion.
   Bernard J. Fagan, Chief Probation Officer, Children's Court, New York.

Four Session—June 21, 2:00-5:00 *P. M.*

Discussion of Juvenile Court Standards

Joint Session with the United States Children's Bureau

Chairman: Hon. Charles W. Hoffman, Judge, Court of Domestic Relations,

Cincinnati, Chairman of Children's Bureau Advisory Committee on Juvenile Court Standards.

1. Report of Progress of Committee's Work.
   Miss Emma O. Lundberg, Secretary, Children's Bureau Advisory Committee on Juvenile Court Standards.
2. Discussion of Tentative Standards Proposed by the Committee.
   (a) Jurisdiction; Process Before Hearing; Hearing.
   Discussion conducted by Judge Hoffman.
   (b) Disposition of Cases.
   Discussion conducted by Herbert C. Parsons, Secretary of the Massachusetts Commission on Probation.
   (c) Detention.
   Discussion conducted by Joseph L. Moss, Chief Probation Officer, Cook County Juvenile Court, Chicago.
   (d) Study of the Case.
   Discussion conducted by Dr. V. V. Anderson, Director of the Division on the Prevention of Delinquency, National Committee for Mental Hygiene.
   (e) Probation and Supervision.
   Discussion conducted by Bernard J. Fagan, Chief Probation Officer of the Children's Court of New York.
   (f) Special Problems of Rural Juvenile Courts.
   Discussion conducted by Ralph S. Barrow, State Superintendent of the Alabama Children's Aid Society.

Fifth Session—June 21, 8:00-10:30 *P. M.*

General Session

1. "Social Aspects of the Courts."
   Hon. Jean H. Norris, City Magistrate, New York.
2. "Probation As I Have Seen It."
   William J. Burns, Director, Bureau of Investigation, Department of Justice, Washington, D. C.
3. Probation and the Prosecution."
   Hon. Thomas C. O'Brien, District Attorney, Suffolk County, Boston.

Sixth Session—Thursday, June 22, 9:30-11:00 *A. M.*

Round Table Group Discussions

(A) Section on Women and Girls.

Chairman: Mrs. W. F. Dummer, Member, Board of Directors, National Probation Association, Chicago.

"Social Hygiene As a Court Problem."
Dr. Samuel Leopold, Psychiatrist, Municipal Court, Philadelphia.

"Social Treatment of the Sex Delinquent."
Miss Ruth Topping, Field Agent, Bureau of Social Hygiene, New York.

Discussion Opened by:

Miss Mary E. Driscoll, Supervisor, New England District, U. S. Interdepartmental Social Hygiene Board, Member of Massachussetts Commission on Probation, Boston.

Miss Jean Begg, Superintendent, Inwood House, New York.

(B) Section on Adult Probation and Parole.

Chairman: Edwin M. Mulock, Chief Probation Officer, Recorder's Court, Detroit.

"Probation for Men and Boys Over Juvenile Court Age"—Report of the Committee.

Howard C. Hill, Executive Secretary, Prisoners' Aid Association, Baltimore, Chairman.

"Parole and Probation."

Discussion Opened by:

John McKenty, Parole Officer, Eastern State Penitentiary, Philadelphia.

Thomas B. Kellow, Probation Parole Officer, Lehigh County, Allentown, Pa.

(C) Section on Juvenile Court Problems.

"Juvenile Courts"—Report of the Committee.

Dr. Thomas D. Eliot, Northwestern University, Evanston, Ill., chairman.

"The Juvenile Court in Rhode Island."

Hon. Frederick Rueckert, Judge, Juvenile Court, Providence, R. I.

Discussion Opened by:

Hon. Kathryn Sellers, Judge, Juvenile Court, District of Columbia.

Seventh Session—June 22, 11:00 *A. M.*-12:30 *P. M.*

General Session

1. "State Supervision and Organization of Probation Work"—Report of the Committee—

J. C. Astredo, Chief Probation Officer, Juvenile Court, San Francisco. Chairman.

Discussion Opened by:

Mrs. Carina C. Warrington, State Juvenile Probation Officer, Fort Wayne, Ind.

Frederick A. Moran, Secretary, New York State Probation Commission, Albany, N. Y.

2. "Rural Probation"—Report of the Committee.

Mrs. W. P. McDermott, Chief Probation Officer, Juvenile Court, Little Rock Ark.

Discussion Opened by:

William Hodson, Chief, Minnesota Children's Bureau, St. Paul.

Eighth Session—June 22, 1:00-2:30 P. M.

Luncheon, Hotel Biltmore

Addresses:

1. "Delinquents of Today and Yesterday."
   Hon. Charles L. Brown, President, National Probation Association, Philadelphia.
2. "The Bar and Probation."
   Richard B. Comstock, Attorney, Providence.
3. "Humanity and the Prisoner."
   B. Ogden Chisholm, New York City.
4. "National Conference of Social Work."
   Robert W. Kelso, President of the Conference, Boston.
5. Remarks.
   Hon. August Backus, Vice-President, National Probation Association.

Ninth Session—June 22, 3:00-5:00 P. M.

General Session

1. "Criminal Research and Statistics"—Report of the Committee.
   Edwin M. Abbott, Secretary, Section on Criminal Law, American Bar Association, Philadelphia, Chairman.
2. "Laws and Court Decisions"—Report of the Committee.
   Hon. Victor C. Arnold, Judge, Juvenile Court, Chicago, Chairman.

   Discussion by:

   Charles T. Walker, Probation-Officer-in-Charge, Juvenile Division, Municipal Court, Philadelphia.
3. "Federal Probation"—Report of the Committee.
   Hon. Edwin L. Garvin, Judge, United States District Court, Brooklyn, Chairman.
4. "Summary of Reports from States."
   Charles L. Chute, General Secretary, National Probation Association.
5. Reports of Other Committees and Officers.
6. Unfinished Business.
7. Reports of Committee on Resolutions.
8. Nomination and Election of Officers.
9. Miscellaneous New Business and Discussion.

JOINT SESSIONS WITH GENERAL CONFERENCE

Tenth Session—Saturday, June 24, 11:00 A. M.-1:00 P. M.

At Sayles Hall

Joint Session with the Children's Division, National Conference of Social Work

1. "What Are the Minimum Qualifications of a Good Training School for Delinquent Boys?"
   Donald North, Superintendent, Sockanosset State School for Boys, Howard, R. I.

2. "What Are the Minimum Qualifications of a Good Child-Placing Agency?" Miss Sophie Van S. Theis, Superintendent, Child-Placing Department, State Charities Aid Association, New York City.

Eleventh Session—Monday, June 26, 9:00 A. M.-10:55 A. M.

At the Mathewson Street Methodist Church

Joint Session with the Division on Delinquents and Correction, National Conference of Social Work

1. "The Work of the Commonwealth Fund in the Prevention of Juvenile Delinquency."
   Barry C. Smith, Director, Commonwealth Fund, New York City.
2. "The Needs and Future of the Probation Service."
   Charles L. Chute, General Secretary, National Probation Association.

Report on the Library of the Late Zebulon Brockway.[1]—The Russell Sage Foundation Library is the result of forty years of careful collecting in its special field. For this reason few gifts of books in recent years have added much to its already nearly complete files, a constantly greater proportion of such gifts proving duplicate.

The library of the late Zebulon Brockway, presented by his daughter, Mrs. Caroline B. Butler, is a notable exception. The library has not only added to its shelves certain rare and valuable works on penology, but secured several out of print reports long sought and needed for the completion of files—for example, the series of Papers on Penology of which our file lacked but one number is now complete.

Of especial value are the expressions of opinion of Mr. Brockway on penological subjects, sometimes as printed papers and again as notes on book or report. These have been carefully preserved and have greatly enriched our collection. The file of reports of Elmira from its beginning to 1900, representing Mr. Brockway's term of office, are enriched by such annotations and will be permanently kept in the Russell Sage Foundation Library, although a duplicate set.

The following list represents the more important accessions received through the generosity of Mrs. Butler:

Adshead—Prisons and Prisoners. 1845.
Benedikt—Anatomical Studies Upon Brains of Criminals. 1881.
Davitt—Leaves from a Prison Diary. 1886.
De Sanctis—Riformatorii. 1908.
Du Cane—Account of the Manner in Which Sentences of Penal Servitude Are Carried Out in England. 1882.
Field—Prison Discipline. 2v. 1848.
Koyll—A Plea for the Criminal. 1905.
MacDonald—Abnormal Women. 1893.
Michigan—Pauperism and Crime in Michigan in 1872-73. 1873.
Oldfield—Penalty of Death. 1901.

[1]Presented to the Russell Sage Foundation Library by Mrs. Caroline B. Butler.

Palm—The Death Penalty. 1891.
Prison Reform League—Crime and Criminals. 1910.
Reeve—The Prison Question.
Stallard—London Pauperism Amongst Jews and Christians. 1867.
Whateley—Thoughts on Secondary Punishments. 1832.
Woods—Women in Prison. 1869.
New York (State)—State Board of Charities. Report on the State Reformatory at Elmira. 2v. 1894.

Foreign publications descriptive of Reformatory at Elmira:

Aletrini, A.—Over de "Elmira Reformatory." 1898.
Dorado, P.—El Reformatorio de Elmira. Madrid, La Espana Moderna.
Dorado, P.—El Reformatoria de Elmira, estudio de dericho penal preventioo.
Goll, Aug.—New York State Reformatory ved Elmira. About 1880.
Hintrager, Oscar—Amerikanisches Gefangnis-und Stragenwesen. Tubingen Mohr, 1900.
Moraes—Estudio Sobre os Systems Penitendiarios. 1900.
Thompson, J. Day—Elmira System of Criminal Reform. Adelaide Webb, 1898.
Winter, Alexandre—Die New Yorker Staatliche Besserungsanstalt zu Elmira. Berlin, Reimer, 1890.
Winter, Alexandre—L'Establissement Penitentiare de l'Etat de New York a Elmira, Paris, Babe et Cie, 1892.
Winter, Alexandre—New York Reformatory in Elmira. London, Sonnenschein, 1891. Original ed. with a preface by Havelock Ellis.

In addition to enriching our own collection we have been able to assist other progressive libraries in completing their file of social publications. Several have sent in their list of desiderata and as fast as gifts are received by the Russell Safe Foundation Library, these want lists are carefully examined and many missing numbers thus supplied. In this way the Dallas Civic Federation has been assisted in completing its file of reports of the proceedings of the American Prison Association, Prison Association of New York and several other long series. About 25 volumes are now shelved without duplicates and eventually will be distributed to other collections. Among the more important titles, several of which are out of print and scarce, are:

Altgeld—Our Penal Machinery and Its Victims. 1886.
American Academy of Medicine. Physical Bases of Crime. 1914.
Christison—Crime and Criminals. 1897.
Du Cane—Punishment and Prevention of Crime. 1885.
Henderson—Introduction to Study of Dependent, Defective, etc.
Hill—Suggestions for the Repression of Crime. 1857.
International Congress of Charities, Chicago, 3 vols. 1893.
International Penitentiary Congress of London. Report by E. C. Wines. 1872.
International Congress on the Prevention of Crime. Preliminary Reports. 1872.
Macdonald—Abnormal Man. 1893.
Parmelee—Principles of Anthropology and Sociology. 1908.
Tallack—Penological and Preventive Principles. 1896.
Wines—Report on Prisons and Reformatories. 1867.
Wines. State of Prisons and Child-Saving Institutions. 1880.

All material, whether added to our library or to others, shows, on the plate inserted, the source of the volumes. In this way it is hoped that the gift will prove a worthy memorial to the man who did so much for the improvement of conditions in our reformatories. As a gift it is deeply appreciated and I have tried to express to Mrs. Butler something of what it means to the Russell Sage Foundation Library.—E. R. Carr, General Secretary, American Prison Association, New York City.

The Newsboys of Dallas, Texas.—The Civic Federation of Dallas, Texas, has issued a pamphlet of 32 pages under the above title. It is a study of the newsboys, their work and thrift, home life and schooling, and of their general character, associations, ambitions, and promise of fitness as future responsible citizens of Dallas.

In the course of the study a system of ratings was established by which the field worker was able to set down in numerical form an estimate of the outstanding characteristics of the boy. These ratings, together with teachers, estimates, etc., give a reasonable basis for grading. These outstanding characteristics are rated as Good, Fair, Doubtful, or Bad. For purposes of comparison Good equals 7 points; Fair, 5 points; Doubtful, 3 points; Bad, 1 point.

Some interesting features have come from the study with reference to the following points: Effect of parental relationship; influence of housing; church relationships; work and thrift as compared to school rating; ratings of delinquents as compared with those of non-delinquent newsboys.

Effect of Parental Relations.

In the case of divorce it appears that the boy is nearly 50 per cent better off educationally and in work and thrift and over 25 per cent in character where the divorced mother has remained alone than when she has remarried. In comparing the ratings of boys whose own parents live together with those where one parent is dead, the former have an advantage of 25 per cent in education, 10 per cent in work and thrift and 12 per cent in general character.

Influence of Housing on the Boy.

It will be noted that the highest ratings is school standing is in cases of better homes either rented or owned. In the former case the rating is 416, while in the case of boys living in rented rooms, and bad at that, the rating is 252. In other words, efficiency in school work was reduced 40 per cent by the worst housing.

In the matter of work and thrift, the boys in better homes that were owned by parents had a rating of 532, while living in bad rent houses reduced it to 368—or a loss of over 30 per cent in efficiency.

In general character, the boys who live in better homes owned by parents are rated at 519, while those in bad rent houses are rated at 357—with a 30 per cent lowering of the whole moral character of such boys.

Church Relationships.

The variation in school rating between the boys attending Sunday School and those not attending are not so marked, being less than 17 per cent, but quite appreciable at that. In work and thrift, those not attending are 9 per cent less

efficient, while in general character they are near 10 per cent less worthy than the Sunday School attendants.

This variation is more marked in the case of delinquents. Those who do not attend are 41 per cent below those attending in school standing. In work and thrift, non-attendants are 31 per cent poorer than attendants—while general character of the former is 22 per cent below that of the latter.

Work and Thrift As Compared to School Rating.

Economic hardships through death of one parent have had their influence on the boys' work to their marked detriment in schooling as is noted when the school rating in such cases is 296 and work and thrift 423, a difference of nearly 43 per cent, while in the case of where the boy lives with both his parents, the same comparison is 374 to 462—a difference of 13½ per cent.

Ratings of Delinquents As Compared with Those of Non-Delinquent Newsboys.

One of the most interesting deductions from this table is the accurate tabulating of comparative ratings of delinquents and of underprivileged boys who are not delinquent.

In school rating, the non-delinquent averages 375 and the delinquent averages 313, or an average lowering in school standing of 16½ per cent.

In work and thrift the non-delinquent averages 485 and the delinquent averages 322, or an average diminution of 33½ per cent.

In general character, the non-delinquent averages 477 and the delinquent averages 268, or an alarming reduction of nearly 44 per cent in character.

Public Defender Proposed for Maryland.—The cry that there is one law for the rich and another for the poor has created considerable discussion recently. Regardless of what one's views upon this point may be, there can be no doubt that there are very many people who, through ignorance or because of poverty, are constantly being denied justice. Especially is this serious where a person is charged with a criminal offense and is too poor to employ an attorney, or to have a thorough investigation of the facts in his case made. Fully one-half of the persons charged with offenses in our criminal courts are too poor to employ attorneys at all, as can be seen by any one caring to look over the assignments of the clerk's office in the Criminal Court. The result is considerable injustice to the poor and helpless, and this in spite of every effort of officials, from the judge down, to ameliorate the situation.

To correct this weakness in our legal procedure there has been introduced in the legislature a bill for a public defender in criminal cases. It is intended as a complete solution of the difficulty in the existing administration of the criminal law. It puts the poor man on an equal plane with the rich in the criminal court. It gives him a square deal. It remedies some of the most glaring abuses which have brought the criminal law in disrepute.

The public defender as a state official will have investigators whose business it will be to see that all the facts of the case are obtained *before* trial. His staff will be on a plane with that of the prosecuting attorney; so that, even though the prisoner has not a nickle to his name, he will be assured an honest and capable defense.

The law presumes every man innocent until proved guilty. In practice, however, it is for the prisoner, especially if he has been in trouble before, to prove his innocence. The state's attorney does not know all the facts favoring the accused. The grand jury hears only one side; and neither the accused, his counsel, nor his witnesses are heard. Their presence is prohibited. Six minutes per case is the average deliberation of the grand jury in Baltimore, according to Mr. Roland Marchant, Deputy State's Attorney under Mr. Broening. In New York City the average is seven minutes.

There is absolutely no reason to believe that the prosecuting officer acts as much for the accused as for the prosecution. In practice he simply represents the state, and no one else. Even if he aims at fairness to the defendant he seldom knows the defendant's story, for the reason that in large cities he is a very busy official and has hardly sufficient time to prepare the state's case, much less the defendant's.

Much of the unfair conduct of prosecuting officials generally is due not so much to a desire to be unfair, but rather to the difficulty under which he labors. He is opposed by lawyers who are willing in their defenses to use every trick, strategy, subterfuge and device in their repertoire to delay or defeat justice. He is forced to adopt an aggressive, distrustful, partisan attitude which is not consistent with the theory of official impartiality. To expect him adequately to represent both sides is, as every lawyer knows, to expect the impossible.

As an illustration of how easily a perfectly innocent man may be convicted in spite of the so-called legal safeguards; how presumably strong identifications may be errors, and how easily the broad experience of the judges, court officials, attorneys, as well as other persons interested in the case, may inadvertently err, the following cases are cited:

> "On March 4, 1919, in New York City, a plain clothes man by the name of Gunson (who later was indicted for a series of offenses) arrested on Seventh avenue two perfectly good girls, charged upon the testimony of the officer with soliciting. Magistrate Mancuso found them guilty, and suspended sentence. Later, Judge Otto A. Rosalsky, of General Sessions, found there was "not one scintilla of evidence" to warrant the arrests, exonerated the girls and discharged them from custody. As a result of the finding in the case a deputy district attorney was placed in the night court to see that no woman should be convicted of this offense upon the uncorroborated testimony of an officer.
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> "In Flesherton, Ont., a boy named Arnold Love, age 21, an industrious and respectable farmer, attended a revival meeting. "Arise and confess your sins:" shouted the Rev. G. N. Sharpe, evangelist. The boy arose from his chair and confessed to murdering his mother seven years before, for which crime his father was hanged on circumstantial evidence.
>
> "In August, 1920, William Henry Campbell, a negro, admitted killing Mrs. Gertrude Harrison Mann. Among other admissions, he confessed to a criminal attack upon Mrs. Bertha Sanders, of Bethesda, Md., for which Forrest Eaglin, a Maryland negro, was then serving time."

These are only a few illustrations. Many more can be cited showing the necessity, first, of having every person charged with crime represented by an

attorney, conscientious, skillful, energetic and interested in the welfare of the state as well as that of the prisoner, and, secondly, of a thorough investigation by trained investigators whose business it is to trace the truthfulness of all the defendant's witnesses in order that the court may be able to render proper judgment.

At the convention of the American Bar Association in August, 1920, Mr. Charles E. Hughes, now Secretary of State, made this statement:

> "There is no more serious menace than the discontent which is fostered by a belief that one cannot enforce his legal rights because of poverty. To spread that notion is to open a broad road to Bolshevism. The poor man must have legal advice, and except in the simplest matters he needs skilled assistance to present the merits of his case. . . . Without opportunity on the part of the poor to secure such aid, it is idle to talk of equality before the law. You may provide the machinery, of course, but to have justice according to law, save in a very limited class of cases where a judge may act as advisor, you must have the aid of lawyers."

To assert that the judge looks out for the prisoner's rights and sees that he gets a square deal is simply a statement without the slightest foundation in fact. The judge is a judge and it is his business to show favor to neither side. It is his function to hold the scales evenly. Certainly all the judges of Baltimore City, as well as those I have had the good fortune of meeting in the counties, are men of high character and earnestness, and they often go to much additional labor, and in some cases unusually painstaking efforts, to give the prisoner every opportunity to vindicate himself. I am quite certain that were it not for the patience of some of the judges of Baltimore City in giving me every opportunity to work out my clients' cases in a number of instances I should never have succeeded in bringing about results where there seemed no chance of changing what appeared the facts of a given case.

But the judge and jury—if there be a jury—base their judgments upon the evidence, and if they have not the evidence; if they have no means of getting at the truth; if the state's attorney presents what appears evidence of guilt, and if the defendant has no means of controverting these statements, how is the defendant to obtain justice? He has been locked up with other offenders; he is poor, very poor maybe, and is often ignorant. High-class legal talent and investigations cost money. The prisoner is nervous and friendless, with hope dead in his breast; his relatives, if he has any, have probably deserted him, and last, but not least, the evidence appears dead against him. How can such a man put up a proper defense, even if the judge is willing to give him every opportunity?

A public defender would be to the person accused of crime what the Legal Aid Association is to those too poor to employ attorneys in small civil cases. The public defender would in no way compete with private counsel. He would not be used by those in a position to secure paid attorneys. The difficulty that would probably have to be overcome by him would be the cases of people who wish to take advantage of him, but who are perfectly able to pay for legal services. The public defender might require his clients to make affidavit as to poverty, and the office would certainly have to have other safeguards, such as investigation of financial status as a safeguard against improper use. But after

all this is a mere detail of arrangement and should not militate against the establishment of a public defender's office.

The first public defenders' office was established in Los Angeles in January, 1914. Since then the encouragement which the judges and other officials of Los Angeles have extended to the office has resulted in its establishment in a number of other places, and the introduction of bills for the creation of a public defender in perhaps half of the legislatures of the country. Quoting from Mr. Lyman Abbot, "The first duty of society to the poor is not to give them charity, but to give them justice." Will the Maryland Legislature respond? —Samuel Rubin of the Baltimore Bar in the *Baltimore Evening Sun,* February 3. 1922.