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## SOCIETY'S RESPONSIBILITY FOR CRIME

E. R. CASS<sup>1</sup>

In October, five hundred and fifty persons, representing forty states of the Union and three foreign countries, assembled in Baltimore, Maryland, to attend the Sixty-First Annual Congress of the American Prison Association. In this gathering were members of state commissions and boards of control, judges, lawyers, wardens and superintendents of penal and correctional institutions, doctors, psychiatrists, psychologists, probation and parole officers, clergymen, workers in private organizations devoted to the treatment of delinquency, and citizens interested actively in prison administration and the treatment of crime.

The Congress was again timely. The crime problem, its treatment, and prison conditions were still receiving unusual public attention as a result of the interest and concern which followed the prison riots and various investigations and studies. It was felt by those who were responsible for the program that there had been too long a tendency on the part of society to limit responsibility for crime and its treatment. Frequently there comes to public notice statements to the effect that the crime situation is due wholly to one or more, and usually one, of the following: a change in American family life; the failure of the Church; the breakdown of the school system; police inefficiency and corruption; the weakness of the judiciary; the poor administration of penal and correctional institutions, and so it goes to an almost interminable list, with each alleged cause having its enthusiastic proponents. As a result there has been a confusion in the public mind. Therefore the theme, Society's Responsibility for Crime, was chosen to give opportunity for an expression of opinion as to what extent the various parts of the social structure, separately or collectively, could be held responsible for crime.

Preceding the opening date of the Congress, a mass meeting was held under the auspices of the Chaplains' Association, and, as one of the speakers, Mr. Charles H. Tuttle, former U. S. Attorney for the Southern District of New York, urged the church to study the problem of awakening a spiritual appreciation of life, and, pointing out that 90% of prisoners return to society, called for a remodeling of the "devil's workshop" in the prison system to rehabilitate men

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<sup>1</sup>General Secretary of the American Prison Association.

rather than to turn them out, hard and bitter, to a renewal of their former lives.

Mr. Tuttle turned for the keynote of his address to the prison reform doctrines of the late Senator Dwight W. Morrow, to whom New Jersey "is indebted for a prison system wisely controlled and sanely administered." Senator Morrow "regarded crime as primarily the responsibility of society rather than of the criminal, for the great majority of the crimes are traceable to social injustices latent in the body politic rather than to any innate perverseness in human nature."

"The permanent solution of the crime problem does not lie in force and punishment," said Mr. Tuttle. "Yet the old fallacy still dominates popular thinking."

Mr. Tuttle pointed to the vast increase in crime despite constantly rising expenditures by national, state and local governments for police and for education, and despite the unequalled per capita wealth.

"The obvious lesson would seem to be a new illustration of the ancient truth that social salvation cannot be obtained by force and does not lie in mere education or in church organization or in national wealth.

"Widespread lawlessness is a symptom of widespread paganism; and a growing paganism could prostrate the soul of America.

"A society which is purely acquisitive and secular will inevitably be a fertile breeding place for crime. Wherever the universal standard of success is the making of a living rather than of a life, individuals will believe that the end justifies the means."

A wage scale "which allows but a bare living entails the penalty on society of crime." So do "exploitation of child labor" and "tolerance of living quarters where there is not the necessary supply of fresh air and sunshine."

But "the greatest crime breeder of all" is "a corrupt and inefficient government."

"Yet statistics seem to show that our democracy is participating less and less in its own polls."

"And what I have said concerning the responsibility of society for crime also extends to our system of penology . . . , and, as shown by the recent report of the Wickersham commission, many of our present penal institutions are the devil's special workshop.

"It is the first principle of modern medicine to classify, isolate and separately treat the different contagious diseases. That the pres-

ent antiquated and dangerous system will be overthrown, cannot be doubted.

"There is a great body of opinion that the several governments should establish as rapidly as practicable appropriate institutions for the various types of offenders; that the parole system should be extended and placed on a scientific basis; that the capacity for self-support should be kept alive by education and industry; that suitable environment should be provided for those whose criminal tendencies are the result of physical abnormalities; that the courts should be equipped with adequate medical assistance of an impartial character, and that prison management should be in the hands of an improved official personnel, trained in sound principles of penology and independent of politics."

Another speaker, Rev. Edmund A. Walsh, S. J., Regent of the School of Foreign Service of Georgetown University, Washington, D. C., attacked the faith of some sociologists in the power of education slowly to overcome the crime problem. Religion also must be invoked in that fight, he held, pointing out Russia as an invidious example of what the divorcing of education and religion may produce. Soviet Russia's program of atheism, he said, is responsible for the "deluge of criminality which one may meet in that land." After citing a recent scientific survey made at the Maryland Penitentiary that showed all but fourteen per cent of the inmates "belong to some church, and frankly admit it," he warned against accepting statistics at their face value. He had been told that many prisoners profess religious affiliation to gain special privileges, and referred to a survey of an Illinois prison as showing that three-fifths of the inmates never had any form of religious instruction.

Rabbi Morris S. Lazaron of the Madison Avenue Temple, Baltimore, was the third speaker. He urged that we go to the roots of crime and crusade for the reform of a social system that "spews forth criminals by the thousands yearly." He took issue with Father Walsh on the question of religion in the schools. "I am a religionist," he said, "and I believe profoundly in religious education as an influence in the building of character, but we must not be swept off our feet and in terror lend ourselves to a cure which may prove worse than the disease. The public school should be kept free from even a suspicion of religious influence."

Dr. Herman M. Adler, Department of Political Science, University of California, in his report as Chairman of the Committee on Prevention, brought out that one of the "most clearly demonstrated

characteristics in regard to the occurrence of delinquency and crime is one recently given new interest by the findings of Mr. Clifford Shaw and his associates, namely, that delinquency and crime are not diffuse phenomena, but are related to special localities. It has been found that certain areas, particularly in the cities, supply the bulk of delinquent and criminal persons, whereas other areas are relatively free from them. This is a phenomenon with which we are familiar in other fields, notably in public health and public administration. Two explanations have been offered for the occurrence of these so-called delinquency areas. One lays the chief emphasis on the environment, the other points to the possibility that while the environmental conditions in the localities are obviously undesirable, the principal factor is the quality of the human beings inhabiting them. This antithesis of the individual versus his environment has long been noted. For practical purposes it is perhaps safer to assume that both factors are operative, namely, that an environment which is healthy neither in a physical nor a social sense, one in which no careful parent would wish to bring up his children, has a deleterious effect upon those who are forced to live there. On the other hand this is the kind of environment also that will attract the unstable, the anti-social, the delinquent, and the criminally inclined."

In order to organize public opinion along preventive lines in a local community it is urged that a council of citizens be formed to cooperate with the officials of that community. The Committee report states that "the council should include representatives of business and industry, especially of the realtors and labor unions, as well as property owners from the affected areas. The purpose of this council should be:

1. To support the authorities in the enforcement of existing laws designed to prevent the unwholesome conditions in the delinquency areas.
2. To cooperate with public and private agencies in the processes of the assimilation of the residents of the delinquency areas into the general social structure.

Americanization, education, especially adult education, relief, recreation, city zoning and planning commissions where they already exist, should be of great assistance in the endeavor. Such an attack backed by the strongest civic groups should succeed in localizing the problem and in reducing the cases to such a scope that it should be possible to deal with the individuals who are either so abnormal or so steeped in habit as to require segregation and prolonged assistance or control. This might lead to a further innovation as follows:

A great improvement might be effected by shifting this control from the ordinary criminal police authorities to a specially created morals police, as has been done in some European countries. The qualifications for morals police are entirely different from those of the ordinary police. The personnel of such a police force may be composed of both men and women with the professional qualifications of social workers, parole or probation officials, rather than of patrolmen, constables or detectives.

The creation of the morals police would enable the community to build up the morale in the cities, to keep in touch with unstable individuals, and to supply to modern cities the social pressure of public opinion which was present in a simpler and older civilization. The final purpose of the morals police would be to identify those who are anti-social because of mental disorders. In this group would be included not only those now recognized as mentally disordered or insane, but also those criminals who, because they are not committable, are under present conditions beyond therapeutic reach. There should be substituted for such legislation as the Baumes law,<sup>2</sup> for instance, a system of constant supervision by the morals police of those persons unable to conform to the standard of what is considered safe behavior. Such persons need not be removed permanently from the community, but should be placed under supervision and removed temporarily at such times as their treatment or training requires."

Dr. Ellen C. Potter, Director of Medicine, Department of Institutions and Agencies, Trenton, New Jersey, speaking on "The Family" said that "the tempo of family life has accelerated during the past fifty years to a degree which is beyond belief." She blamed urban existence for another share of the family's modern difficulties. "The child who grows up in an apartment or tenement does not have the outlet for self-expression that his grandparents had, and "there results a sense of frustration, only overcome by overt acts which seek to claim rights that have been denied, and which all too often result in minor violations of the law."

"But is the family, as a social unit, responsible for this change in its fundamental values?" Dr. Potter asked. "I think not. Rather the family is a victim of the mass pressure of society, which in its quest for dollars, for efficiency and speed, has created an environment for the family in which it is almost impossible for it to survive and to retain its old social values."

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<sup>2</sup>Life imprisonment for fourth offender felons.

In conclusion she said, "We who are concerned to reduce the incidence of crime must realize that we must participate in the wider social programs in the educational, recreational, social insurance, pensions and health insurance fields.

"Our horizon is apt to be too restricted; we are concerned for better prison buildings; for more effective court procedure; for better probation and parole (and it is obvious that all these things are to be desired), but unless we lend the weight of our influence to the support of social programs designed to strengthen the basic social unit, the family, in its economic and spiritual aspects, we shall utterly fail in an attempt to control crime.

"We shall fail in our full duty if we do not support the necessary social programs looking to a stabilization of industry in order that a foundation of economic security may be laid for the family and the home of the future."

Treating the subject of "The Family as a Factor in Juvenile Delinquency," Mr. Maurice E. Moore, Research Sociologist of the Juvenile Protective Association of Chicago, forecast the eventual centralization of all private and public social agencies in each municipality and the establishment of clinics in "delinquency areas." He confined his address to the mental, moral, and other intangible factors affecting family life and related to crime. Reviewing conclusions he pointed out that the oldest child in the family has the best chance; that the "middle child" is the least fortunate, and that the youngest is apt to be pampered. That an only child in a poor family has an excellent chance for success, but in a wealthy family the child with one or two brothers or sisters has the best chance; that an only child is apt to be nervous, over-educated, talkative, and not generally popular with his playfellows. That 50% of juvenile delinquency in thirty-one states came from broken homes, homes where one parent had been removed by death or divorce, and that in homes where divorce occurred the actual divorce was found to have had less effect on the child than the bickering which preceded the separation.

Mr. Leon C. Faulkner, Managing Director of the Children's Village at Dobbs Ferry, New York, and President of the American Prison Association for 1931, in his presidential address on "The Complexities of Modern Society and their Relation to Crime" said that "the world in which we live makes many demands upon us, and that we are required every day and every hour to make adjustments to this or that situation. The whole process of living consists in an unending succession of adjustments to situations, people and conditions,

and here lies the crux of our present difficulty with crime in America. The age in which we live is so full of unreasonable demands, so exacting in its pressure, so rapid in its tempo, that actually none but the high grade organism or individual can adjust to it. Behind the difficulties we face in society as a whole, and reflected in the home, the church, and the school, are" he said, "certain forces in American life largely responsible for the present complex situation." The first "is that force created by our desire for individualism" and the second is the great force "called industrialism." "Complexity is inherent in the machine age. When material things come readily, we forget, as pointed out in the recent White House Conference, that character and moral values are not products of a machine, but come only through personal struggle, and as the fruits of stern individual effort." Further Mr. Faulkner said, "One very real relationship between the complexities of society and our crime and delinquency is this: That whenever restraints, traditions, customs, laws, and other controls are undergoing change or evolution, a general let-down is bound to result."

Mr. William D. Mitchell, Attorney General of the United States, pointed out that "for twenty-five years not much had been done to develop the federal prison system to keep pace with the demands upon it. That period had seen the extension of federal activity in the penal field by the enactment of the Harrison Anti-Narcotic Statute, the Mann White Slave Act, the Dyer Act relating to transportation of stolen automobiles, the National Prohibition Act, and a number of others, with the resulting increase in the load on federal machinery. Federal penal institutions in the spring of 1920 were terribly overcrowded, some of them to 200% of their rated capacity. This crowded condition was only exceeded by conditions in the penal institutions of four states." He then outlined the inadequacies in organization, personnel, laws and equipment which confronted at the beginning himself and his associate, Mr. Sanford Bates, Director of the U. S. Bureau of Prisons, and gave a rather grave picture of the increasing number of prisoners under federal jurisdiction. He paid warm and fitting tribute to Mr. Bates for his highly satisfactory administration of a most difficult work, and at the same time outlined many of the improvements that had been made and are under way, all of which are gradually bringing the federal prison system to a level where it will win high commendation instead of the scorn in which it long has been held.

An important point raised by the Attorney General related to the handling of juvenile delinquents. He said that for two years



past the Department of Justice had been striving to so order things that federal delinquent children would be left to the people of their own communities for care and supervision rather than have them sent to institutions hundreds and thousands of miles from their homes and parents. He pointed out that it is not merely a matter of shifting the financial burden or a lack of federal equipment, it is a question of child welfare. He pleaded for a prompt and hearty cooperation between state and federal agencies, working, not with a view to shirking expense and responsibility, but solely in the public interest.

The subject of "Economic Conditions and Their Relation to Crime" was treated by Mr. Jacob Billikopf, Executive Director, Federation of Jewish Charities, Philadelphia, and Impartial Chairman, Men's Clothing Industry, New York. In a very earnest manner he reviewed the essentials of the economic situation and pointed to the difficulty of obtaining general agreement on the relation between industrial depression and crime. He quoted the following from a study by Miss Mary van Kleeck of the Russell Sage Foundation, New York City: "Findings in the present review of published investigations are fairly conclusive with reference to the tendency for crimes against property and vagrancy to increase during periods of economic depression and decrease during prosperity, and for alcoholism to increase during periods of prosperity and decrease during depression." Mr. Billikopf referred to a critical analysis of the literature on the causes of crime by Dr. Morris Ploscowe of Harvard, as showing that most of it should be used with caution, and that very little except by way of declamation has been done up to this time to show the influence on crime and the underlying philosophy of the present social and economic system.

Continuing, Mr. Billikopf said that in despair he turned to the practical men and wrote a letter to about one hundred leading criminologists in this country, wardens, probation officers, heads of criminal courts, etc. These replies showed a difference of opinion, but leaned largely toward the support of the contention that there is a very definite relation between depression and crime.

Of special interest is Mr. Billikopf's reference to information from the State of New Jersey: "Now in the State of New Jersey, which in my judgment has the best charts and graphs showing not only the relationship between the depression and crime, but the relationship between the depression and mental breakdown and the various other factors, according to the data furnished me by Commissioner Ellis of New Jersey, the increase during the first year

of the depression was 20% in every category in dependency and delinquency with which the State is called upon to deal."

Mr. Billikopf quoted from Isaiah, "It shall come to pass that when men and women are hungry they shall fret themselves, and when they fret themselves they shall curse their king and their God," and questioned whether Isaiah did not mean the following: "It shall come to pass that when men and women are hungry they shall fret themselves, and when they curse their king and their God they are guilty not only of blasphemy but they commit crime." He predicated his conclusion not so much on what the experts have said, but upon what Isaiah said twenty-five hundred years ago.

That there are many hungry men and women in all parts of the country, and for that matter in the world, is indisputable, said Mr. Billikopf, and he properly raised the question, "What are we going to do, or what are we doing to alleviate that situation now?" He emphasized that the present was no time for the discussion of theory, that a practical way needed to be developed to take care of people who are in desperate need. He said, "Private philanthropy has completely broken down. I believe in local responsibility. But what can the local communities do? In the city of Chicago they haven't paid the school teachers . . . I see no possible escape from the federal government doing something under the present circumstances. . . . In conclusion I want you to remember, those of you who have read the Book of Job, that there were with him people who tried to comfort him, and that they couldn't do it, and finally Job in despair turned to the people and he said, "Sorry and hypocritical comforters are you all. When, oh when, will your windy words have an end?"

An indictment of the Church's responsibility for crime was included in a paper by Rabbi Edward L. Israel of the Har Sinai Temple, Baltimore. He asked, "What have the churches done to prevent exploitation of individuals in our economic order so that they will not be led into the almost stark necessity of stealing for a livelihood? What have the churches done to challenge effectively and bravely a society that has permitted the growth of slums, where youngsters grow up in an environment without a decent chance at the opportunities of life?"

Rev. Joseph J. Ayd of Loyola College, Baltimore, in discussing Rabbi Israel's address, said, "This talk of the failure of the Church and the failure of religion is not sound," and referred to Dr. Reisner's

statement that "the Church has not failed, but it has been neglected by its members and cheapened by its materialistic enemies."

Father Ayd analyzed the findings of the study made by Dr. and Mrs. Sheldon Glueck, as well as other studies on the relation of crime and delinquency.

Dr. Christian F. Reisner, Rector of the Broadway Temple, New York City, contended that the prison should be a hospital. Then it would send out its patients cured, instead of more than forty per cent not cured. Severity and inhuman treatment have contributed to crime by sending out victims so hardened that they easily take up violent lawlessness. He commented on the congestion in prisons, the lack of classification and separation, the lack of individual treatment, the unsatisfactory type of prison guards, and the need for extending the use of the indeterminate sentence and parole, and improving their administration.

An outstanding feature of the Congress was the meetings held by the Women's Committee under the leadership of Dr. Mary B. Harris, Superintendent of the Federal Industrial Institution for Women at Alderson, West Virginia. These meetings were attended by members of state commissions and boards of control, heads of institutions, and probation and parole officers. Administrative problems were earnestly discussed, and once again the value of straight from the shoulder informal discussion was demonstrated.

At a luncheon meeting of the Committee a very interesting review of the Tenth International Prison Congress, and of prison construction and administration in foreign countries, was given by Mrs. H. Otto Wittpenn, Commissioner on the part of the United States on the International Prison Commission.

Governor Albert C. Ritchie in an address referred to the weakness of the parole system in Maryland, and the lack of an effective follow-up system. He deplored the difference between sentences meted out by various judges for similar offenses, stressing that the inequality of sentences made for considerable misunderstanding and unrest among the inmates. A highly progressive attitude by the Governor was shown in this statement, "After all everyone in any prison is an individual subject and an individual study. Each man there and each woman has a soul, mind and heart of their own. Each one is a problem all by itself. The system we would like to see would be one which would allow each prisoner to receive more or less intensive individual study and treatment. I do not share by any means the opinion which some people advance that everyone

who is in prison is sick, that they are all mental cases, but I do agree that all the inmates of penal and correctional institutions should be treated as individuals, and in accord with their life history and individual needs. One vital thing to be kept in mind is that a large proportion of those in prison are at some time to be released, and that when they are released they become again a part of our community life. We must deal with them while they are in the institutions in an intelligent way, so as to minimize the danger of their becoming a menace subsequent to release."

Treating the subject of "The School," Dr. C. A. Prosser, Director of the William Hood Dunwoody Industrial Institute of Minneapolis, said, "There is very great danger both that regular educators and those who serve in penal institutions may be blind to the second industrial revolution which is going on around us, and which in my opinion must profoundly affect the whole progress of vocational training." He said that "the present and probable future development of labor saving devices would leave no appreciable number of jobs for men other than those who were able to install machines and understand manufacturing processes. I am firmly convinced at the present time from all the data that we have, that during the period we have been passing through in the last ten years the total effect of labor saving devices has been to reduce the opportunities of employment in practically every field of human endeavor, except the commercial." "Vocational schools," Dr. Prosser continued, "will have to turn their resources to training the boys and men that now comprise the majority of their student bodies in a wide variety of 'elementary' processes, turning them into general handy men, so that when they lose one job they will have some qualifications for anything else that may offer an opening."

Dr. John W. Withers, Dean of the School of Education of New York University, said that the schools were just beginning to assume the responsibility for character building which he held to be a natural step in their development. He defended the public school system against the charge of responsibility for much delinquency and crime, pointing out that the average man of twenty-one has spent only 7% of his waking hours in school, and the average criminal at that age only 3%.

Major Lynn G. Adams, Superintendent of State Police, Harrisburg, Pennsylvania, outlined, at length, the rigid qualifications that must be satisfied by those who are to enter the ranks of the State Police. He condemned the so-called "third degree" methods in the

questioning of prisoners and suspects, and stated, "I want to say that this 'third degree' method will continue until we change our system in the examination of criminals and the investigation of crime. Today the public puts it up to the police to get the criminal, regardless of methods and means, and so long as the policeman feels that he must get results or lose his job, or stand for criticism, he is going to use every means in his power, even though it extends beyond his legal right. . . . In the organization which I head the discipline is severe, and yet there have been cases where we have found men applying physical force to extort confessions. In every such case the man has been summarily dismissed from the service. However, regardless of whether these physical means are used or not, if the criminal is trapped into making a confession, when he gets counsel invariably the attempt is made in court to prove that the man was maltreated in order to obtain a confession or an admission." As a means of changing the present system he stated, "you must have in every district a certain number of trained men who can interrogate the prisoners, men in whom the public will have confidence, men who cannot ever be impeached before a jury. These men must be trained, and highly trained, to interrogate witnesses and suspects, and they must have the authority to summon those people in before them to tell what they know. Until you set up some system of that kind you will never get rid of this evil, the so-called 'third degree' system."

Also speaking on "The Police," General Charles D. Gaither, Commissioner of Police, Baltimore, said, "Every policeman, I don't care who he is or where he comes from, who is in command of any organization, refuses to allow what the public calls the 'third degree,' such as beating the man up or hurting him with force, in order to obtain a confession or an admission. However, if the police department cannot talk to the prisoner, cannot interrogate him, cannot endeavor to trip him in his statements, how are they going to deal with the problem of crime? Criminals have plenty of leeway today, and if a man is interrogated and he is innocent, he has nothing to fear. If he is guilty then it is up to him to match his wits with those of the police department." He stated further that "ten years ago the citizen was glad to help an officer in the performance of his duty. He would give any information he had that might be helpful in leading to the arrest of a law-breaker. Today that attitude is changed. People prefer to keep the information they have to themselves. They prefer to keep out of contact with any law-enforcing agencies."

At a luncheon meeting of the Committee on Jails, the condition of police lock-ups and jails was deplored in the report of the Committee and numerous recommendations were made for the improvement of their administration as well as their construction. The Committee's report will appear in separate print form at an early date. It contains considerable new information compiled by Dr. Hastings H. Hart, Chairman of the Committee and Consultant in Delinquency and Penology of the Russell Sage Foundation, as a part of his work as Chairman of the Advisory Committee on Penal Institutions, Probation and Parole of the National Commission on Law Observance and Enforcement.

Commissioner Joseph F. Fishman of the New York City Department of Correction, speaking at the luncheon, strongly cautioned against the over-emphasis in campaigns against moving pictures and their relation to crime, the sale of firearms, the participation of drug addicts in major crimes, and the causes of prison riots. He contended that while all these were somewhat contributory to the crime situation, there was nevertheless a tendency to make them appear as major and ultra-important factors in the problem. Mr. Fishman's address on "Furious Futility in Crime Treatment" provoked considerable discussion.

Speaking on the subject of "Prosecution," Herbert R. O'Connor, State's Attorney of Baltimore City, said that "Efforts should be frowned upon which have as their object the imprisonment of a man upon a minor and technical charge, when he is really known to be a major offender, and his conviction for his serious wrongdoings has not been attempted. We note with regret, that oftentimes a notorious criminal, characterized as a public enemy, is ushered into a penal institution after conviction on a formal, trivial charge, whilst the general understanding is that evidence is at hand tending to show that he has been engaged steadily in defying the law in serious, major operations of crime. It is not denied that the reason behind the prosecution for the lesser offense is that the particular individual is a menace to society. If then that be true, he ought to be tried for the major crime or crimes for which he is responsible, rather than punished for them indirectly by improvised charges of vagrancy, income tax dodging, and the like. Too much left hand justice is being applied. It is not surprising, therefore, that the defendant, after imprisonment, concludes that the government is not above employing subterfuge on its own behalf." Mr. O'Connor's address was frank, scholarly, and well delivered throughout, and among his

conclusions he favored legislation enabling conviction or acquittal of a defendant when eleven of the twelve jurors are agreed on a verdict. In this he excepted capital cases. He emphasized that the supreme duty of a lawyer engaged on behalf of the public in prosecution is not to convict, but to see that justice is done. He took issue with the American Bar Association's recent resolution to give the prosecution the right to comment on the failure of the defendant to take the stand and testify in his own behalf. He said that such a practice would result in the conviction of a man for "what he is rather than for what he has done," that it would destroy the "presumption of innocence that now surrounds an accused," and that it would enable prosecutors to force defendants to testify. On the other hand, he spoke in favor of legislation which would eliminate the "surprise alibi" by requiring the defendant to "indicate that defense in advance of a hearing on the facts of the main charge."

President Judge Paul N. Schaeffer of Reading, Pennsylvania, who followed Mr. O'Connor, advocated indeterminate sentences for criminals. He proposed that an attempt be made to carry out a program of modern penology emphasizing reformation instead of punishment of the criminal, by sending men to prison until in the judgment of the commissioners of correction they are ready to take a lawful place in society on the outside.

The Children's Court was treated in a very thorough address by George W. Smyth, Judge of the Children's Court of Westchester County, New York. He emphasized that the Children's Courts of America are the laboratories in which the nation is working out new methods of crime prevention. The knowledge there being developed is designed to become as effective in reducing crime as preventive medicine has been in checking the spread of contagious disease, and in reducing the mortality rate in youth. These courts are the first judicial tribunals we have had in which it has been possible to practice prevention rather than cure. He deplored the fact that society has confined its organized efforts almost exclusively to the punishment and reform of those who have come into open conflict with the forces of law and order, and that there has been very limited recognition of the importance of diagnosing and treating during their formative years children who display the symptoms or live under conditions which later develop anti-social conduct.

A full morning general session was devoted to the discussion of the report on Penal Institutions, Probation and Parole of the National Commission on Law Observance and Enforcement. This is

one of the so-called Wickersham reports, and in fact is really two reports. The first 174 pages constitute the Commission's report. That report, beginning on Page 170, sets forth twenty-three distinct conclusions and recommendations. Beginning on Page 175 is a statement indicating the inclusion of the report of the Advisory Committee on Penal Institutions. This Advisory Committee was selected by the Commission and consisted of many well known persons in the various branches of correctional work.

The discussion of the Commission's report was led by Commissioner William J. Ellis of the Department of Institutions and Agencies of New Jersey, and he was followed by Sanford Bates, Director of the United States Bureau of Prisons. Opportunity was then offered to anyone present to engage in the discussion. The following statement records the opinion of the meeting on the report:

"The reports of the National Commission on Law Observance and Enforcement on Penal Institutions, Probation and Parole, one of which was drafted by a committee composed of many prominent members of the American Prison Association, call attention to the needs of penal institutions in this country and make recommendations as to their improvement. While in some instances the reports and the publicity attendant thereon have dealt more especially in criticisms of prisons and other penal institutions, the reports have a real constructive value.

Since its organization in 1870 the American Prison Association has stood for the things which the National Commission on Law Observance and Enforcement advocated. This Commission, presided over by Mr. Wickersham, a former president of the American Prison Association, has to this extent rendered a valuable service.

The American Prison Association feels it proper to call attention to some of the inherent difficulties in prison management. The old time buildings, erected in a day when modern ideas had not been developed, the lack of appropriations by an uninformed or uninterested public, the incomplete recognition of the real purpose of punishment, and the unwillingness of educated men and women to participate in a solution of its problems, conspired to increase the difficulties under which prison wardens work. For seventy years, with a fidelity and devotion little appreciated, the members of the American Prison Association have continually invoked the ideals without which permanent improvement in prison management could not continue. One has but to consult the programs of Prison Association meetings to see that matters of prison welfare, instruction, medical attention and re-



ligious culture play a larger, if not the greater, part in their deliberations than do the more commonly accepted features of prison management.

The American Prison Association records itself as convinced that when the public has a proper understanding of the difficulties and obstacles under which our prisons are being maintained, they will accept the critical analysis of the Wickersham Commission as an invitation to join with the American Prison Association in greater numbers toward the accomplishment of the objects commonly desired by the American Prison Association and the Wickersham Commission."

Speaking of "Prisons" Warden Lewis E. Lawes of Sing Sing Prison, New York, said, "It might surprise some of our investigators to find that prisons, as distinct enterprises, are administered as honestly as any other governmental agency, or for that matter, big business. In many respects, especially in relation to health, sanitation, and departmental coordination, they have made more progress than other governmental agencies. . . . Prison reform cannot start with mere changes in physical surroundings. If prison reform is to include prisoner reform, we shall have to turn our attention to the men themselves to ascertain, if possible, the lapses that turned them toward crime, the state of mind or intimate condition that urged them on to desperate and violent acts. If prison service has taught me anything, it is that, scientific rules notwithstanding, prisoners generally understand the nature and quality of their acts. They know they are doing wrong while engaged in thieving or murdering or robbing. One of the men in the death house at Sing Sing was being questioned about his early life and the various steps which finally landed him in the death house, convicted of a particularly vicious murder. He told about buying his first gun. 'I knew, when I bought that gun, that it would send me to the electric chair' he said, yet he went out on his chosen mission and accomplished that very end. If prisons are to prepare men for normal life outside they must be administered as far as possible on a normal basis within the walls. Not years but accomplishment, should be the measure of a prisoner's confinement. In essence, prison terms should be based on the prisoner's ability to make himself useful to society. The unskilled worker, to learn a trade; the illiterate, to acquire the education needed to hold a job; the wanderer, to find for himself a home and responsibility; the deficient mentality, a lift toward a better understanding of the values of

life; the cynic and perverse, a saner attitude toward society and government.”

Dr. E. H. Sutherland of the Department of Sociology, University of Chicago, stated that “The program I present for the better performance of the prison functions is a program of research and experimentation. By research I mean the organized study of prisoners and of prison policies. By experimentation I mean, first, the bold striking out into new paths, and, second, a careful description of the nature and results of these new policies. Osborne’s Mutual Welfare League was an example of an experiment, though the descriptions of the results have been rather meagre and conflicting. Howard B. Gill’s policies in the Massachusetts Penal Colony at Norfolk are perhaps the best illustration of a conscious and scientific experiment in prison management. The development of minimum and medium security prisons is another illustration of an experiment. Experimentation in connection with research should be emphasized, because experiments mean a change in mass conditions, a change which may affect the public opinion of the prison group, and which may in that way change the culture of the prison group. For sixty years or more we have been insisting on individualization—treating the individual rather than the crime—and now perhaps, allowing for exaggeration, we should say “Treat the group rather than the individual.” Behavior is always directed principally by the culture of one’s immediate group and the public opinion of one’s fellows. We have tried to alter the individual while leaving the group unchanged. Perhaps that is one reason why many of the attempts at individual study and individual treatment under the name of case work have failed.”

Dr. Sutherland then outlined his research program, and said that it is not a substitute for common sense and for the knowledge which comes from long acquaintance with prisons and prisoners. “That knowledge is fundamental. A program of research should supplement that knowledge, and should organize and use it.”

Treating the subject of Probation, Joseph P. Murphy, Chief Probation Officer of the Essex County Probation Service in New Jersey, after reviewing the operation of the system in his state, summarized the chief criticisms of the probation system today as being based on the following factors:

1. Probation departments are understaffed.
2. Probation officers are overloaded with cases.
3. Probation officers are underpaid.
4. Probation officers are appointed without regard for their technical ability, fitness or adaptability to the position.

5. Reliance is made too largely upon the use of volunteer probation officers.
6. Probationers are released by the courts without preliminary investigations. Investigations now made in many instances are inadequate and do not encompass sufficient legal or social information. Investigations are too objective.
7. There is considerable abuse in the discretionary power of the court in the use of probation.
8. The supervisory effort of probation officers is superficial, is performed without proper planning and executed with little skill.
9. Probation officers do not cooperate with social agencies.
10. Too much dependence is placed upon office reports and the collection of monies.

“Although the Wickersham Commission, in its report, lists five localities in which acceptable probation work is done, we venture to say without fear of contradiction that in no single place in the United States is it receiving a full and complete opportunity to demonstrate its efficacy. . . . Consequently much criticism as the result of these conditions has arisen from time to time, particularly during periods and in places where so-called ‘crime waves’ are supposed to be an actuality. Although much of this criticism obviously is unfair, particularly when directed at the principles underlying this form of treatment, nevertheless it has served a very useful purpose in stimulating the public mind and crystallizing sentiment in favor of higher standards of efficiency in the administration of probation. In other words, there is a growing demand for probation officers who are better fitted by personality, education, training and experience and for a more intelligent discrimination by the courts in the treatment of offenders. Probation has many advantages over other forms of treatment, in suitable cases when conscientiously and intelligently administered.”

Speaking on Parole in New York State, Frederick A. Moran, Executive Director, New York State Division of Parole, quoting from the Declaration of Principles of the 1870 Congress of the American Prison Association, said, “more systematic and comprehensive methods should be adopted to serve discharged prisoners by providing them with work, and encouraging them to redeem their character and regain their lost position in society. *The State has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him. Having raised him up, it has the further duty to aid in holding him up.* In vain shall we have given the convict an improved mind and heart, in vain shall we have imparted to him the capacity for industrial labor and the desire to advance him-

self by worthy means, if on his discharge, he finds the world in arms against him, with none to trust him, none to meet him kindly, none to give him the opportunity of earning honest bread." Mr. Moran said further that "the success of any program of individualized treatment of offenders depends upon a staff of well trained social workers with good educational background and with the right kind of personalities." His address contains some valuable historical facts on the beginning and development of the indeterminate sentence and parole in this country; a summary of findings relating to parole conditions in various states; an analysis of parole standards of procedure and personnel, and the law and organization relating to the New York State Parole system. Those who are interested in the operation of the indeterminate sentence and parole are referred to this address, as an introduction to the effort that is being made in the State of New York for the development of a very high level of administration.

Mr. Winthrop D. Lane, Director of Parole of New Jersey, defined parole as a period of adjustment or transition. "It is not merely a method of release from prison; it is not clemency; it is not shortening an offender's term; it is a continuation of the process of treatment; it is an extension of custodial responsibility, and the offender on parole is still a ward of the state. He is still undergoing treatment. He is still subject to control, and it is the function of the parole officer to substitute the discipline, education and watchfulness available in community life for the discipline and treatment available in an institution." He stressed the need of case work as a part of parole procedure, and asks "how many parole officers are really attempting the methods of social case work today?" He very cleverly described a number of types of parole officers, showing to what extent they fall short of the real objects and ideals of parole and of case work procedure, and finished off with a description of what is done by a parole officer who employs case work methods. In the pages devoted to this part of his address Mr. Lane makes an original contribution.

Judge Andrew A. Bruce, President of the American Institute of Criminal Law and Criminology, head of the Department of Criminal Law and Administration of the Northwestern University Law School, and former Chief Justice of the Supreme Court of North Dakota, spoke with his characteristic enthusiasm and earnestness on the crime problem and its treatment. "I do know from experience that the problem of the judge is a terrific one. You have a man before you who is powerless, a criminal. You have his life, his

death, and everything in your hands. People seldom realize that strain and responsibility. . . . I do not know of any time in my life when I had more doubts than I had in regard to my work on the Board of Pardon. Should you pardon, or should you not pardon? What, after all, is the measure of punishment? How long should a man serve? If punishment is the desideratum, how much punishment? Is it one year, two years, ten years, or twenty years? How much reformation is there in that length of time in prison? Do our penitentiaries bring forth repentance? How can you analyze the human consciousness? How can you analyze human agony? How can you analyze the human soul!

"My great criticism is that nine out of ten men who have the administration of the law and the care of the criminal in their hands, have not knowledge enough to meet the problem, have not had experience enough to meet it. . . . We hear so much poppy-cock these days about our institutions, the mollicoddling of our prisoners, that they are fed so well and all that sort of thing. The average man knows nothing of what it means to be confined, of the effect on the nerves, on the ambition, on the hopes, on the mind, to say nothing of the physical effect and being of the prisoner. . . . If our purpose is reformation, if it is education, our penitentiaries and our reform schools are among the most important of our educational institutions. They are dealing certainly with a most difficult class of students. If they are the most important we should spend as much care in the selection of the wardens, in the selection of the prison guards, and of the prison officers, as we do in the teachers of our public schools and universities."

During the afternoons of the Congress, meetings were held by the Wardens' Association, the Medical Section, the Chaplains' Association, the National Prisoners' Aid Association, and the Committees on Probation, Pardon and Parole, Education, Criminal Law and Statistics. It is regretted that space does not permit even a brief detailed reference to the exceptionally fine contributions that were made in the papers and discussions at these various meetings. Many of these addresses will appear in the printed proceedings of the Congress.

Space is also lacking for a summarization of the reports of all the Committees of the Association, and for the full text the reader is again referred to the printed proceedings.

In addition to the usual resolutions of thanks and appreciation the following were adopted:

"WHEREAS, officials in charge of penal and correctional institutions feel the need of the assistance of and better acquaintance with prosecuting attorneys, judges and magistrates committing offenders, in order that they may cooperate more fully with the purposes of the courts, and that the offender and the community may benefit from the closer contacts of all officials concerned, through a more successful rehabilitation of the offender,

THEREFORE, BE IT RESOLVED, by the American Prison Association, that prosecuting attorneys, judges and magistrates be invited and urged to visit frequently the institutions to which they commit offenders; and,

BE IT FURTHER RESOLVED, that the enactment of legislation making the traveling expenses of such official visits legal expenses, be encouraged."

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"WHEREAS, Probation is now generally recognized as the most important method for the investigation of all offenders before the courts and for their treatment, in suitable cases, by means of individual supervision and guidance.

BE IT RESOLVED, that we urge the enactment and extension of probation laws in all states to give full discretion to criminal courts to place on probation; that more adequate funds, local, state and national, be sought, to secure a larger number and higher quality of probation officers, the need for whose constructive services are at this time especially apparent, and

BE IT ALSO RESOLVED, that we urge the establishment of State Bureaus or Departments of Probation in each state to supervise and aid in the extension and carrying on of probation service in all courts, and finally,

BE IT RESOLVED, that we commend the development of probation work in the United States Courts under the efficient supervision of the Probation Supervisor and the Bureau of Prisons of the Department of Justice, and, as a measure of economy as well as efficient justice, urge the further extension of this service with more adequate staffs in all United States District Courts."

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"WHEREAS, the chief aim of prisons is the rehabilitation of the individual, and

WHEREAS, there is developing in various prisons throughout the country, methods and principles of institution case work, which are of great interest to all, now

BE IT THEREFORE RESOLVED, that a "Committee on Case Work and Treatment for Prisoners" be established to gather information on case work methods in prisons, and to present such data with recommendations at the next annual meeting of this Association."