Report of Governor's Advisory Committee on Crime

February, 1931

Printed by
The Printshop Company, Ltd.
Honolulu, Hawaii
1 9 3 1

Honolulu, T. H., February 9, 1931.

His Excellency Lawrence M. Judd,
Governor of Hawaii,
Honolulu, T. H.

Your Excellency:

Your Advisory Committee on Crime appointed to study delinquency, crime and punishment therefor in this Territory and the methods employed in our corrective institutions submits herewith its report and recommendations.

Respectfully yours,

R. A. VITOUSEK,
Chairman, Governor's
Advisory Committee on Crime.

RAV/W

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REPORT
of
Governor's Advisory Committee on Crime

PRELIMINARY

Upon the 3rd day of January, 1930, you appointed an Advisory Commission on Crime consisting of R. A. Vitousek, Chairman, W. F. Frear, A. G. M. Robertson, Gertrude M. Damon, Bernice P. Irwin, Margaret Bergen, W. H. Heen, Harry I. Kurisaki, Francis K. Sylva, Stanley D. Porteus and Burton Newcomb. Later Mr. Newcomb resigned and H. R. Hewitt was appointed in his place. This commission you requested to study delinquency, crime and punishment therefor in this Territory, and the methods employed in our corrective institutions. The commission appointed as its Secretary Thaddeus Coykendall from the staff of the University of Hawaii.

At the outset we decided to divide our work into four main divisions and have a sub-committee in charge of each division, the committees and their work being:

Committee on causes of crime and criminal statistics, Roy A. Vitousek, Stanley D. Porteus and Bernice P. Irwin;

Committee on detection and apprehension of criminals and persons accused of crime, and sentences of criminals, A. G. M. Robertson, W. F. Frear, W. H. Heen and H. R. Hewitt;

Committee on corrective and penal institutions, W. F. Frear, Harry I. Kurisaki and Francis K. Sylva;

Committee on Juvenile Delinquency, W. H. Heen, Margaret Bergen and Gertrude M. Damon.

Early in our work we made a study of the reports of the Crime Commissions of many of the states and cities where the commissions had a reputation for good work. Our time was short and we had no funds; consequently, we thought that the best we could do was to confine our activities to a few matters of

outstanding importance and start other work and investigations that a permanent commission, with adequate finances, might carry on. At the beginning we determined to confine our activities to conditions that might be remedied by local legislation or action.

No funds being available for the use of the commission it was impossible to employ trained investigators or carry out as extensive a study of conditions and institutions as should be made. Fortunately, through the University of Hawaii, much valuable assistance was given us and a case study was made of selected inmates of the Territorial Prison and of Waialee and Maunawili Training Schools. The reports of Miss Bergen, Miss Babcock, Prof. Porteus, Prof. Adams and Mr. Andrew W. Lind upon the results of their investigations are attached hereto as an appendix. The University also furnished us with the services of Mr. Coykendall, as secretary, whose assistance was extremely helpful. We wish to express our thanks to the University and to the above members of its staff for its splendid co-operation with the Commission.

In an endeavor to ascertain the views of the public upon crime and its causes we addressed a letter to plantation managers, to social workers, to the principals of the public schools and the heads of the private schools and to public officials having to do with the enforcement of the law, and to judges, reading as follows:

> "As you are undoubtedly aware, the Honorable Lawrence M. Judd, Governor of Hawaii, has appointed a Crime Commission to study delinquency, crime and punishment therefor and methods employed in corrective institutions in the Territory of Hawaii. The Commission understands its duty to make a study of the entire subject of crime with reference, of course, to the conditions in this Territory, which study will include causes of crime, detection and apprehension of criminals, prosecution of persons accused of crime, sentence of criminals, penology, juvenile delinquency, and last but of most importance possible methods of reducing crime.
>
> "The Commission is very desirous of securing the views and opinions of those who have given this matter thought, and in order to help the Commission in its work we would like to find out from you what, in your judgment, in accordance with your experience in your particular field of work, are the best measures to be taken, either by legislation or otherwise, to improve the administration of criminal justice and reduce crime in the Territory of Hawaii.

> "Should you desire to appear before the Commission rather than give us a written reply, we would be very happy to arrange for you to meet with us."

Many replies were received and extracts from many of these we attach to our report as Appendix No. 1, as we believe they contain valuable suggestions. All of the replies were studied by the members of the commission and were given consideration in arriving at our conclusions. It should be understood, however, that we do not necessarily concur in all of the recommendations therein contained.

The Commission held weekly meetings throughout most of the year and at these meetings invited many persons actively identified with the community life or the official life of the Territory to be present and express their opinions. The judges of the Federal Courts, of the Circuit Court of the First Judicial Circuit, of the Circuit Court of the Second Judicial Circuit, and of the District Court of Honolulu all met with the Commission.

We also had the privilege of having present at different meetings Dr. Ochsner of the Chicago Crime Commission, Judge Darby, Chairman of Ohio Commission on Criminal Procedure, and J. Prentiss Murphy, Executive Secretary of Children's Bureau of Philadelphia.

And in order to give the public generally of Oahu a chance to be heard we called a public meeting in Honolulu in the Judiciary Building to which every one was invited to come and talk, and many availed themselves of the opportunity.

Unfortunately we could not give as much attention to conditions on the islands other than Oahu as was desirable, although most of our recommendations apply generally to the entire Territory.

CAUSES OF CRIME

The more study that is given to the subject of crime the more certain it becomes that there is no one reason for criminality. Many factors contribute to a criminal career and consequently no simple remedy can be brought forth to prevent crime.

Out of our study of these causes has come the general conclusion that the underlying factors may be generally classified

under three heads—individual, family and social. The personality and intelligence of the criminal is extremely important and this needs careful study so that the schools and other agencies which deal with him may provide the best kind of educational, social and moral guidance. The family influence is also of outstanding importance, for we find that broken homes, or parents at variance, since they provide less than the minimum amount of security to the child during the developing period, are features of the history of so many delinquents. The social factors are also far reaching in their influence and include all the means that society has devised to check criminal propensities, to restrain the criminal, to assist in social rehabilitation and to mould character. Unfortunately there are other things which enter into community life which have a decidedly deleterious effect on character. These require public action as for example, the unregulated dance hall.

It is obvious that has regards some of these factors and particularly those which have reference to the individual and his home conditions the Commission can have nothing but very general recommendations to offer. The weakening influence of the home is a phase of our modern life which no public action can affect. We can only call attention to that fact as a demoralizing trend. Our work has naturally more to do with the social factors in crime and due attention has been paid in this report to the various institutions and agencies for social reform or betterment and their more effective functioning.

In addition to the causes of crime that are operative everywhere we have in Hawaii certain special conditions. For example we have in our community certain races alien to our culture and not thoroughly in accord with our standards of morality. This taken in conjunction with the excess of males over females in these racial groups, tends towards the commission of a certain form of sex offence. Hence we find many Filipinos in the penitentiary for these offences which from their point of view are crimes only by virtue of our statutes.

ENACTMENT OF NEW LAWS CANNOT BRING RESPECT FOR LAW

There seems to be a rather common impression that almost anything can be accomplished by the writing of laws on the

statute books. That is a mistaken view. We do not suffer from the lack of law; if anything, we have too many. It is obvious that respect for the law as a general proposition cannot be brought about by the enactment of statutes. It can be accomplished only through a gradual process of education whereby the intelligence and moral fiber of the people of the community shall be brought to a higher standard.

ABILITY OF PUBLIC OFFICIALS GREATEST FACTOR IN LAW ENFORCEMENT

Our investigations have made it clear to us that the adequate and successful enforcement of the criminal laws involves at every turn the human element which cannot be reached by statutory enactment. If the police were elert, zealous and adequately trained, if the prosecuting attorneys were in all cases active, efficient and able to match ability with that of opposing counsel, if the judges were always capable, industrious and of good, sound judgment and if the jurors were invariably intelligent, competent to weigh and evalute the testimony of witnesses, and mindful of their oath to render a verdict according to the law and the evidence, there would be no difficulty with law enforcement. Methods may be improved and court procedure may be simplified by statutory amendment, but in the last analysis the effective and impartial enforcement of the laws must depend on the efficiency of the police in the detection of crime, the apprehension of criminals, and the securing of evidence, as well as the capability of the courts in their three component parts—judges, juries and attorneys—to dispense prompt and even-handed justice.

EDUCATION

We believe that the early training of our young people is all important. While it is impossible for the parent to escape responsibility for the mental and physical development of the child the schools are largely responsible for fitting the child for the economic life of the community, and it is necessary that the young people be properly placed in the economic structure now existing. We have not made a study of this subject as it was being adequately covered by your Advisory Commission on

Education. There are, however, certain matters in connection with education that we believe should be given immediate attention.

We recommend that the Department of Public Instruction be authorized to appoint and maintain one school social worker sometimes known as a visting teacher for every two thousand school children in the City of Honolulu. Such teachers should be qualified, first, by disposition and understanding of children, and, second, by training in the following fields: Clinical Psychology, Mental Hygiene and Sociology. The function of these teachers is a double one—to work directly with children who are problems in the school and are likely to become problems in the community, and also to advise with and assist parents so that the proper co-operation of home and school can be secured.

EDUCATING FOREIGN BORN IN REGARD TO CRIMINAL LAWS

We have been informed by Mr. J. K. Butler, Secretary of Hawaiian Sugar Planters' Association, that the Association continuously causes newly arrived Filipinos to be given instructions at the Immigration Station on the differences between our laws and those of the Philippines and this information is also given out by Cayetano Ligot, Resident Labor Commissioner from the Philippines. While this work is good and undoubtedly effective, yet in view of the fact that so many of the inmates of our penal institutions are foreign born it seems to us that it should be enlarged upon.

We recommend that renewed efforts be put forth by the large employers of foreign born laborers to educate them in regard to criminal laws in force in the Territory. We suggest that those employers co-operate with the Attorney General and the Psychological Clinic at the University of Hawaii in regard to the method to be employed in so educating the foreign born.

EDUCATION WORK AT WAIALEE AND MAUNAWILI TRAINING SCHOOLS

We attach hereto as an appendix a special report from Miss Bergen in regard to the educational work at Waialee Boys' School

and Maunawili School for Girls, and also a letter from the Superintendent of the Department of Public Instruction relative to the advisability of placing the educational work of those schools under the guidance and control of the Department of Public Instruction (See Appendix No. 7).

We do not believe it necessary to provide by law for conduct of educational work at those institutions. There is no good reason why the Board of Industrial Schools and the Department of Public Instruction cannot voluntarily co-operate in regard to the educational work at those institutions. Both departments are under the Governor and both should be interested in the education of the inmates of the schools.

We recommend therefore that the Board of Industrial Schools and the Department of Public Instruction, in some manner satisfactory to them, co-operatively work out a program of education for the inmates of those schools and for the selection of the teachers.

SOCIAL AGENCIES

Appendix No. 3 of this report shows that 78% of the group of delinquent boys and girls studied had been known to at least two other social agencies. It also was found that eleven different organizations had had an interest in these boys and girls and yet with this array of agencies interested there was found but little co-ordination of effort in dealing with the individual children.

We would commend this fact to the attention of the directors of these agencies and urge on them the necesity for co-ordinating their work so that the individual is never lost to view until finallly adjusted. The tendency is for each agency to do its specific task and add one more case to its files, without regard to the fact that the case is really an individual, with an individual's many needs and problems. Uncoordinated effort is the most expensive and ineffective method of doing social work.

CRIME WAVE

The evidence before this commission consisting of the unanimous opinions of judges, prosecuting officials, police officials

and juvenile court officials and also the records of the courts would indicate that there is no crime wave in this Territory. The contrast in this respect to mainland conditions that Hawaii presents is no doubt largely due to the comparatively limited field of operations, the necessary expenditure of time and money in reaching, and the prospective difficulty of escaping from, the Territory. According to the statistics relating to convictions such increase in crime as is apparent is not out of proportion to the increase of population in the Territory (See Title Criminal Statistics of this Report). We do not find the public records sufficient, however, to make any exact findings in the matter. There is no way of ascertaining how many crimes are committed where the perpetrator is unapprehended or unpunished. We hope that one of the results of our work will be the keeping of records in such a manner as to show the true condition of crime.

COURT CONGESTION

Our survey definitely establishes that there is no congestion of criminal cases in the courts of this Territory. All of the courts are practically up-to-date in their work and all cases are speedily handled. The judges should be commended for the condition of their calendars as we realize that the condition of the court calendar in this Territory is strictly the responsibility of the court judges.

PUNISHMENT BY WHIPPING

The Commission refrains from expressing an opinion upon the recently much discussed question of whether corporal punishment by whipping should be permitted or required either as a matter of prison discipline or by way of sentence, as its legality or constitutionality is now before the courts. For a discussion of the subject, see Chapter XXIII, entitled "Corporal Punishment" of Judge Kavanagh's recent book on "The Criminal and His Allies."

MORAL AND RELIGIOUS TRAINING

Many of those giving the Commission the benefit of their views stressed the importance of religious training. Some believed the training should be given in the public schools while others believed it should be given in the sabbath schools. We are of the opinion that the more our youths are brought under the influence of religious and moral training, the less crime there will be. While we are not prepared to recommend the teaching of religion in the schools, we do feel that more attention can be given to instruction of children in regard to proper personal conduct. The public authorities should allow the use of school buildings for religious training.

We recommend that the Department of Public Instruction provide for instruction in regard to the more important laws in force in this Territory regulating personal conduct, and establish, as part of the curriculum, a more definite and extensive training in morality and good citizenship in the public schools.

While we are not prepared to recommend just how it should be done, we believe that somewhere in their training children should be given carefully graded instruction in matters of sex.

PLAYGROUNDS AND PARKS

Undoubtedly properly supervised playgrounds are a large factor in the prevention of crime. They furnish the young people with healthy activity and also furnish the means to put to a useful purpose the natural gang instincts of the growing boys and girls. At the present time there are not enough playgrounds in the City and County of Honolulu and probably are not enough in the other counties.

The spot maps forming a part of Mr. Lind's article which is attached to his report (See Appendix No. 8) show where the playgrounds should be located; namely, in the districts where the greatest number of juvenile delinquents are found.

While adequate play space and supervised play is not the only antidote for juvenile crime, it is undoubtedly one very important means of prevention. It is better to spend public funds for this method of prevention rather than suffer the large loss due to the commission of crime.

The present school plants should be put to greater use which can be done by using the school yards for playgrounds after school hours under proper supervision and by using school build-

ings where properly built, as community centers, during evenings and week-ends. All future buildings on school premises should be constructed to provide in all districts a building to be available as a community center.

We can do no more than suggest a definite program for consideration by the Board of Supervisors of the City and County of Honolulu, and this suggestion will only be a starting point.

The location first needing attention is the area at the north corner of King and Liliha Streets. There is no play space in this area whatever, although it has a very dense population. A suitable place should be acquired for playground purposes.

There should be a large athletic field somewhere in the Palama district. The recently filled land, about fifteen acres in extent, lying between the Kaiulani School and the extension of Queen Street, is suitable for this purpose. It is suggested that there be furnished an athletic field divided into sections for baseball, football, volley ball, tennis courts, and a space equipped with proper playground apparatus for the smaller children. While the location is only tentatively suggested and the field could be moved to a different space, it should, nevertheless, be kept as near as possible in the center of the Palama district. We believe that there should be many other small areas set aside for play purposes in the section Ewa of Liliha and makai of School Streets, these to be acquired by the Board of Supervisors in co-operation with the Recreation Commission.

While we have dealt largely with the district Ewa of Liliha there is also a need for playgrounds in other sections of the city, but this need is not so urgent at the present time. For instance, there should be a large field where baseball and other games requiring large areas could be played in the Kaimuki section. It is true that Kaimuki has a park, but this is not suitable for playing baseball or football.

This brings up the question of financing. The only way this can be accomplished without raising taxes or reducing expenditures for other items of the government is to use a special assessment plan.

We recommend that the street improvement statutes be

amended to include parks in order to assess the cost of acquiring playgrounds and parks to the property specially benefited thereby.

In connection with the parks, we find that they are not properly lighted at night. Practically all of the witnesses coming before the Commission suggested that the City and County arrange for the proper lighting of these parks in order to prevent some of the unfortunate incidents that have occurred in the parks in the past.

We recommend that the Board of Supervisors of the City and County of Honolulu make arrangements for adequate lighting of all of the parks used by it.

CRIMINAL STATISTICS

On the subject of the incidence of crime among various nationalities or racial groups and the question of its increase, attention is directed towards the subjoined tables. These have been arranged by T. R. Coykendall, Secretary to the Commission on Crime, under the supervision of S. D. Porteus and R. A. Vitousek, members of the Commission.

The material has been abstracted by Mr. Coykendall from the biennial reports of the Chief Justice of the Supreme Court to the Governor of the Territory. In these reports convictions are grouped by political status into three groups—citizens, aliens and nationals, the latter including Porto Ricans and Filipinos. Unfortunately in the other two groups of citizens and aliens there is no separation of certain nationalities. For example, the Portuguese are classed separately under "aliens" but all those of this national descent who were born here or naturalized are included in the citizen's group with Caucasians. Since the Portuguese are a numerically important group we would recommend that their records be kept separately from the other Caucasians. There is also no separate classification for another important national group, viz., the Koreans. These are at present included under the heading "Others." Latterly these have been separated but for the purposes of this study this has not been in vogue long enough to allow of the segregation of this racial group in our tables. It should be remembered however, that the heading "Others" means predominantly, Koreans. We would

recommend that in future the most satisfactory division would be to classify cases first by national or racial origin and secondly to divide these two groups—those born in Hawaii and those born elsewhere. Naturalization as a citizen is not so important for the purposes of crime records. What we wish to know is whether the individual has been subject from birth to the influences of this environment or whether he has lived for some time among alien surroundings where different standards of conduct and living may prevail.

For the purposes of this report crimes have been grouped under seven main heads. This grouping is in accordance with suggestions for Uniform Crime reporting. They are:

(1) Aggravated Assault which includes
Assault and Battery with dangerous weapon.
Assault and Battery with intent to murder.
Assault with a dangerous weapon.
Assault with intent to murder.
Attempt to commit assault with a dangerous weapon.

(2) Sex Crimes, which include
Assault with intent to Ravish.
Attempted Rape.
Carnal abuse of female under 12 years.
Ravishing by force.

(3) Homicide which includes
Manslaughter, including:
Manslaughter, 1st degree.
Manslaughter, 2nd degree.
Manslaughter, 3rd degree.
Murder, including:
Murder, 1st degree.
Murder, 2nd degree.

(4) Auto Theft or Malicious conversion.

(5) Larceny, which includes
Attempted larceny.
Attempted larceny, 2nd degree.
Larceny, 1st degree.
Larceny, 2nd degree.

(6) Burglary, which includes
Attempted burglary.
Burglary, 1st degree.
Burglary, 2nd degree.

(7) Robbery, which includes
Assault with intent to commit robbery.
Attempted robbery.
Robbery, 1st degree.
Robbery, 2nd degree.

Roughly grouped the first three are crimes of violence, the next four are crimes against property.

Information was also required with regard to the interesting question as to whether crime of a particular nature is or is not on the increase in the Territory. To use the popular phrase—is there a crime wave and if so, in what direction is it manifest and are all racial groups equally affected? To provide a partial answer to this question we have compared the convictions for each racial or national group over two six-year periods, viz., from 1917 to 1922 as against the period 1923 to 1928 inclusive. These six year periods were chosen for several reasons. In the first place this community is so small and the racial groups are so unevenly distributed that comparisons by bienniums were confusing due to fluctuations in the ratio of crime. To illustrate this difficulty by an extreme instance we may point out that the decline in crime in the biennium among a numerically small group might mean that all the criminally disposed of that group were in prison. The incidence of murder for some races is so small that the occurrence of several murders in one period would make the ratio for this crime increase so markedly that people might infer that this group had suddenly become homicidal in tendency. The only way to treat the statistics is to group them in comparatively lengthy periods.

The reason for not extending the comparisons further is that prior to 1917 the records are not kept in such a way as to be comparable with those included in this report.

We have been careful to say that this report provides only a partial answer to the questions involved. The number of convictions may be as much an index of the activity of the courts

and the police as the prevalence of crime. A more efficient police department may bring about an increase in convictions and therefore an apparent increase in crime. This is another reason for making long term comparisons. An instructive comparison would be the records of the number of complaints of crime investigated in proportion to the number of convictions.

In arranging this data the method has been to take the average annual population of each racial group over the six year period, the figures being taken from the Annual Report of the Governor. With this annual population as a divisor the ratio of crime per thousand of the population in each racial group can be calculated using as dividend the total number of convictions for each crime for each racial group over the six year period. The ratio does not, therefore, represent an annual rate of crime.

Taking the racial situation first we find that in crimes of violence the Porto Rican in the first six year period occupies the unenviable distinction of being first in homicide, first in sex crimes and second in aggravated assault. The Filipinos are the second worst offenders occupying first place in assault and second in the other crimes of violence. As regards the second six year period the Porto Ricans are at the top of the list in aggravated assault, homicide and second in sex crimes. Their ratio diminished in the last-named class of crime and increased in the other two. The Filipinos in the second six year period increased their tendency to homicide slightly, remained the same in sex crimes and diminished their tendency to commit aggravated assault. Generally speaking they are about static in crimes of violence.

From the standpoint of criminality the "Others" are an important group and it is unfortunate that we cannot give their racial classification. In 1917-1922 they take third place in assault, third place in homicide, and fourth place in sex crimes. During the next period (1923-1928) they take fourth place in assault, retain third place in homicide and take first place in sex crimes. As far as the absolute figures go they are static in all crimes except sex offences in which they show a rather marked increase.

Relatively to the Porto Ricans, Filipinos and 'Others', the Hawaiians (including part-Hawaiians) are not prone to crimes of violence. Their ratio in 1917-1922 was roughly 1/6 of the

Porto Rican in sex crimes, 1/6 in assault, and 1/9 in homicide. As regards evidence of increase in the period 1923-1928, there is on the whole, a tendency for crimes of violence to increase in this racial group.

As regards the Caucasian, Chinese and Japanese groups, the tendency to crimes of violence is not great nor is there any significant evidence of a "crime wave". The ratios are consistently small, except for assault and in this crime for the two oriental races there has been a drop in convictions in the second period. The Japanese occupy the enviable distinction of being lowest in the list as regards these crimes.

Viewing the results as a whole, there is no marked tendency towards an increase of crimes of violence for the second period as against the first.

Turning now to the four classes of crimes against property, we find the "Others" taking first place in Burglary, Larceny and Robbery in the first six year period. This rather non-descript classification contains a relatively large proportion of the criminally disposed. The Filipinos occupy three second places, the Porto Ricans three third places and one first place. The Hawaiians hold three fourth places and one second place. The various races therefore show much the same order as in crimes of violence. Roughly speaking the Hawaiians occupy a position midway between the leaders in crime and the least criminally disposed.

Looking over the crime increase question we find that in larceny there is a decided tendency for convictions to become more numerous. This too, is true of auto theft. Burglary on the whole has decreased and so too has robbery.

If we take all crimes into consideration we find that the Filipinos show a decrease in their ratio for five out of the seven crime classifications listed. This is evidence of an increasing adaptability to American conditions and standards of life. Porto Ricans on the other hand, have increased their ratio in five classes of crime and decreased in two. Here is proof that adjustment to local conditions is not the sole factor in reducing crime. Theoretically the Porto Ricans also should decrease. The Caucasian group (which includes Portuguese) also show increase

in their ratio in five crimes. This may mean that the Portuguese tendency to crime is increasing or that we are getting an influx of criminals from the mainland. Unfortunately the figures cannot decide this question. The Japanese tendency is to remain stabilized as regards crime, the only notable increase being for larceny in this race. The Chinese show an increase in five crimes but it is not relatively important except for larceny. In all probability the marked increase in larceny for all races except the Filipino and Caucasian reflects the industrial situation.

In order to give a general impression of the position of the racial groups we can imagine that the situation represents a track meet, points being allotted to each race according to their relative position in the crime statistics. As there are seven racial groups the lowest position will be given 7 points; second, 6; third, 5; fourth, 4; fifth, 3; sixth, 2; and seventh position, 1 point. In other words if the Japanese are lowest in aggravated assault they receive 7 points. The Filipinos have the worst record in this crime (1917-1922) and therefore receive only 1 point.

The relative standings of the races are then as follows:

	Period 1917-1922			Period 1923-1928	
1.	Japanese	42	1.	Japanese	47
2.	Caucasians	40	2.	Chinese	38
3.	Chinese	37		(Filipino	30
4.	Hawaiian and Part	26	3 & 4.	(	
5.	Others	20		(Caucasian	30
6.	Filipinos	17	5.	Hawaiian and Part	25
7.	Porto Ricans	14	6.	Others	16
			7.	Porto Ricans	10

This table gives an approximate measure not only of racial crime tendencies but also the position as to increase or decrease of crime. The improvement of the Filipinos from sixth place to third should be noted as this is the most marked change in the racial order.

CONVICTIONS IN THE TERRITORY OF HAWAII OVER TWO SIX YEAR PERIODS 1917-1922, AND 1923-1928 AND INCREASE OR DECREASE BY NATIONALITY PER 1,000 POPULATION

AGGRAVATED ASSAULT

1917-1922		1923-1928		Increase		Decrease	
1. Filipino	2.50	1. Porto Rican	3.28	1. Porto Rican	1.25	1. Filipino	1.34
2. Porto Rican	2.03	2. Filipino	1.16	2. Caucasian	.04	2. Chinese	.30
3. Others	.52	3. Others	.46			3. Haw'n & Part	.18
4. Chinese	.50	4. Caucasian	.33			4. Japanese	.07
5. Haw'n & Part	.33	5. Chinese	.20			5. Others	.06
6. Caucasian	.29	6. Haw'n & Part	.15				
7. Japanese	.15	7. Japanese	.08				

SEX CRIMES

1. Porto Rican	1.11	1. Others	.46	1. Others	.29	1. Porto Rican	.65
2. Filipino	.47	2. Porto Rican	.46	2. Haw'n & Part	.05	2. Filipino	.02
3. Haw'n & Part	.17	3. Filipino	.45	3. Chinese	.04	3. Caucasian	.03
4. Others	.17	4. Haw'n & Part	.22	4. Japanese	.02		
5. Caucasian	.09	5. Chinese	.08				
6. Chinese	.04	6. Caucasian	.06				
7. Japanese	.01	7. Japanese	.03				

HOMICIDE

1. Porto Rican	1.11	1. Porto Rican	1.40	1. Porto Rican	.29	1. Others	.06
2. Filipino	.99	2. Filipino	1.08	2. Haw'n & Part	.24	2. Japanese	.03
3. Others	.52	3. Others	.46	3. Caucasian	.10		
4. Haw'n & Part	.12	4. Haw'n & Part	.36	4. Filipino	.09		
5. Japanese	.10	5. Caucasian	.19	5. Chinese	.08		
6. Caucasian	.09	6. Chinese	.08				
7. Chinese	.....	7. Japanese	.07				

CONVICTIONS IN THE TERRITORY OF HAWAII OVER TWO SIX YEAR PERIODS 1917-1922, AND 1923-1928 AND INCREASE OR DECREASE BY NATIONALITY PER 1,000 POPULATION (continued)

AUTO THEFT

1917-1922		1923-1928		Increase		Decrease	
1. Porto Rican	.92	1. Porto Rican	1.56	1. Others	1.09	1. Japanese	.02
2. Haw'n & Part	.43	2. Others	1.09	2. Caucasian	1.02		
3. Chinese	.18	3. Caucasian	1.09	3. Porto Rican	.64		
4. Japanese	.07	4. Haw'n & Part	.59	4. Haw'n & Part	.16		
5. Caucasian	.07	5. Chinese	.28	5. Filipino	.14		
6. Filipino	.04	6. Filipino	.18	6. Chinese	.10		
7. Others	.....	7. Japanese	.05				

LARCENY

1. Others	11.40	1. Others	21.93	1. Others	11.53	1. Filipino	8.38
2. Filipino	10.14	2. Porto Rican	10.74	2. Porto Rican	2.93	2. Caucasian	.22
3. Porto Rican	7.81	3. Haw'n & Part	7.25	3. Haw'n & Part	2.07		
4. Haw'n & Part	5.18	4. Chinese	4.93	4. Chinese	1.45		
5. Chinese	3.48	5. Caucasian	2.52	5. Japanese	.30		
6. Caucasian	2.74	6. Filipino	1.76				
7. Japanese	.71	7. Japanese	1.01				

BURGLARY

1. Others	4.38	1. Porto Rican	4.53	1. Porto Rican	1.10	1. Filipino	3.04
2. Filipino	4.00	2. Others	2.65	2. Caucasian	.62	2. Others	1.73
3. Porto Rican	3.51	3. Haw'n & Part	2.12	3. Chinese	.18	3. Japanese	.97
4. Haw'n & Part	2.69	4. Caucasian	1.16			4. Haw'n & Part	.04
5. Japanese	1.19	5. Filipino	.96				
6. Caucasian	.54	6. Chinese	.68				
7. Chinese	.50	7. Japanese	.22				

ROBBERY

1. Others	.87	1. Haw'n & Part	.54	1. Haw'n & Part	.16	1. Others	.83
2. Filipino	.73	2. Porto Rican	.31	2. Caucasian	.08	2. Filipino	.68
3. Porto Rican	.55	3. Caucasian	.22	3. Japanese	.08	3. Porto Rican	.24
4. Haw'n & Part	.38	4. Others	.15			4. Chinese	.14
5. Chinese	.18	5. Japanese	.09				
6. Caucasian	.13	6. Filipino	.04				
7. Japanese	.01	7. Chinese	.04				

DISTRICT COURT PRACTITIONERS

It has long been felt that so far as the City and County of Honolulu is concerned the district court practitioner has survived his usefulness. There is no shortage there of competent attorneys who hold licenses to practice in all the courts of the Territory to attend to all litigation in the district courts. Perhaps in the remoter districts in the counties the limited practitioner still has a field of usefulness.

The chief jusice, in his report to the legislative session of 1929, said

"At present our statutes authorize and for many years have authorized the granting of licenses for persons to act as practitioners in the district courts only. The reason for these enactments probably was, in the beginning, that in many of the country districts of this Territory attorneys qualified and licensed to practice in all of the courts did not exist and it seemed convenient to grant licenses to persons who showed sufficient ability to conduct cases in the police courts. These reasons have largely, if not wholly, ceased to exist. The business of the district courts has grown in volume and importance and ought, in justice to clients, to be entrusted only to attorneys qualified to practice in all of the courts. Well qualified attorneys are now to be found on all of the Islands of the Territory and means of communication between the different parts of each Island are now very greatly improved. Automobiles, among other things, have served to shorten distances. Complaints are made from time to time of abuses that have grown up out of the existence of these lower court licenses. In some instances the holders advertise themselves as 'attorneys at law,' leaving room for the inference that they are licensed to practice in all of the courts. The statute speaks of them as attorneys at law, although they are such only in a modified sense. Some of the holders of these licenses, apparently, venture to advise on all manner of questions, irrespective of whether they are within the jurisdiction of the district courts or not. At times, it is said, some of them, without disclosing the limitations of their licenses or even with misleading expressions as to their powers, accept employment and fees for cases which can be conducted only in a circuit or the supreme court, subsequently employing attorneys at law, licensed to practice in the higher courts, to take charge of the cases and dividing the fees with them—with the consequence, probably, that higher fees are charged than the employment justifies.

"I recommend that the law on the subject be repealed so as to permit of only one class of licensed attorneys and that the class which is found qualified to practice in all of the courts of the Territory. The importance of the business transacted in the district courts is such as to render it desirable that only duly qualified attorneys shall be available to present and conduct cases and to advise parties as to their rights; and there should be no possibility of the abuses, some of which are above indicated. It seems to me that no hardship will be caused by the change since attorneys licensed to practice in all of the courts are now available on each of the more important Islands.

"If it shall seem best not to entirely repeal the law, it should at least be amended so as to confine the possibility of district court practitioners only to the Islands of Molokai and Lanai and perhaps to a very few of the more remote districts on the other Islands."

Since then, by mutual understanding reached between the several circuit judges and the supreme court, all applications for license to practice in the district courts are referred to the supreme court under whose supervision a committee of attorneys conducts examinations and makes recommendations. We believe that the law should be amended so as to provide that such licenses shall be issued only by the supreme court.

We also believe that the present system should be done away with. A beginning can be made without inflicting any inconvenience or injustice on present holders of district court licenses by providing that the operation of all licenses issued after a certain time shall be limited to the circuits other than the first circuit and thus eventually eliminate such practitioners from the first circuit where they are no longer needed. Later, if found desirable, this feature could be extended to other circuits.

We are submitting a bill to carry into effect this recommendation.

PRIVATE PRACTICE OF PROSECUTORS

The attorney general, city and county attorney and county attorneys and their deputies have extensive and important public powers and duties. It is a serious question how far the exercise of these powers and duties should be permitted to be hampered by these officers engaging in private practice. Such hampering might result from involvement in situations inconsistent with the public interests or from too great absorption of attention to private gainful interests—to the slighting of the public interests. There is apt to be temptation on the part of the officers to seek to supplement their secure and fixed salaries by other earnings and on the part of others to seek the friendliness of these officers by furnishing them opportunities for such earnings. The Missouri Crime Cimmission went into this question most fully. Among other things, it found that, outside of the counties in which the prosecuting attorney was required to give all his time to his office, a large percentage of the county prosecutors frankly confessed that they were unable to prepare their cases adequately—giving as the reason lack of sufficient assistatnts or other facilities but at the same time stating that they devoted part of their time to private practice—such part varying from a tenth to a half. The Commission, after giving the figures, said, among other things:

"These figures illustrate the old adage that a man cannot serve two masters. . . . It is obvious that there is a considerable number of prosecuting attorneys who feel that in view of the limited emoluments of the office they are not justified in wholly neglecting their private practice. This often results in a neglect of the business of the state. But the practice is fraught with danger in that the duties of the officer may at times conflict with the interests of his clients in private practice, and often the temptation to use the office to advance his interests in private practice is presented to the prosecutor. To yield to such temptation would, of course, amount to corruptiton in office, and there has been no attempt in this survey to get any information that would tend to establish any such fact. On principle, however, it is wrong, and the salaries should be fixed at such a figure as to attract lawyers of ability and standing in the community and justify them in abandoning their practice during the term of their office.

"The prosecutor is opposed during the whole course of the prosecution of the average felony case by the best talent of the local bar, and sometimes that of adjoining counties. Defense counsel as a rule receives a fee for defending an important felony case which justifies him in giving close attention to the preparation of the case on the law and the facts, and practically every such case is stubbornly contested by vigorous, resourceful and able counsel for the defendant. Handicapped as he is by the rules of procedure governing the trial of the case, the prosecuting attorney should not be lacking in adequate experience, preliminary educational equipment and those qualities which make for success as a lawyer, nor should he be lacking in office facilities and such clerical assistance as will enable him to interview his witnesses, brief the law, and to the other necessary things involved in the proper preparation and presentation of the state's case."

There is already in Hawaii some legislation in this general direction. R. L. 1925, Sec. 1491, provides that the attorney general shall not receive compensation for services in any prosecution or business to which it shall be his official duty to attend nor be concerned as counsel for either party in any civil action depending upon the same state of facts (held in 26 Haw. 579 to apply also to county attorneys); Sec. 1672, that no county attorney except for his own services shall present any claim against the county; Sec. 1819, that the city and county attorney shall not represent any party having a claim against the city and county; and Act 198 of the Session Laws of 1927, that the city

and county attorney shall not engage in private practice. But this legislation falls far short of the necessities of the existing situation.

The due administration of criminal justice and the perfection of its machinery among all of its agencies are of such importance that it would seem the part of wisdom to inhibit not only the city and county attorney (as is now the case) but also the county attorneys and the attorney general and their respective deputies from engaging in private practice. Although the attorney general and his deputies now have comparatively little to do in the matter of prosecutions, yet the nature, extent and importance of their functions as law officers of the Territory are such as to call for their inclusion. Such inhibition against engaging in private practice might in some instances necessitate salary increases, but perhaps also permit the elimination of some deputies. The increased cost, however, would be well repaid by better service and a more wholesome public atmosphere.

We submit herewith bills to carry into effect this recommendation. The bills should not become effective, however, until December 31, 1932, an arbitrary date closely following the termination of the terms of office of those affected.

POLICE DEPARTMENT

From our study of the police department in the City and County of Honolulu we have arrived at the very definite conclusions that for a city of its size the police department should be headed by an appointive police chief.

We do not criticize our present police department because we know that in the main it is composed of well-meaning men, most of whom are capable and would make good guardians of the peace of the community. We are of the opinion that in any large city the immediate head of the police should not be an elective official, nor should he be so intimately connected with politics as to be liable to removal for political reasons.

The maintenance of a proper police department requires strict but impartial discipline; the enforcement of laws without fear or favor and the certain knowledge that the position of each member is contingent on faithful and efficient service and not

on the vote procuring ability of the member or his family or his friends.

We in Honolulu can point with extreme gratification to an efficient fire department. This department is entirely out of politics. Its officers are men who started in at the bottom and through ability, study and hard work received by promotion their present positions. The fire department is an outstanding example of what may be accomplished in an organization depending entirely upon merit for promotion and that keeps away from the turmoil of municipal politics. It has discipline and it has men trained to do their jobs. It is an ever present proof of what could be done in a police department organized along the same lines.

Bruce Smith, in his report on Rural Police Protection in Illinois, prepared by the Illinois Association of Criminal Justice in May, 1928, in speaking of police training, said:

> "No lesson of American or foreign police administration could be more clear than that the making of a policeman has only begun when he receives his warrant of appointment. The training which he must receive must be both of a theoretical and a practical nature. An intensive training course for the recruit should include study of the penal laws and of the statutes controlling criminal procedure; the use of police weapons; self-defense; the rules and regulations of the police force; the extent and limitations of the policeman's powers and his relation to the public. These do not in themselves qualify the recruit for police duties, but if he has been rigorously drilled in their meaning and importance, he may be placed on patrol with a larger degree of confidence than is now possible."

Very little is done in the Honolulu Police Department in regard to the training of policemen. Some attempts were made to have a police school but nothing very tangible was achieved. We do not see how a police department can be adequately maintained without the continuous training of its personnel. Certainly no one should be permanently attached to the force who has not received thorough training and shown an aptitude for the work.

It is our opinion that there should be a police commission appointed by the Mayor of the City and County of Honolulu, with the approval of its Board of Supervisors, whose duty it would be to appoint a Chief of Police and to supervise the operating of the police department. The Chief of Police should serve during good behavior and as long as he gives efficient

service. The Chief should have the immediate charge of the department and all of its operations. In order to insure fixed policies of organization the terms of the commission should be long and should expire at different periods. The men in the department should be assured of their positions so long as they discharge their duties faithfully and they should be assured that long and faithful service would be recognized by promotion or by increased compensation.

We hear much of the efficiency of the European police. In Rome there is a policeman for every 130 inhabitants, in Berlin one for every 225, and in Paris one for every 276, while London has one for about every 250. Our police have been undermanned and there should be at least one policeman for every 600 inhabitants.

While we would not attempt to work out a merit system for the department such a system should be adopted by the Commission.

The Civil Service should be retained. Properly functioning it insures an effective means of appointing men for ability and retaining them as long as they serve well. It should not be used to harass the head of the police department nor to force the retention of men obviously unsuited for their positions. While a man should be assured of a fair hearing before dismissal the hearing should be expeditious and free from technicalities.

We believe that the police department should be concerned only with the enforcement of law and should not deal with the civil side of our law. It would be our recommendation that the office of Sheriff be retained and that the Sheriff be charged with the duty of serving civil process, of keeping the Honolulu jail, and of acting as Coroner. This is needed work but work that should be separated from the police department.

We are submitting a bill containing the changes that we have recommended to be made.

CRIMINAL PROCEDURE

(a) Nolle prosequi

At common law the prosecutor had absolute power to enter a nolle prosequi at any time before the jury was impannelled and sworn. Whether he should have such power has been much questioned. In Hawaii, until an Act of 1903 (R. L. 1925, Sec. 4029), it was established by practice that the prosecutor could not nolle pros. a case except with the consent of the court. **King** v. **Robertson,** 6 Haw. 718; **Ter.** v. **Fullerton,** 16 H. 526. And a similar practice became established in some of the States. See, e. g., **Denham** v. **Robinson,** 72 W. Va. 243; **Statham** v. **State,** 41 Ga. 507. In thirty States the consent of the court is now required by statute, and in most of these States the reasons are required to be stated. Crime Commissions often recommend these requirements where the statute does not already so provide. The model code of Criminal Procedure of the American Law Institute makes the dismissal of an indictment or information discretionary with the court for good cause on its own motion or on motion of the prosecuting attorney. The Missouri Crime Commission, speaking of the public prosecutor, says, among other things: "While this official should, of course, be given large and definite authority in the conduct of criminal prosecutions, yet when an indictment or information is filed in court its disposition is a matter as to which the prosecutor and the judge should both have something to say. This Survey, as well as investigations in other cities and states, has shown that the dismissal of criminal prosecutions raises a large question as to how well the prosecutors are performing their duty. We feel that no honest and capable prosecutor should be unwilling to submit the reasons why he does not desire further to prosecute the case to the trial judge, and if he should be unwilling to do so he should be required to do so." That (the Missouri) Commission recommends that after an indictment or information has been filed in a court of record a nolle prosequi shall not be entered except upon a written statement of the prosecutor giving his reasons therefor; that, if the judge deems the reasons insufficient, he may refuse to enter a dismissal or make a further investigation; and that, if he thinks the interests of justice require it, he may appoint a special prosecutor to conduct the case. The Indiana statute provides that, "no indictment shall be nolle prossed or information dismissed except by order of the court on motion of the prosecuting attorney; and such motion must be in writing, and the reasons therefor must be stated in such motion and read in open court before such order is made." If the prosecutor were required to state his reasons, doubtless he would rarely, if at all, move for a dismissal unless he deemed the reasons sufficient; doubtless also the court would, as it should, defer largely to the judgment of the prosecutor and not refuse a dismissal unless it felt pretty clearly that it should not be granted. In case of a refusal, doubtless the prosecutor would as a rule willingly abide by the view of the court. If not, and if no other prosecuting attorney were available, provision could be made for the appointment of a special prosecutor by the court and his compensation could be provided for by making the proviso of Sec. 4024 relative to fees allowed counsel appointed by the court for a defendant applicable to the fees of such special prosecutor. On the mainland many prosecutors, when moving for a dismissal, state their reasons even when not required to do so; they do this for their own protection; this also makes for more complete public confidence.

We recommend that R. L. Sec. 4029 be amended along the lines above indicated.

(b) Criminal Jurisdiction of District Magistrates

Criminal offenses are classified in several ways: First, into felonies, which include all offenses punishable with death or with imprisonment for a longer period than one year, or, as expressed in some States, imprisonment in a state prison or penitentiary, which usually amounts to the same thing; and misdemeanors, which include all other offenses, whether the punishment is solely a fine or is imprisonment with or without fine or with or without hard labor or in a prison or jail or whether the punishment is infamous or not. The line of demarcation is definite and arbitrary —death or over one year's imprisonment. The dividing line, formerly different in Hawaii (Penal Code, 1869, Ch. 1, Sec. 2), was changed to this early under Territorial government. R. L. 1925, Sec. 3907. It is made the basis for determining the criminal jurisdiction of district magistrates, which in general, subject to qualifications hereinafter mentioned, extends to all misdemeanors. R. L. 1925, Sec. 2276.

Secondly, infamous and non-infamous offenses. Whether an offense is infamous or not depends upon whether the punishment that may be imposed is infamous or not. Here the line of demarcation is not always as clear as it is between felonies and misdemeanors,—because it depends on what is deemed infamous; also what might not be deemed infamous at one period might be deemed infamous at a later period. Flogging, branding, the pillory, the ducking stool, etc., common enough at one time, need not now be considered. The death penalty is clearly infamous and fines are clearly non-infamous. At the present time, at least in Hawaii, practically the only punishment calling for consideration in this connection is imprisonment, and it is now settled that, if the imprisonment is either in a prison or penitentiary as distinguished from a jail or is at hard labor, it is infamous; otherwise, not. The importance of this distinction is that if the offense is infamous the accused cannot, under the Vth Amendment of the Constitution, be held to answer except on a presentment or indictment by a grand jury. As there were no grand juries in Hawaii before the establishment of Territorial government and as the statutes theretofore did not sufficiently recognize the distinction between imprisonment in a prison and in a jail or between imprisonment with and without hard labor with reference to the questions under discussion, many changes had to be made. Grand juries were provided for. Org. Act, Sec. 83; R. L. 1925, Ch. 142 and Secs. 4018, 4308; Rules of Supreme Court, 26 Haw. 834. As already stated, the line of demarcation between felonies and misdemeanors was changed. R. L. 1925, Sec. 3907. Honolulu jail and Oahu prison were separated, and it was provided that no person convicted of a misdemeanor should be imprisoned in Oahu prison or subjected to any infamous punishment; that no person convicted of a felony or suffering infamous punishment should be sentenced to or confined in Honolulu jail, and that no person confined in Honolulu jail should be subject or compelled to perform labor during his imprisonment. R. L. 1925, Secs. 1521, 1849, 1850. These provisions had the effect of eliminating both imprisonment in a prison and hard labor from all penalties for misdemeanors. And in Sec. 2276, above mentioned and now under consideration, the grant to district magistrates of criminal jurisdiction in general over misdemeanors was qualified by the proviso that they should not have jurisdiction over any offense for which the accused could not be held to answer unless on a presentment

or indictment by a grand jury. The practical result of these changes was that the line of demarcation between infamous and non-infamous offenses (which prior to Territorial government was of little, but since then has been of great, importance) and the line between felonies and misdemeanors were made to coincide. Our Supreme Court has held that, under these changes, no misdemeanor in Hawaii is an infamous offense or requires an indictment by a grand jury and hence that district magistrates have under said Sec. 2276 jurisdiction over all misdemeanors, subject only to the qualification mentioned in the next paragraph in regard to trial by jury. See **Ex parte Higashi,** 17 Haw. 428; **Ter.** v. **Overbay,** 23 Haw. 91. Incidentally, it may be added that Sec. 2276 (the first Act of the first legislature of the Territory except an Act for legislative expenses) purports to give district magistrates jurisdiction over misdemeanors whether the imprisonment is with or without hard labor, but with the qualification as to cases requiring presentment or indictment by a grand jury. This was so that if hard labor should be held not to make the offense infamous the magistrates would have jurisdiction and if the contrary should be held the validity of the statute would not be affected. At that time hard labor was prescribed as part of the penalty in many cases of misdemeanors and there seemed to be some uncertainty as to whether hard labor would make the offense infamous, but hard labor has now been eliminated and there is no longer any such uncertainty. **U. S.** v. **Moreland,** 258 U. S. 433. Hence, that section (2276) may well now be amended by deleting the parts relating both to hard labor and to grand juries. Hard labor is still, by oversight, expressed to be included in the penalty for a misdemeanor in Sec. 621, from which it should be deleted by amendment or by the next revision commission. It never has been authorized to be imposed by county or city and county ordinance. R. L. 1925, Secs. 1641, 1738.

Thirdly, into offenses for which the accused has a constitutional right to demand a trial by jury and those with respect to which he has no such right. Here the line of demarcation is somewhat obscure. It is largely historical. There is no question as to felonies, which are all well above the line. But misdemeanors are divided into major or serious, which are supposed to border on felonies, and minor or petty, for the former of which there is a constitutional right to trial by jury and for the latter of which there is not. The IIIrd Article of the Constitution prescribed that "The trial of all crimes, except in cases of impeachment, shall be by jury," and the VIth Amendment prescribes that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury." But these provisions are held not only to mean the same thing, but to have no application to petty misdemeanors. **Patton** v. **U. S.,** 281 U. S. 276, April 14, 1930; **Ter.** v. **Taketa,** 27 Haw. 844. Sec. 83 of the Organic Act provides that "No person shall be convicted in any criminal case except by unanimous verdict of a jury," but this does not apply to petty misdemeanors. **Ex parte Higashi,** 17 Haw. 428. The difficulty lies in determining what are petty misdemeanors. There is no clear cut dividing line between them and serious misdemeanors. As complexities of civilization and consequent laws and ordinances have multiplied, the tendency has been to multiply the cases that might be tried without a jury—from necessity as a matter of economy of time and expense. England, unhampered by a written constitution, began the process centuries ago and kept it up until there were some 350 offenses triable without a

jury, the punishments for which ranged up to a fine of, say 500 pounds and imprisonment for a year or more, but now a limit of 100 pounds or six months' imprisonment at hard labor seems to have been adopted and, except in cases of assault, if the imprisonment may be for more than three months, the defendant may demand a jury trial. In the American colonies, that is, before the adoption of the Constitution, much the same course was pursued as in England. "The settled practice in which the founders of the American colonies grew up reserved for the justices (of the peace) innumerable cases in which the balance of social convenience, as expressed in legislation, insisted that proceedings be concluded speedily and inexpensively." See Article cited below. In the United States, that is, since the adoption of the Constitution, petty misdemeanors triable without a jury include in general those what were such at the time of such adoption, those of similar classes since created by statute and most, if not all, of those created by ordinance. At least this is perhaps as nearly correct a statement as can be made in view of some diversity of opinion. Perhaps the most complete treatment of this subject is to be found in a lengthy article in 39 Harvard Law Review 917. Just where the dividing line is may depend in particular cases entirely on historical considerations. Some courts hold that the legislature may fix the dividing line, at least within reasonable limits; others, that it is for the courts to determine it. There is reason to believe that, where there is nothing special in the nature of the offense or its punishment or in historical considerations to produce a different result, offenses may in general be deemed petty misdemeanors where the penalty does not exceed a fine of $500 or imprisonment for more than six months. See, e. g., **U. S.** v. **Praeger,** 149 Fed. 474; **State** v. **Glenn,** 54 Md. 572, 599; **State** v. **Rodgers,** 91 N. J. L. 212; **Klinges** v. **Court,** 130 Atl. (N. J.) 601. The Congress at its present session has, upon the recommendation of the President's National Committee on Law Observance and Enforcement and the Attorney General, enacted a law defining "petty offenses" as "all offenses the penalty for which does not exceed confinement in a common jail without hard labor for a period of six months or a fine of not more than $500 or both." That definition was made to determine in what cases an indictment by a grand jury should not be required, although there was discussion also of the question of when a trial jury could be dispensed with. The constitutional limit may be higher still, but, whatever that limit may be ,the Legislature may, if it so desires, fix a lower limit. R. L. Sec. 2276, now under consideration, supplemented by Sec. 2277, adopts the constitutional limit, whatever it is, by providing that District Magistrates shall have jurisdiction to try without a jury all misdemeanors but subject to the provision that, if in any particular case the offense is a serious misdemeanor and the defendant demands a trial by jury, the magistrate shall not try, but shall examine and, if he does not discharge, commit the defendant for trial in the Circuit Court, that is, with a jury. The trouble under this provision has been that the magistrates did not know and did not try to find out whether the offense was a serious or a petty misdemeanor and hence ignored the provisions of the statute altogether, so that whenever a defendant, through his attorney, demanded a trial by jury, however trifling or petty the offense, the magistrate at once surrendered his jurisdiction, thus giving any defendant who wished it the privilege of obtaining delay and crowding the Circuit Court calendar. This went on for 24 years

after Territorial government was established, until, in **Ter. v. Takota,** 27 Haw. 844, the prosecuting attorney insisted that the magistrate take jurisdiction and in this he was sustained by the Supreme Court. Since then the same magistrate, perhaps he is not the only one, has, notwithstanding attempts to oust him of jurisdiction by demands for trial by jury, insisted on exercising his lawful jurisdiction in some cases of petty misdemeanors, but only in cases of extremely petty ones. In view of this situation, it would seem to be much better to prescribe by statute a definite limit, even though much lower than the constitutional limit, so that all that the magistrates will have to do will be to read the statute. They will then have a yardstick or rule of thumb to go by.

We recommend that a beginning be made by fixing the limit as low as a fine of $250 and/or imprisonment without hard labor for not over three months. Even in these cases the defendant would still have a right (1) to appeal on points of law to the Circuit or Supreme Court or (2) to take a general appeal to the Circuit Court without a jury or (3), if the Legislature so decides, to take a general appeal to the Circuit Court with a jury. See subdivisions (c) and (d) below. The practical result would be that although District Magistrates have jurisdiction to try without a jury a much larger number of petty misdemeanors under the present law than they would have under the proposed amendment, they would under the amendment actually exercise such jurisdiction in a much larger number of cases.

A fairly complete examination of the statutes leads to the belief that there is not now and is not likely in the future to be any case of misdemeanor under the proposed limit, for the trial of which there would be a constitutional right to a jury. At the same time, in order to be on the safe side at all times, especially with reference to penalties that may be prescribed in the future, we suggest that there be added a clause to guard against the possibility of any offense within this limit being held, on historical or other considerations, to require a grand or trial jury. This clause would be analagous to the common clause that, if any part of a statute should be held invalid, or invalid as to any matter covered by it, the validity of the rest of the statute or the validity of the affected part as to other matters covered by it should not be affected thereby.

(c) Appeals from District Magistrates

At present, from all decisions of district magistrates, whether in civil or criminal cases, general appeals, that is, on both law and facts, are allowed to the Circuit Court with a jury or to the Circuit Court without a jury, and appeals solely on points of law are allowed to either the Circuit or the Supreme ourt. In all cases the appellant must pay the costs accrued. In civil cases, if it is a general appeal, he must also deposit a bond or money in the sum of $20 if the appeal is to the court without a jury or in the sum of $100 if the appeal is to the court with a jury for costs further to accrue in case he is defeated on the appeal; and if the appellant has appealed to the court without a jury the appellee may have a jury by demanding it and depositing a bond or money in the sum of $100 for costs to accrue in case he is defeated on the appeal. If the appeal is solely on points of law, the deposit for costs to accrue is the same as required on a

general appeal when a jury trial is not demanded, that is, in a civil case. R. L. Sec. 2508.

On the criminal side, district magistrates have jurisdiction of misdemeanors as distinguished from felonies. R. L. Sec. 2276. But misdemeanors are divided into serious and petty misdemeanors. If the misdemeanor is of the serious kind, the defendant has a constitutional right to a trial by jury and that, too, in the first instance and not merely on appeal. In such a case, the defendant has a choice of one of two courses: He may submit to a trial by the District Magistrate, in which case he is taken to have waived jury for the purpose of trial in the first instance, and, if convicted, may appeal as above set forth; or, he may demand a jury trial, in which case the District Magistrate, having no jury, must either discharge him or commit him to the Circuit Court for a jury trial. If, however, it is a case of petty misdemeanor (in which the defendant has no constitutional right to a jury trial), the District Magistrate should try him, and the defendant may then appeal, if convicted. See sub-divisions (b) and (d). In this class of cases (petty misdemeanors, in which there is no constitutional right to a trial by jury and of course no such right to an appeal), it would seem as if all that the defendant could reasonably ask, so far as a trial on the facts is concerned, would be an original trial by the District Magistrate with the privilege of a second trial, on appeal, by the Circuit Court without a jury, and as if the community would be doing the fair thing by him in providing him with two such trials free of charge, or nearly so, to him, and we recommend this. Even without the privilege of appealing to a jury, he would have not only a right to the original trial on both the law and the facts in the District Court and either a second trial on both law and facts in the Circuit Court without a jury or a trial on the law in either the Circuit or Supreme Court, but also a right, in case of an appeal to the Circuit Court, whether on the law alone or on the law and the facts, to take the case further on the law to the Supreme Court on exceptions or writ of error. Should not all these privileges be enough? Why should the tax-payers be required to provide him also with a jury trial, which would clog the more important work of the court and the cost of which would often exceed the amount of the fine, if any? At common law a defendant had no right of appeal at all in any criminal case.

If, however, the Legislature feels that it should go further and permit a defendant even in a petty case to impose upon the public the additional expense and the additional time of its officials necessitated by a jury trial, it would seem to be only right that it should require him to bear at least part of the additional cost. He could get as fair a trial, often a fairer trial, an appeal to the Circuit Court without a jury as with a jury; indeed, there is a growing tendency for defendants to waive jury even in cases of felony where the law permits it. See subdivision (g) below.

Accordingly, we recommend that no appeal be allowed to the Circuit Court with a jury in a case of petty misdemeaanor. If the Legislature so provides, then we recommend also that, as at present, no deposit of bond or money for costs to accrue be required on an appeal from a District Magistrate in any criminal case, that is, on an appeal on points of law to the Supreme Court or Circuit Court or on a general appeal to a Circuit Court without a jury or, in a case other than a petty misdemeanor, on a general appeal to the Circuit Court with a jury.

If, however, the Legislature decides to allow an appeal to the Circuit Court with a jury in the case of a petty misdemeanor, we recommend that in such a case the appellant be required to deposit a bond or money in the sum of $50.00 (it is now $100.00 in a civil case) for costs to accrue aand that, if the appellant is convicted in the jury trial, there may be included in the judgment against him the sum of $50 as costs for the jury trial, this being approximately the additional cost of a jury trial for one day. Of course, the judgment may or may not include this, as at present it may or may not include other costs, in the discretion of the court, under section 4027. Formerly a $100 bond for costs to accrue was required in criminal as well as civil cases if the appeal was to a jury.

On the civil side, District Magistrates have jurisdiction in general, subject to some exceptions, of cases in which the amount involved does not exceed $500. R. L. Sec. 2274. Under the VIIth Amendment to the Constitution, any party to a civil law suit (as distinguished from suits in equity, admiralty, etc.) has a right to a trial by jury if the value in controversy exceeds $20, but in a civil case it is sufficient if he is given this right on appeal (unlike a criminal case, in which the defendant, if he has a constitutional right to a trial by jury at all, has a right to it in the first instance). At present, as shown above, the appellant in a civil case must deposit a bond or money, as security for costs to accrue if he is defeated in the court above, in the sum of $20 if he takes a general appeal to the Circuit Court without a jury or $100 if he takes such an appeal to that Court with a jury, but there is nothing to require him to pay any of the costs of the jury in case he demands a jury and is defeated. In the Federal courts he is required to pay all the jury costs if he is defeated. As in petty criminal cases, so in petty civil cases (involving not over $20 and in which there is no constitutional right to a jury trial or to an appeal), it would seem as if all that could reasonably be asked would be an original trial by the District Magistrate and a second trial, on appeal, by the Circuit Court without a jury, and we recommend this. What was said in the latter part of the second paragraph of this subdivision as to trial by jury in petty criminal cases would apply also to such trial in petty civil cases.

If, however, the Legislature decides to permit a party in such a petty case to impose upon the public the additional expense and inconvenience of a jury trial, we recommend that in such a case the appellant be required to pay at least part of the additional expense, say $50, as costs for the jury trial. This, of course, would be subject to Sec. 2545, which permits the judge to reduce or remit the costs where they might appear onerous. In civil, as in criminal cases, however important, trial by jury is coming more and more to be waived, and, as above stated, in equity, admiralty, etc., cases, which are quite as important as law cases, there is no right to a trial by jury at all. Requiring payment of part of the jury costs in minor civil cases it not of much importance as parties naturally would seldom demand a jury in such cases, but it may be just as well, when amending the statute, to cover petty civil as well as petty criminal cases in which there is no constitutional right to a trial by jury.

These recommendations may be carried out by amending section 2508. Incidentally this section may be improved by other minor amendments, clarifying some provisions and eliminating surplusage.

(d) Verdicts in Petty Cases

At common law at the time of the adoption of the Federal Constitution there were three essentials to a trial by jury: The jurors must be twelve in number, no more and no less; their verdict must be unanimous; and they must be presided over by a judge to superintend the trial, with power to instruct on the law and advise on the facts. These three essentials are held to be indispensable for such jury trials as are required by the Constitution. **Patton v. U. S.**, 281 U. S. 276, Apr. 14, 1930.

But the provisions of the Constitution relating to trial by jury, as well as to indictments by grand juries, apply only to trials in the Federal, Territorial and District of Columbia courts. They do not apply to trials in the State courts (or in the courts of possessions), and hence the States may do as they please in these matters. They may "decide for themselves—whether there shall be an indictment or an information only, whether there shall be a jury of twelve or a lesser number, and whether the verdict must be unanimous or not." **Maxwell v. Dow,** 176 U. S. 581, 605. This was said in a case that came up from Utah where the law provided for a jury of twelve in capital cases, of eight in all other criminal cases in the courts of general jurisdiction and of four in the courts of inferior jurisdiction, and for unanimous verdicts in criminal cases and three-fourths verdicts in civil cases. On the mainland there has long been growing a feeling that while the three essentials above mentioned were highly important for several centuries in England, present conditions in the United States call for their modification. The tendency to change the number of jurors, by reducing it, has been least marked, and such changes as have been made have been confined mostly to juries in inferior courts. The tendency to change the power of the presiding judge to advise on the facts has been most marked, but at present there is some tendency to recede on this to the former rule. (See subdivision "j" below.) The tendency to change to a less than unanimous verdict is perhaps most marked at the present time. Unanimity has been retained in all of the States in capital cases and in nearly all in felony cases other than capital. The cases in which fractional verdicts are commonly allowed are misdemeanor and civil cases, and the fractions allowed in these are usually either ⅔, ¾ or ⅚. In 19 States in which the Constitutions expressly allow fractional verdicts or allow the legislature to provide for them in misdemeanor and/or civil cases ⅔ is found in two States, ¾ in 13, ⅚ in three and in one State the legislature is allowed to provide for any fraction. A number of the Crime Commissions appointed in the last few years as a result of the wide-spread movement to meet the crime situation have recommended less than unanimous verdicts in all except capital cases. For instance, the Missouri Commission, one of the most noted, recommends a ⅚ verdict in all felony cases except capital, and for misdemeanors a similar verdict but with a jury of six. The American Law Institute, the body of highest authority and most representative of the entire country, in its recent model Code of Criminal Procedure, the result of long and exhaustive study, recommends a ⅚ verdict in cases of felony except capital cases, and a ⅔ verdict in cases of misdemeanor on the assumption of a jury of 12, with other proportions if there are less than 12. In Scotland and continental Europe only a majority verdict is required as is usually the case with most other

kinds of bodies, such as legislatures, supreme courts, arbitration boards, boards of directors, etc.

In this respect Hawaii was long in advance of the States. For more than half a century before the annexation of these Islands to the United States a ¾ verdict was all that was required in any case, criminal or civil. This not only worked with entire satisfaction here, but elicted commendation from eminent men on the mainland. It continued during the two years between annexation and Territorial government. **Hawaii v. Mankichi,** 190 U. S. 197.

As shown in subdivision (b) above, the constitutional provisions that "the trial of all crimes . . . shall be by jury" and "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury," although they apply to Hawaii as far as they go, do not go so far as to require jury trials in cases of petty misdemeanors, and the provision of the Organic Act that "no person shall be convicted in any criminal case except by unanimous verdict of the jury" similarly does not require a trial by jury in cases of petty misdemeanors. There can be no question that the constitutional provisions would not prevent the Legislature from providing for less than unanimous verdicts in such cases. The only question is, whether the provision of the Organic Act would do so. This provision would seem to have that effect if it should be read literally without reference to the general purpose manifested by the section as a whole, of which this provision is only a part, and without reference to the general law on the subject and the construction that has been put upon the constitutional provisions. But the contrary would seem to be the effect if the provision is construed with reference to these considerations. If the words "criminal case" in the Organic Act are coextensive in scope with the word "crime" and the words "criminal prosecution" in the Constitution, the Organic Act provision would, of course, not inhibit less than unanimous verdicts in cases of petty misdemeanors. If read literally, this provision would inhibit the trial of a criminal case without a jury just as much as a verdict less than unanimous, and yet it is held not to inhibit the trial of a petty misdemeanor case without a jury, and of course it does not inhibit a conviction in any criminal case in which a trial by jury is legally waived or in which the defendant pleads guilty. What it means would seem to be that the verdict must be unanimous in cases in which there is a right to a constitutional or common law jury. It is established that the legislature may provide for the trial of petty misdemeanors without any jury at all, whether in the District or in the Circuit Courts. If so, the legislature may provide for trials of such cases by one or more judges or by a number of laymen less than 12 presided over by a judge, and it would be immaterial whether the judges or the laymen should be called a jury. They would not in fact be a jury in the common law or constitutional sense. And if the legislature may provide for trials of such cases in that way, it may provide for less than unanimous decisions by such bodies. In other words, if the legislature may provide for trials of such cases without a common law jury, it may provide for such kind of tribunal as it deems best, including a number of laymen to pass on the facts, and if it may provide for six or ten laymen without requiring unanimity it may just as well provide for twelve. If the number should be less than twelve or if unanimity were not required it would not be a constitutional or common law jury. It would be a special statu-

tory tribunal. As Cooley (1 Const. Law (8th ed.) 675) says: "But in those cases which formerly were not triable by jury, if the legislature provide for such a trial now, they may doubtless create for the purpose a statutory tribunal, composed of any number of persons, and no question of contitutional power or right could arise." This is just as true on the question of unanimity as on the question of number. The legislature of course could provide for a jury of six in petty misdemeanor cases, and it would be absurd to hold that the Organic Act provision would require unanimity on the part of the six. That would not be a jury within the meaning of that provision. Similarly, if the number were twelve. And calling it a jury would not make it so within that meaning. Not unfrequently so-called juries are provided for of less number than twelve or to decide by a fractional verdict, but, while these are called juries and are such in a broad sense, they are not such in the restricted contitutional or common law sense. See, e.g., **Cruger** v. **Hudson River Co.,** 12 N. Y. 190, 198 (12 or 6 in condemnation proceedings, a majority to decide) and **Lindsay** v. **Lindsay,** 257 Ill. 328, 334 (six in juvenile court case). This line of argument has the support of the reasoning upon which it is often held that if a defendant may waive a trial by jury altogether he may waive a trial by the full number twelve, that is, consent to a trial by a less number. The greater includes the less. **Patton** v. **U. S.,** supra; **Ter.** v. **Soga,** 20 Haw. 71. So, if the legislature may provide for a trial in a petty misdemeanor case without any jury at all, it may provide for a trial by a modified form of jury.

We have recommended, in subdivision (c) above, that in petty cases within the limits mentioned, whether criminal or civil, in which there is no constitutional right to a jury trial or to an appeal, no appeal to a jury be allowed, but that, if such an appeal is allowed and the appellant appeals to a jury, he be required, in case he is defeated, to pay at least a part of the additional costs of the trial by jury.

We now recommend that no trial by jury be allowed in such cases, whether on appeal or when (as is seldom the case) brought originally in the circuit court, but that, if a trial by jury is allowed in such cases, a verdict of nine out of twelve jurors be permitted. This would result in a saving of time and expense and a better administration of justice.

(e) Trials of Criminal Cases in Summer

Formerly the First Circuit Court had four and each of the other Circuit Courts had two short terms each year. This has been gradually changed until now each Circuit Court has only one term a year, beginning on the second Monday of January in the first and second circuits and on the second Wednesday of January in the third, fourth and fifth circuits (R. L. 1925, Sec. 2244), and these terms continue (R. L. 1925, Sec. 2246, as amended by Act 197 of the Laws of 1927) until the commencement of the next succeeding terms, but subject to adjournment from time to time as the business of the courts may require or permit. This is as it should be.

Formerly also there were no restrictions as to the times during the terms when certain classes of cases might be tried. But later there was a tendency to forbid the trial of any contested term case, whether civil or criminal and whether jury or jury-waived, in the summer months of July and August. This was for

the convenience of judges, jurors and attorneys. But this restriction was found to go too far for the best administration of justice, and so there has been more recently a tendency to limit or qualify the restriction—until now under the above mentioned Sec. 2246 as amended) there are excepted from the rule against the trial of contested term cases in July and August (a) jury-waived cases in North Kohala in July and in Kau in January in the third circuit, (b) jury-waived cases in any circuit with the consent of both parties and (c) any contested term case in the first circuit with the consent of both parties. The Territorial Supreme Court has held also that the restriction does not apply to appeals from District Courts on points of law. **Hamano** v. **Miyake,** 24 Haw. 12.

We recommend that the statute be further amended so as to permit criminal cases, whether with or without a jury, to be tried, at least in the first circuit, without requiring the consent of both parties. In jury-waived cases there are of course no jurors to be inconvenienced, and as to jury cases the law is already drawn so as not to make jury-duty very onerous to any particular juror and can be further amended so as to make the burden even lighter. Jurors could doubtless be obtained who would find it as convenient, if not more so, to serve in the summer as in the winter, especially in the first circuit where there are so many to select from and where distances are so short and easily covered. In the first circuit, also, there are four judges and numerous attorneys so that no particular one need be unduly inconvenienced as to taking a vacation. In any event, the setting of trials in criminal cases, whether with or without a jury, would be within the sound discretion of the court in July and August as it is now during the other ten months of the year; and the interest of the public in the due administration of criminal justice is so great that it should not be sacrificed materially merely in order to diminish slightly the inconvenience which those who have to administer it must undergo in any event sooner or later. That is their job.

In the other circuits the situation is somewhat different, as already recognized by the statute, and yet even in those circuits it may be advisable to permit the trial of criminal cases, whether jury or jury-waived, in July and August in the sound discretion of the respective Circuit Courts, as at times they may be very important in the public interests.

The following are some of the reasons in support of these recommendations: It is now generally agreed among the authorities that, as shown by centuries of experience, celerity and certainty of punishment are far more effective than severity as a deterrent of crime. During the last decade, of the nearly 600 criminal cases disposed of on the average annually by all five Circuit Courts, nearly three-fourths have been disposed of by the First Circuit Court, and probably at no time during the thirty years of Territorial government has there been a more earnest, cooperative and effective endeavor on the part of the Judges of this Circuit than by the present Judges to bring and keep their calendar up to date in both criminal and other cases so far as that has been possible under the law. But the Judges are helpless in this respect as to contested term cases, whether civil or criminal, jury or jury-waived, in July and August, except by the consent of both parties. We are here concerned with criminal cases only—which are the special subject of our inquiry and which

so profoundly affect the general safety and welfare. The Constitution (VIth Am.) provides that, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." This was to insure against the tyranny of executive and judicial officers of long ago who often kept the accused in prison for long periods, not only without permitting him to have a trial, but often without presenting any charge against him. Now, however, the situation is the reverse. "At the present time in this country, there is more danger that criminals will escape justice than that they will be subjected to tyranny;" quoted in **Ex parte Higashi**, 17 Haw. 440, from **Kepner v. U. S.**, 195 U. S. 134. It is now usually the accused, at lease if he is guilty or doubtful as to the outcome, who, out on bail, endeavors to obtain as much delay as possible. Delay is just what he wants. The longer the delay the greater his chances of escape—through **nolle prosequi** or acquittal. The witnesses against him may die or disappear or have lapses of memory or become unwilling; there may be more opportunity to influence them; the interest of the prosecution may wane; the public may forget; fresh matters may arise in these full and changing times to engross the attention of the prosecution and the public, etc., etc. Not only are the chances of escape increased for the accused, but the benefit of a conviction, if there is a conviction, as a deterrent of crime is largely or wholly lost because, owing to lapse of time and intervening events, the public does not see or appreciate the connection between the perpetration of the offense and the imposition of the penalty. The offense has become cold or has been largely forgotten. Hence the accused, especially if he is guilty or is doubtful as to the outcome, has a strong incentive, if his case is in the Circuit Court, to prevent its coming to trial before the end of June so as to have it go over at least to September, and, if it is in the District Court during the last month or two before the end of June, either to demand a jury so that the case may be committed to the Circuit Court or to appeal to a jury if tried and convicted in the District Court—in each instance in the hope that a jury trial in his case will not be reached before the end of June. If he knew that he could be brought to trial in July or August, there would be less incentive to work for delay.

Although there would be some advantage in permitting jury-waived criminal cases to be tried in July and August even if jury criminal cases were not trialable in those months, there would be much greater advantage if the change should be applied to both classes of cases, not only because there would be the same benefits to be derived from speedy trials in both classes of cases, but also because jury-trial would more often be waived, for, if the accused knew that he could be tried in those months whether he waived jury or not, there would not be the incentive to demand a jury trial merely for the purpose of having the case go over to September.

While recommending the amendment of Sec. 2246 (as amended) for the foregoing purposes, we also recommend incidentally that it be amended in minor particulars so as to make its different parts clearer and more consistent with each other and more consistent with Sec. 2244. In subdivision (g) below, we state also that, in recommending substantial amendment of Sec. 4028, relating to waiver of jury in criminal cases, we recommend that that section be incidentally amended by omitting the provision that jury-waived criminal cases may be tried "at any time in term or in vacation," both because that is a matter that would

more appropriately be covered by Sec. 2246 now in question and because that provision in Sec. 4028 is now inconsistent with the provisions of Sec. 2246.

(f) Pleas in Cases of Murder in the First Degree

A plea of guilty in a criminal case, accepted and entered by the court, is said to be a conviction of the highest order. That is undoubtedly so. At common law, and, ordinarily, in the absence of statutory provision to the contrary, a defendant, even in a capital case, may plead guilty and, in most jurisdictions the courts are obliged to accept the plea and pronounce sentence accordingly even though they may feel reluctant so to do. Blackstone said, "Upon a simple and plain confession, the court hath nothing to do but to award judgment; but it is usually very backward in receiving and recording such confession out of tenderness to the life of the subject, and will generally advise the prisoner to retract it and plead to the indictment." (2 Cooley's Blackstone, p. 1476.)

In some of the United States it is provided by statute that upon a plea of guilty to an indictment for murder the court shall hear evidence and determine the degree of guilt.

In other States statutes have been passed prohibiting the courts from accepting pleas of guilty in cases where the penalty is, or may be, death. We think such statutes are based on a sound and humane view of the matter. It would seem to be of doubtful policy to permit one who is charged with a crime for which, on conviction, he must be sentenced to death, to himself determine his guilt and thus virtually send himself to the gallows.

In a recent case in this Territory where the charge was murder in the first degree, the accused (without counsel) offered a plea of guilty, but the court directed the entry of a plea of not guilty, the supreme court held that,

> "A plea of guilty when properly receivable is a just and legal foundation for a judgment of conviction and for a sentence authorized by statute."

But the court also said,

> "For as long a time past as any of us can remember the practice in these Islands under the monarchy, the provisional government, the republic and the Territory, has been for trial judges to refuse to accept a plea of guilty to an indictment charging an offense punishable with death and to require the entry of a plea of not guilty and a trial by jury to determine the guilt or innocence of the accused." (**Ter. v. Fukunaga**, 30 Haw. 697.)

We recommend the adoption of a bill which would legalize the practice referred to by preventing the acceptance of pleas of guilty in cases where the charge is murder in the first degree and punishable by death.

This would harmonize with the present provision of our statute (R. L. H. 1925, Sec. 4115) that in murder cases the degree "shall be found by the jury," also with the recommendation made in subdivision (g) below concerning the waiving of trial by jury in criminal cases, as well as with subdivision (l) relative to technicalities and the amendment of section 2536 of the Revised Laws.

(g) Waiver of Jury

Although in the past there has been some diversity of opinion as to the criminal cases in which a defendant could or should be permitted to waive a trial by jury, either with or without express constitutional or statutory authorization, the United States Supreme Court has recently held (**Patton v. U. S.**, 281 U. S. 276, April 14, 1930) that, even without any such express authorization, provided there is no inhibition against it, a defendant may, with the consent of the court and prosecuting attorney, waive a trial by jury in any criminal case; and Crime Commissions usually, where the statutes do not already so provide, recommend that such waiver be permitted either in all, or in all except capital cases. By recent statutes in Connecticut, Indiana, Maryland, Michigan, Ohio and Wisconsin it is permitted in all cases. In the model Code of Criminal Procedure prepared by the American Law Institute, it is recommended in all except capital cases, but with the further recommendation that, in jurisdictions in which several judges may sit in a trial, waiver be permitted in capital cases with a requirement that in such cases the trials shall be before three judges, as is the practice in Connecticut and Maryland. Results have been highly gratifying in those states which permit waiver in all, or in all except capital, cases. The surprise is that so many defendants desire to waive jury, even in felony cases, especially in states in which the judges are noted for ability, independence and integrity. In some states from 70 to 90% of the criminal cases in jury courts are disposed of without a jury—with resulting economy in time and money and a better administration of justice.

With reference to the right of trial by jury in this Territory, criminal cases are divisible into three classes: (a) Petty misdemeanors, in which there is no constitutional right to a trial by jury and which, when brought, as is usual, in the District Courts, are required to be tried by those courts without a jury; (b) the more serious misdemeanors, in which there is a constitutional right to a trial by jury, and which, when brought, as is usual, in the District Courts, are disposed of so far as those courts are concerned in one of two ways: If the defendant does not demand a trial by jury he is taken to have waived it and is tried by the District Court without a jury, but if he expressly demands such a trial he is examined (unless, as usually happens, examination is waived) and, if not discharged, is committed for trial to the Circuit Court (see R. L. 1925, Secs. 2276-7); and (c) felonies, which can be tried only in the Circuit Courts. All felonies, and also all misdemeanors (whether petty or serious) brought originally or on commitment or on appeal unless the appeal is soley on points of law (see Sec. 2508) in the Circuit Courts, must be tried by juries in those courts unless trial by jury is waived.

R. L. 1925, Sec. 4028, expressly permits, with the consent of the court, a waiver of jury in all criminal cases less than felony, that is, in misdemeanor cases (see **Ter. v. Soga**, 20 Haw. 71, 91-5), thereby by implication inhibiting a waiver in any felony case. We recommend that this section be amended so as to permit a waiver in at least all except capital cases. This would be merely to return to the provision on this subject in the Constitution of the Republic of Hawaii. Art. 6, Sec. 3. Incidentally we recommend that this section be further amended by deleting the provision

that the trial in such cases may be "at any time in term or in vacation," as that is a matter that would more appropriately be covered by Sec. 2246 (amended by Act 197 of the Laws of 1927); this would also tend to avoid conflict between these two sections. See subdivision (e) above, recommending amendment of Sec. 2246.

(h) Peremptory Challenges of Jurors

There is, and of course, should be, no limit to the number of challenges for cause in either civil or criminal cases. R. L. 1925, Sec. 2417. But the statute here, as well as in many other jurisdictions, relating to peremptory challenges in criminal cases, or in certain classes of criminal cases, seems to go unduly far, first, in allowing too many such challenges and, secondly, in making an unfair apportionment of them between the defendant and the public. The result is to exclude too many of the more intelligent jurors and to give the accused an undue advantage over the public. The natural tendency is toward a race between the prosecution to eliminate the less competent and the defendant to eliminate the more competent jurors—with the prosecution greatly handicapped by having a much smaller number of peremptory challenges. The trend now is, and Crime Commissions usually recommend this, to reduce the number of peremptory challenges in the classes of criminal cases in which the number is believed to be too large and to equalize the number allowed the prosecution and the defendant. This saves time and expense and makes for a better jury. Where there are several defendants the tendency is to allow either no more in the aggregate or, if more in the aggregate, a less number to each defendant, and in either case to allow the prosecution the same number that is allowed all the defendants. Usually more peremptory challenges are allowed in cases punishable by death or imprisonment for life than in other cases. Already the same number is allowed the prosecution and the defendant in twenty-one states in capital cases, in twenty-seven states in cases punishable by imprisonment for life, in thirty-one states in other felony cases and in thirty-eight states in misdemeanor case. The number varies greatly, Virginia allowing the smallest number—one to each side in misdemeanor cases and four to each side in all felony (including capital) cases. Massachusetts makes the greatest distinction between capital and life-imprisonment cases on the one hand and all other cases on the other—allowing twelve on each side in the former and two on each side in the latter. Where there are several defendants, in twenty-six states they are allowed in the aggregate no more than if there were only one defendant, and in seven states they are allowed more in the aggregate but less individually.

William H. Taft, afterwards President and Chief Justice, long ago expressed the view that peremptory challenges might well be done away with altogether, but in his practical recommendations he did not go so far. His own state went to the extreme in the number it allowed the defendant and in the disparity between that and the number it allowed the state. In one address he said: "In my own state of Ohio for a long time, the law was that the state was allowed two peremptory challenges and the defendant twenty-three in capital cases. This very great discrepancy between the two sides of the case allowed the defendant's counsel to eliminate from all the panels every man of force and character and standing in the community, and to as-

semble a collection in the jury box of nondescripts of no character, weak and amenable to every breeze of emotion, however maudlin or irrevleant to the issue." "The perversion of justice" and consequent "Indignation of the public" were such that he (Mr. Taft) and others were appointed to obtain, if possible, legislation reducing to twelve the number of peremptory challenges allowed the defendant and allowing the same number to the state in capital cases, but their efforts were futile because they "found that there were upon that (the judiciary committee of the legislature) lawyers a substantial part of whose practice consisted in acting as counsel for the defendants in important criminal cases." However, last year, the Ohio legislature adopted the recommendation of the new criminal code commission to reduce to six the number of peremptory challenges allowed to defendants in capital cases and to allow the state the same number, as well as to allow a less, but to each an equal number in other criminal cases and to allow the state as many as are allowed all defendants when there are two or more defendants. This illustrates the present tendency on the mainland to bring about reform in criminal procedure.

We recommend that R. L. 1925, Sec. 2419, which allows six such challenges to the Territory and twelve to the defendant in cases punishable by death or imprisonment for life, be amended so as to allow six to each with a corresponding reduction per defendant when there are two or more defendants, and that both that section and the preceding section (as amended by Act 39 of the laws of 1927), which covers other cases, be amended so as to allow the Territory as many challenges as are allowed all the defendants when there are two or more defendants. Incidentally, we recommend that at the same time Sec. 2418 be amended so as to allow the same number, as nearly as may be, to the parties on each side of a civil case where there are two or more parties on either side.

(i) Comment on Defendant's Failure to Testify

In England, before the Revolution of 1688, a defendant in a criminal case not only might be compelled to testify, but frequently was compelled by torture to do so. Then the law went to the opposite extreme and not only did not compel, but did not even permit him to testify—after the analogy of the civil law which did not permit an interested party to testify—and since the law did not permit him to testify, it logically had to provide that his failure to do so should not be commented upon to his disadvantage. We have, however, now long since changed the rule again, but against common sense and logic, by abolishing the first part and keeping the second part which had its sole justification in the first part. In other words, we permit the defendant to testify or not, as he chooses, but provide that if he who knows most about the question of his guilt chooses to remain silent no one shall so much as consider the natural inference therefrom. When we changed the rule in civil cases so as to permit interested parties to testify, we did not keep the other part of the rule so as to forbid comment on the failure to testify. The effect of failure to testify as well as any comment thereon should be matters for the consideration of the jury. Our retention of the old rule in criminal cases after the reason for it has gone is only another illustration of the tendency to cling to meaningless or absurd tradition, accept illogic and, through arbitrary rules and

technicalities, notwithstanding changed conditions, to make a trial a game with all the advantages in favor of the accused as against the public instead of making it an impartial judicial investigation to determine the truth.

Accordingly, and in line with recommendations of other Crime Commissions and the tendency of legislation elsewhere, we recommend that R. L. 1925, Sec. 2616, be amended by changing the latter part thereof so as to permit comment to be made on a defendant's failure to testify. We recommend, also, in order to prevent the prosecutor from taking undue advantage of this permission, that he be not permitted to make such comment in his closing argument unless the matter shall have been mentioned in the argument of the defendant or his counsel.

(j) The Judge's Participation in the Trial

The United States Supreme Court has repeatedly held that one of the essentials of a jury trial is that it must be in the presence and under the superintendence of a judge empowered to instruct the jurors on the law and to advise them on the facts. The latest case is **Patton v. U. S.,** 281 U. S. 276 Apr. 14, 1930. This is still the rule not only in England and Canada, but also in the Federal Courts under the United States Constitution and, according to the New York Crime Commission, in 17 States under their respective constitutions. But in many States statutes have been enacted to deprive the trial judge in large measure of what have been called his "time tried and time honored" powers in these respects—reducing him in large measure to the position of a mere referee or moderator in the conduct of the trial, forbidding him to comment or advise on the character, quality, strength, weakness or credibility of any evidence submitted or the character, attitude, appearance, motive or reliability of any witness in the case, and in some States making the jury the sole judges, not only of the facts as they should be, but of the law as well. It will be remembered that the provisions of the Federal Constitution relating to trial by jury do not apply to the States. Attempts have been made in recent years to induce the Congress of the United States to pass a similar statute, but thus far unsuccessfully and the American Bar Association has opposed this. Whether, in the light of the views already expressed by the Federal Supreme Court, such a statute, if enacted, would be held constitutional, we need not venture to say. In Hawaii, the English and Federal rule was followed until 1892, when it was changed by statute (R. L. 1925, Sec. 2426) as it had been changed in many of the States. The Territorial Supreme Court has held this statute valid by a two to one decision (**Bannister** v. **Lucas,** 21 Haw. 222), although the majority, sustaining the statute, construed it as liberally as possible in support of the powers of the judges. The question of its validity under the Constitution has not come before a Federal court.

It is said that statutes of this nature originated out of conditions of judicial oppression that now no longer prevail. Apparently they have been continued in part, because not until recently have their disastrous effect on the administration of justice come to be fully realized; in part because of an alleged fear of abuse of their powers, if restored, by the judges; and in part because of the insistence of interested criminal lawyers upon the "sporting theory of justice," which regards a criminal trial as a contest between lawyers in which the important thing is to enforce

the rules of the game rather than to get at the real truth and establish justice. It is true that there have been abuses, but, as pointed out by the Missouri Crime Commission, any official power may be abused, and yet how much less likely by the judges than by most other officials, as, e.g., executives in the exercise of their powers of pardon and parole, and how much less likelihood is there of a miscarriage of justice from the aid of an impartial judge to the jury than from leaving the jury to the mercies of the interested lawyers. It would be rare indeed in these days that a judge would consciously abuse the powers in question, and any abuse could be corrected by the appellate court. At common law the defendant in a criminal case has no right of appeal. The proof of the pudding is in the eating, and the superiority of the administration of criminal justice in the English, Canadian and Federal courts over that in many of the State Courts is usually attributed more to this difference in the powers of the judges than to any other cause.

Speaking of the proposal to restore the powers of the judges, the New York Crime Commission says: "From all parts of the country there is a growing sentiment in support of this proposal, though not based upon any organized propaganda." It says: "Chief Justice Taft said very recently that in his opinion no change in procedure in the administration of the criminal law in America is so important as the restoration to the judges in our State courts of this power." The Commission itself says: "Probably the most important recommendation which this Commission has to offer is that which proposes to restore to the court that control of the trial which the court should always have had." The Missouri Crime Commission says: "The most important change that we suggest in our criminal procedure is that to the trial judge be given the powers that he had at common law." It further says, among other things:

> "Under our present system he is made a mede moderator at the trial with power to preserve order in the court room, to rule in a formal way upon objections to testimony and to instruct the jury in writing as to the law. At common law the judge was the directing and controlling influence at the trial. He still occupies this position in England and Canada and in our Federal courts. He has the right to examine a witness, if he thinks such examination is necessary, to elicit the truth. He has the right to advise the jury upon the facts, to express an opinion thereon and as to the credibility of witnesses, and to advise them, as he has under our system, as to the law. Thus it is apparent that under our present system the jury receive their advice as to the facts only from the arguments of opposing counsel. The result of this practice is that the strong and able lawyer often dominates the jury perhaps to the extent of bringing about an actual miscarriage of justice. The absence of disinterested expert and authoritative advice to the jury as to the facts thus tends to make the trial a test of skill and ability between opposing counsel rather than a judicial investigation to ascertain the truth. It also results in a glorification of success in the legal profession, without a very careful consideration as to how success is secured. It results in short, in the trial of the lawyers by the jury, instead of the trial of the case. If expert authority had the place in our system of procedure that it should have in any judicial system, then the right

> to advise as to the facts should be restored to the trial judges."

The New York Commission quotes as follows from Justice Kavanagh of Chicago, who, it says, is "a close student of this subject":

> "Under the system which prevails in most of our state courts, the conduct of a criminal trial is transferred by force of statute from the hands of an experienced impartial magistrate to the eager partisanship of the hired lawyers. It transforms the sworn judge into a mere ringside referee who must regard himself as without care whether the wrong or the right side win so long as the champions fight according to the rules of the roped arena. This system does not concern itself so much with whether the victory shall rest with the juster cause, but rather that success shall fall to the smarter lawyer. Through a criminal trial the judge must be present, but he shall not participate no matter how sorely justice may need his assistance. He may recognize falsehood cunningly disguised passing for truth, but he dare not lift a warning finger; every day at his side some honest witness struggling to publish the truth writhes confused, embarrassed and badgered into appearance of falsehood, yet the judge must stop his ears and let the disaster wear itself to the untoward finish. Clean character may be successfully aspersed, a good reputation mendaciously assailed, false charges against innocent and remediless witnesses may be broadcasted from his court room, but the judge is forbidden to expose the mendacity; when subtle, but clever and compelling appeals to racial, religious or other passions, prejudices and sympathies are set fire to, he is commanded to turn his face away so that even his manner shall not betray his discontent.
>
> If we desire an improvement of criminal justice in America through the exercise of judicial power, the first step in bringing this about must be to abolish this grotesque travesty on civilized legal procedure and by doing so leave restored to the sworn representative of impartial justice, his ancient authority to actually participate in the trial. The most striking difference between the trial of a criminal case in an English court and one in an American court arises from the part played by the judge. In an American court the lawyers conduct the trial; in an English court, in the words of Sir John Simon, 'they assist the judge in the trial. An English judge feels it to be his first duty to see that actual justice prevails, to promote fair play, to expose tricks and to frustrate falsehoods. He examines witnesses at length to get out the facts and in his instructions endeavors to make the jury understand the relations of facts to each other and to the law. He conducts the inquiry past all shams straight to the heart of the question: Is the defendant innocent or guilty'?".

Quotations of similar character might be multiplied—from commissions, judges, law professors and lawyers. Doubtless the statute has hampered the administration of justice much less in Hawaii than in many other jurisdictions. Nevertheless, restoration of the powers of the judges would seem to be called for as a matter of fairness to witnesses, to jurors and above all to the community, which is so deeply concerned with the efficient ad-

ministration of the criminal law. The jurors would, of course, remain sole judges of all questions of fact.

We recommend in general the adoption of the provisions proposed on this subject by the American Law Institute in its recently-completed model Code of Criminal Procedure. This may be accomplished by an amendment of R. L. Sec. 2426 and the addition of two new sections to be known as Sections 2426a and 2426b. In the form proposed, these provisions would apply to civil as well as to criminal causes.

(k) Writs of Error in Criminal Cases

At present the defendant in a criminal case and either party in a civil case may take the case from the District Magistrate by general appeal to the Circuit Court with or without a jury or by appeal on points of law to the Circuit or Supreme Court or by writ of error to the Supreme Court, and from the Circuit Court by exceptions or writ of error to the Supreme Court and either party in a civil case may take it from a Circuit Judge by appeal or writ of error to the Supreme Court; but the Territory in a criminal case could not take the case to the Supreme Court at all from any court prior to 1893 and since then has been permitted to take it there from the District Magistrate or Circuit Court only by writ of error and then only on certain questions.

As to the questions that may be taken up by the Territory, our statute now limits these in large part to cases in which the judgment of the lower court is based on the invalidity or construction of the statute upon which the charge is founded. We see no sufficient reason for such limitation. It was copied from the Federal statute, but only one state, Michigan, has adopted it. In another state, Colorado, in which there is no such limitation as to the cases that may be taken up by the State, it is made mandatory for the State to take up the case when the lower court has held the statute invalid. To allow the prosecution greater leeway in taking up questions is important in the public interests not merely with reference to the comparatively few cases that may be so taken up, but with reference to the numerous cases that are not so taken up—so as to have the law which the lower courts are to apply to the latter settled by the Supreme Court. Accordingly, we recommend that the questions on which the Territory may take a criminal case by writ of error to the Supreme Court be extended. This would call for an amendment of R. L. 1925, Sec. 2522. The proviso of Sec. 2523, that no writ of error shall be taken by the Territory in a case in which there has been a verdict for the defendant, would better be transferred to Sec. 2522. The proposed amendment of Sec. 2522 might well take the form in large part of the provision recommended by the American Law Institute in its model Code of Criminal Procedure after exhaustive study of the Federal statute and the statutes of all the States.

Another change that might well be made is to allow the Territory to take up questions decided adversely to it in a case in which the defendant is convicted and appeals, so that the Court may have the whole record before it and so that, so long as the case is going up anyway, the Territory may obtain rulings on the law as contended by it and so that the errors, if any, may not be repeated in case a new trial is granted. This is provided for in several States and is recommended by the Institute.

Further, at present, a period of six months is allowed parties other than the Territory for taking out a writ of error (R. L. 1925, Sec. 2521, as amended by Act 211 of 1925), although considerable inducement is offered to a defendant in a criminal case to take it out earlier in order to suspend the operation of the sentence (Sec. 2528, as amended by Act 211 of 1925). We recommend that this period be shortened to sixty days in accordance with the trend elsewhere. This would apply to civil as well as criminal cases. Only ten days are allowed for appeals from District Magistrates and Circuit Judges and (subject to an extension of time by the Judge) ten or twenty days for exceptions from Circuit Courts; it would seem as if sixty days would be ample for taking out a writ of error. Furthermore, the Territory is allowed only ten days in which to take out a writ of error; elsewhere as a rule the prosecution is allowed the same period that is allowed to a defendant and we see no reason why this should not be the case here. This could be accomplished by repealing Sec. 2523, and transferring its proviso to Sec. 2522, where it more properly belongs. The Institute recommends sixty days for both parties in criminal cases. Of the States, ten allow ten days or less, five allow from 15 to 30 days, ten allow from 45 days to two months, and the others allow 90 days or more or else the remainder of the term whether that be long or short. In a few states additional time may be allowed by the judge.

(l) Technicalities

We touch on this subject, not because of any very pressing need of remedial legislation in regard to it, but in large part because of a widespread impression that the courts are prone to indulge in technicalities to the frustration of substantial justice. Some hypercritics seem to go so far as to suppose that an indictment or a verdict founded upon it would be set aside for the failure to dot an "i" or cross a "t". It is true that in the past many courts elsewhere have gone far in this direction. That was in part because they felt the need of devising ways to protect persons against tyranical methods that formerly existed and in part because, after that ceased to be necessary, they felt constrained by the precedents that had been established. For a long time now, however, not only have most courts tended to avoid technicalities as far as they felt they could under the law, but, where they have found that impossible or difficult, legislatures have progressively come to their relief with remedial enactments.

In Hawaii technicalities never had much vogue. This was because of the high character, ability and good sense of those who created and, during its formative period, molded the modern judicial system here. They saw the folly of grafting upon Hawaii useless technicalities that had grown up under very different conditions elsewhere. The first comprehensive act to organize the judiciary (Sept. 7, 1847) permitted but did not require the courts of record to adopt the reasonings and analogies of the common law and of the civil law but only so far as deemed founded in justice and not in conflict with the laws and usages of Hawaii. The Civil Code of 1859 contained a somewhat similar provision: also other provisions authorizing the courts to resort to natural law and reason, received usage and the laws and usages of other countries. It was not until January 1, 1893, that the common law, as ascertained by English and American decisions, was adopted as the common law of Hawaii and then only so far as not other-

wise established by Hawaiian laws, judicial precedents or usage. The digest of the first 22 volumes of Supreme Court decisions (Jan. 6, 1847,—Oct. 7, 1915) shows scant recognition of technicalities by that court. In the succeeding nine volumes (the last not yet completed) covering 15 years, 113 criminal cases are reported, of which 15 were on reserved questions. In the remaining 98, there were only 28 reversals (a smaller percentage than in most of the States) and in only about a half dozen of these might one contend that the court was too technical. In perhaps not more than one or two could it be fairly contended that the court could have decided differently under the law. In considering the number of reversals in the appealed cases, there should be borne in mind the great number of cases that are not appealed.

The fact is that so far as the machinery of justice falls short of what it should be, and apart from the frailities of the human nature that administers it, the remedy lies mainly with the legislature backed up by enlightened public opinion.

The subject of technicalities, so far as criminal cases are concerned, is usually discussed with reference to (a) forms of indictments and informations and (b) decisions of the appellate court—which determine the law for the trial courts.

As to (a), our statutory provisions, although susceptible of improvement, seem to be so advanced already as not to call for special attention at this time. As long ago as 1876, a number of comprehensive acts based on model English statutes were prepared by Edward Preston, twice attorney general and later a justice of the Supreme Court, who was trained in England and practiced in New Zealand before coming to Hawaii, and were enacted by the legislature. One of these was a criminal procedure act. With amendments and additions, it is now chapter 229 of the Revised Laws of 1925, to which should be added Act 262 of the Session Laws of 1927. It is replete with provisions to eliminate technicalities.

As to (b), there is much in our statutes intended to promote substantial justice as against formalism, and yet we recommend some extensions—now found in many of the States and recommended by Crime Commissions.

(1) It should be made clear that the appellate court shall not reverse or modify the judgment of the trial court for error that does not in its opinion injuriously affect the substantial rights of the appellant; and that for this purpose it shall not be presumed that error so affected such rights. One Crime Commission, urging the need of such a provision, uses the following language, which is illustrative although more applicable to many of the States than to Hawaii:

> "The right of appeal, together with the technical attitude that for a long period of years was taken by appellate courts towards record of conviction has operated strongly towards the emphasizing of technicality and formalism, and what is known as the 'sporting theory' of justice. Often the question of importance in the trial of a criminal case has seemed to be whether in all regards the rules of procedure were complied with rather than whether justice has been done. If the Supreme Courts of the country would adopt the rule herein suggested, that no case should be reversed except that it affirmatively appeared that some error has been committed by the trial court that had produced a miscarriage of justice, then we believe that

> next to restoring the original power of the trial judges more good would result than from any other one change. It is in the power of the appellate court judges of this country under such a provision to bring about changes which will affect the whole spirit and purpose of the administration of criminal justice. Under our present system, the fear of reversal has hung as a sword of Damocles over the head of prosecutor and of trial judge. It made the former disposed to compromise with defendants by accepting pleas of guilty to minor offenses rather than to risk the uncertainty of a trial and the danger of reversal even if conviction was secured; and it has caused the trial judges to be hesitant to rule against the defendants lest reversal would result from such ruling to the defeat of justice and to the discredit of their own record as a judicial officer. If the hypertechnical attitude that has obtained in so many jurisdictions on the part of appellate courts could be changed into the real purpose to see whether the defendant was done any real injustice in the trial, a greatly improved condition in the administration of criminal justice would be brought about. . . . And we shall never reach a satisfactory administration in this country until our courts come to place the substance above the form and to regard the question as to whether justice has been done as more important than whether some technical rule of procedure has been violated."

(2) It should be made clear that the appellate court, in cases brought to it by writ of error, has ample power to adapt its order or judgment to the situation which it finds, whether by affirmance, reversal or modification, whether by entering or enforcing judgment or remanding the case to the trial court to enter or enforce judgment or for other or further appropriate proceedings, by correcting an illegal sentence so that it shall conform to the verdict or finding, etc., etc. Our Revised Laws are somewhat fuller or more explicit in this respect in cases of appeals from Circuit Judges at chambers (Sec. 2511) and cases on reserved questions (Section 2514) than in cases on writ of error (Secs. 2524, 2536).

(3) As a plea of guilty should not be accepted in a capital case, so it should be provided that when a sentence of death is imposed the appellate court should review the entire evidence to determine if the interests of justice require a new trial, whether the insufficiency of the evidence is assigned as error or not.

(4) When there appears to be a defect in the record the appellate court should be clearly empowered to take what it deems an appropriate method of correcting it so as to make it conform to the facts. As the Crime Commission mentioned above says:

> "Many cases are reversed for mere omissions or incorrect statements in the record as to what happened in the procedure of the trial. Such decisions evidence a mere glorification of formalism. Where a question arises as to whether a defendant was in fact arraigned, whether the jury was sworn, whether he was asked before sentence whether he had anything to say as to why sentence should not be imposed upon him, the Supreme Court should have the power either to direct the trial court to correct the record or to receive testimony or affidavits to determine that issue."

These recommendations may be carried out as to cases on writs of error by amending Sec. 2536 so as to incorporate in it the foregoing and also the provisions of Sec. 2524 and by repealing the latter section.

As to exceptions, since these, as distinguished from writs of error, bring up only certain phases of the case, the foregoing recommendations are not all applicable, but the provision recommended in paragraph (1) above should be made to apply on exceptions as well as on writs of error. This may be accomplished by amending Sec. 2519.

Bills have been prepared and are submitted herewith embodying the recommendations made under the title of criminal procedure.

PENAL, REFORMATORY AND DETENTION INSTITUTIONS

General

Hawaii's record in respect of its penal institutions has never been darkened with such unsavory conditions as have existed all too long in all too many States on the mainland. Nevertheless the spirit of progress that has prevailed here should not be allowed to slumber. Heed should be taken of the best practices and principles that have been evolved elsewhere in recent decades through the scientific study of criminological and penological problems. Studies of local conditions lead to similar conclusions.

In considering problems of this nature, it is all-important to understand and keep in mind the correct theory of punishment and of the ultimate aim in the treatment of criminals. Natural and instinctive (and perhaps suitable to primitive conditions) as they may appear, the old theories of revenge, retaliation, retribution and expiation (the eye-for-an-eye, tooth-for-a-tooth, penalty-should-fit-the-crime theories) have been discarded by those who have given adequate thought to the subject. This is not because of sentimentalism, soft-heartedness or a tendency to mollycoddle the fallen, however much well-meaning but uninformed or unscientific persons may have erred in these directions; it is because of intensely practical reasons. The newer theories of prevention, deterrence and reformation or rehabilitation may be regarded as phases of the now generally accepted theory of the protection or safeguarding of society. The aim should be to ascertain and apply whatever is practicably best adapted to this end. It is true that many still assert that reformation of

the individual criminal should be the chief aim. That theory emphasizes the interests of the wrongdoer. It largely overlooks the individuals as well as society whom he has wronged. The state is not in the reforming business except as that conduces to the welfare of the community. Reformation of criminals is but one of the practical means to protect and safeguard society, which is the primary purpose. It may not be unnatural, however disastrous it may be, to give the prisoner primary concern; he is the one under immediate consideration, with whom the officials come in contact and who excites their sympathy and on whose behalf there is constant pressure from the outside for leniency—with no advocate for his victims or the public interests.

There should, of course, be prevention rather than cure as far as possible; this is not the kind of prevention above mentioned but prevention in advance through home, church, school, social work, playgrounds, proper environment and associations, employment, etc. In so far as this kind of prevention is not attained, there should be cure as far as possible—through punishment, discipline, education, training in industry, medical attention, etc., in short, reformation or rehabilitation. Where this also is not attained there should be prevention of the kind first above mentioned—through death or continued confinement.

In each case the question is or should be, what is the best remedy or treatment from the standpoint of community interests. It may be as important to know when not to punish as when to punish, and how not to punish as how to punish; and it is just as important to have the courage to punish with sufficient severity, whatever the natural (or unnatural) sympathies for the convict may be. The incurable criminal, if not killed should be kept in confinement to prevent him from committing further crimes; the curable criminal should be cured as a matter of similar prevention and also of salvaging his value to the community in earning capacity and otherwise and saving the cost of keeping him in confinement; in all cases the punishment and treatment should be designed as far as possible to operate as a deterrent both to the criminal and to others against future crimes. It should look to the future, not to the past. Punishment and treatment should fit, not the crime, but the criminal. Hence the foremost postulate, that treatment should be, not *en masse*, but

individual and appropriate to the case as far as may be and for as long or short a period as required—as much so with respect to criminals, whether in or out of prison, as with respect to those who are ill, whether in or out of a hospital. Wholesale treatment by arbitrary uniform methods has no place in this scientific age. Hence the many features of modern progress in this matter—probation (suspension of sentence or of its execution by the judge), the indeterminate sentence, parole from prison, classification and sub-classification and segregation of prisoners and of institutions, training in industry, education, case work by trained social workers, medical, psychological and psychiatric examinations, etc. Above all, penal and reformatory institutions should be means of prevention and cure, not breeding places for crime through herding the young or hopeful or presumably reformable with the hardened, or through ill-adapted treatment of the individual. To release a prisoner, whether at the end of a definite term or on parole, not reformed or rehabilitated, would be to start him again on the cycle of crime and punishment, not to mention the money loss and the loss of the man as a useful member of society. Perhaps the chief danger from the progressive features above mentioned is their natural tendency to emphasize the welfare of the individual wrongdoer and to obscure the ultimate object, which is the welfare of society—to regard these features as merely the products of a humane age and overlook their fundamental basis. This tendency should be carefully guarded against in order to avoid not only misuse or abuse of the progressive methods but also loss of popular faith in their efficacy. We should be neither soft-hearted nor hard-hearted, but scientific—looking the facts in the face.

The cost is a matter entitled to no little consideration. While advanced penological methods might temporarily involve increased cost in plant, equipment and personnel, in the long run they would result, by prevention and cure, in a saving, not only through affording greater security to the community and in the maintenance and operation of the antecedent machinery of justice (police, prosecutors, courts, etc.), but in the expense of maintenance and operation of the institutions themselves. At the end of the last fiscal year, June 30, 1930, there were 483 prisoners in Oahu prison (or out on work) and 636 (probably too many) out on

parole. But for these paroles, the cost of the prison plant and maintenance and operation would probably be more than doubled. In so far as paroles are granted wisely, there is a saving; otherwise, a loss—through further crime and its concomitants.

Comment is made below on the respective institutions of the kinds under consideration. The Commision, for lack of time and funds, has not attempted either by themselves or through the engagement of experts, to work out in detail the advance steps that should now be taken. Indeed that would or should doubtless be a long and gradual process and might well be undertaken by or at the instance of those having control of the institutions. Probably little legislation would be required other than in the matter of appropriations. So much, however, depends upon the head of each institution and its supervisory board, if any, that great care should be taken to secure persons specially qualified and alive to the needs. Less also is said here than might otherwise be the case, because of what is said elsewhere in this report on closely related subjects, especially that of the proposed Board of Prison Directors and matters connected therewith, such as paroles, criminal records, adaptation of sentences to fit the cases, etc. It may be added here, however, that there is a more or less widespread erroneous idea that punishment is the chief agency for the prevention and cure of crime. Quite as important and even more so are the many preliminary means above mentioned for the avoidance of the criminal disposition, an effective police system sometimes called the "first line of defense", speed and certainty of conviction after detection, wise administration of the parole system, an aroused effective public sentiment that will brook no less than the highest degree of honesty and efficiency on the part of officials of every kind who have to do with these matters, and such a community abhorrence of crime that the criminal will be looked upon with scorn and condemnation rather than as a hero.

For a readable description of the institutions under consideration, their methods, workings and statistics, see the report of the Ninth Territorial Conference of Social Work, 1929. See also the periodical official reports on these institutions.

Oahu Prison

This is the Territorial prison or penitentiary for felons. See

R. L. 1925, chs. 110-115; Act 100 of 1925. Attention is called in this connection to the report, appended hereto, of Dr. S. D. Porteus, Director of the University Psychological Clinic and a member of the Commission, of the results of a study made by him of the inmates of this institution, although the study was made primarily with reference to a different phase of the work of the Commission.

Perhaps the most conspicuous lack of what should be regarded as a matter of prime importance is found at the very threshold —absence of provision for an adequate diagnosis of the entrant— not merely physically, for he is given the necessary medical and dental examinations, but as an entrant to the prison—to show how he came to be there and what should be done with him. This calls for case work on his previous history and for psychological and psychiatric determination of his mental characteristics. This is highly important in order to determine correctly whether he should be kept in this institution or transferred to an institution for the insane or the feeble minded, and, if to be kept in this institution, what should be his classification and what treatment should be given him while there—not to mention the furnishing of extremely needful information for the guidance of the parole board and perhaps later the guidance of parole or probation officers or the courts. Naturally, in the absence of information that ought thus to be acquired, there is also a paucity of records along these lines.

Following diagnosis, the next essential is to classify and segregate the different classes of prisoners, so that the worse shall not contaminate the better and so that the most appropriate treatment may be given to each class. This feature is regarded as one of the large contributing factors to the success of the prison system in England "where crime is at a minimum and where prison after prison is closing down for lack of patronage." Progress in this direction has already been made. Continued study and thought should be given this matter by those in authority with a view to bringing the system as near to the ideal as practicable under the existing conditions. It may be that it cannot be carried as far as desired under the present accommodations and arrangement of the prison, in which case further expenditure, which in the end would be money in pocket, should

be made sooner or later to provide the required facilities. We suggest, however, that before making additions to or changes in this prison for this purpose or even in order to house a larger number of prisoners, careful consideration be given the question whether it would not be better to provide another institution, of the kind known as an Intermediate Reformatory, so as to make it "possible to keep the casual or accidental criminal, presumably the one susceptible to reformatory treatment, entirely separate from the more hardened offenders or professional criminals, from the day of their conviction to the day of their release", and so as to make it "possible to plan and administer these separate institutions with due regard to their different purposes—to apply reformatory and educational methods of training and industry to the first offenders who may be expected to respond to such treatment; and to apply methods of custodial care to recidivists." The English system goes far in the classification of institutions as well as of prisoners. Classification within a prison or reformatory or as between such institutions should not be based solely on age or upon whether the prisoners are first offenders or not but upon character, disposition, experience and other considerations as well, that is, upon presumable reformability all things considered. A young first offender may be among the worst to mingle with the presumably reformable. Aside from mere classification of prisoners in kind, "the larger the prison, the smaller its reformative influence." The smaller the group in any grade kept separate, the better the chances of success.

It is generally recognized that the first essential in the treatment of the ordinary prisoner is to keep him busy (including facilities and opportunities for recreation, study and reading) from his rising in the morning until his retirement in the evening. "Aside from the money loss to the state in production the toll exacted from society is an expensive one. The cost to society of idleness in the state prisons may not be calculated exactly, but it is enormous, because idleness wrecks almost every plan for the rehabilitation of convicts and their return to the outside world accustomed to the work habit and adaptable to general employment. * * * Without work convicts waste physically, and suffer in morals and mentality. Discipline becomes difficult and the guard system becomes more expensive. It is a facile descent

from idleness to mischief and worse. * * * Unless the prisoner, whether misdemeanant or convict, can be sent back to society from the prison with a sense of discipline, with an aptitude for work, with a vocational incentive, in good health and with respect for the rights of others the prisons are breeding rather than curing crime." Idleness affords the prisoners opportunity to swap yarns of their exploits and thus stimulate the criminal disposition. It is wrong to the taxpayers to require them to support prisoners in idleness; the prison should pay for itself, directly or indirectly, as far as possible. It is wrong to the prisoners because it is demoralizing. It is wrong to society because it encourages, rather than makes for the prevention and cure of, crime. But just what work should the prisoners be put to? Many prison labor systems have been and still are in operation on the mainland, and there have been many abuses—the "contract" system under which prisoners are leased to private contractors, the "public account" system under which the state maintains its own industries and sells the product in the open market, the "state use" system under which the state maintains its own industries but restricts the sale of the products to tax-supported institutions and agencies, the "public works and ways" system under which the prisoners are employed on public works, etc. The state use system is now most in favor elsewhere. Hawaii has long been in advance of most of the States both in keeping its prisoners employed and in practising the better systems. Its practice is to employ the prisoners in work for their own institution or in other public or quasi-public work. Work for the prison itself includes: Kitchen, servants, janitors, hospital attendants, storeroom, office, warehouse, tailor shop, barber shop, laundry, shoe shop, seamstress, storekeeper, yard and lawn cleaners, garage and drivers, carpenters, plumbers, painters, stables, piggery, garden, farm, wood pile, etc. Other (outside) work is listed as follows in the report for the last fiscal year: Governor's grounds, Executive grounds, N. G. H. Armory, N. G. H. range, Territorial Office Building, Supreme Court library, Territorial public library, Archives Building, Budget office, Territorial Fair grounds, Board of Health (mosquito line), animal quarantine station, insane asylum, Kapiolani Home, Royal Mausoleum, Kapiolani Park, War Memorial park, Kalihi park, Makiki

park, Queen's hospital, St. Francis hospital, Children's hospital, Lunalilo Home, Leahi hospital, forestry, Round Top road, Rodger's Airport, camps on other islands for Maui County Fair grounds, eradication of gorse, Waiakea air port and road work, etc. The question is raised from time to time whether a factory should not be established in order both to make the prison more nearly self-supporting and to train the prisoners in industrial occupations. This is often done elsewhere, not always, however, with as much success as desired, for there are inherent obstacles—the difficulty of securing productive efficiency with prison labor, the lack of adequate supervision from those not trained in industrial processes, the tendency to provide only inadequate equipment and to allow it to become antiquated and perhaps unsafe, the difficulty in harmonizing "custodial requirements with industrial operation," the aversion of prisoners when released to pursue trades which they have learned under compulsion as well as their difficulty in securing employment in such trades, etc. The factory system would naturally be more feasible in a prison where there is a large number of inmates and the more so where they serve long terms than in a smaller institution with a comparatively rapid turn over, and in a locality where there is a large market or where there are large public institutional needs and where there is considerable opportunity for obtaining employment in the trades learned, than where, as in Hawaii, these conditions are so different. On June 30, 1930, of the 483 prisoners serving sentences, 380 were housed at the prison and 103 elsewhere—at the insane asylum (5), Queen's Hospital (1), Leahi Home (3) and in work camps on other islands (94)—and practically all of those who could work were kept at work. These are of many races and largely of little education. It would be expensive and probably largely futile to attempt to make skilled laborers of them even if that were desirable all things considered. We are not prepared at this time to recommend any extensive or radical change in the present system. There is ample work and of needful and wholesome kinds, largely in the open air, and suitable to the capacities of the prisoners, to keep them busy. From the pecuniary standpoint, computing prison labor at $2.00 per day, the labor performed for other public and quasi-public institutions and agencies, exclusive of

the labor performed for the prison itself, would, with the receipts for the keep of the Federal prisoners, equal the cost of maintenance of the prison. We recommend, however, that further study be given to this subject by the proper officials—to see that the prisoners are kept busy as much of the time as they ought to be, that they work seriously and do not loaf on their jobs, that suitable kinds of work are allotted to them according to their respective aptitudes, and to ascertain whether and to what extent changes might be made to advantage. It may be that in some lines now pursued more might well be done towards furnishing supplies for other public institutions—as in the production of shoes and clothing and of farm products, such as hogs, large numbers of which are imported.

Until recently almost nothing has been done at the prison in the way of education, and even now only a beginning has been made. Many of the inmates are illiterate and many others have passed through only a few grades; 32% have no knowledge of English, 26% speak it only slightly but do not read or write it, 26% read and write it only slightly; 27% have had no schooling and 40% have not been beyond the 4th grade. It is well-established that ignorance is a contributing cause of crime. The aim should be to give such instruction as will make for better citizenship on release. The instruction should be adapted to individual needs and should be at least supervised by a trained educator. It should be designed not merely to impart knowledge in the usual elementary school subjects but to instill appreciation of the importance of thrift, industry, good health, good morals, respect for the rights of others, etc. Religious instruction should not be neglected. There should be a more adequate and better selected library and the reading of the prisoners should be supervised. Reading matter, motion pictures, etc., should not be merely for amusement or interest but should be educative along desirable lines.

In what is said above, the Commission does not overlook but desires to express its appreciation of the fact that in the matters of classification, labor, education and health as well as in the matter of paroles, gratifying progress has already been made through your Excellency's active interest, with the co-operation

of the Board of Prison Inspectors, the Attorney General, the High Sheriff and others.

Industrial and Reformatory Schools

These are Territorial institutions, in rural Oahu, formerly under the Department of Public Instruction but since 1915 under a Board of Industrial Schools. See R. L. 1925, ch. 30; Act 81, Session Laws of 1925. The last Legislature named them, from their respective localities, the Waialee Training School for Boys and the Maunawili Training School for Girls. Act 186, Session Laws of 1929. Delinquent or dependent children under 18 years of age may be committed to these schools by the juvenile courts in proceedings not to be deemed criminal in nature; no child under 14 may be confined in any jail or police station either before, during or after trial, and no child under 18 may be confined with any adult who shall be under arrest, confinement or conviction for any offense. R. L. 1925, Ch. 136.

These schools are in marked contrast physically. The buildings and equipment of the boys' school are mostly old and inferior to what they should be. Notwithstanding that the best is made of these through the work of the boys, we feel that the school is entitled to considerable improvement in these respects and that more liberal appropriations for these purposes could wisely be made with a view to more complete effectuation of the objects of the institution. The girls' school has recently been moved from the city to an extensive area and elegant new buildings on the other side of the Island. The capital expenditure for buildings and equipment (exclusive of the land, which was public land) was about $390,000.00, for, say 140 girls, or nearly $2,800 per girl. This will in time involve considerable also for maintenance and depreciation. The tout-ensemble may be one to which we might point with pride, superficially; but, aside from the enormous cost to the taxpayers, it is at least a serious question whether girls who have never known such elegance should be introduced to it only to be returned on their discharge or parole to the simple conditions to which they had previously been accustomed. In other words, in providing such elegance are we not missing the point. Further, there is some reason to think that the tendency from all this luxury is for the population of

the institution to increase with undue rapidity. Care should be taken to see that no girls are placed there who can with reasonable chances of success be returned to their homes or placed with other suitable families or with suitable private institutions. There is some reason to believe that placements with other families have not always been beneficial to the children. The desirability of placement with suitable families or suitable private institutions, such as The Father Louis Home for Boys at Hilo and the Salvation Army Homes for boys and girls, applies to boys as well as to girls. We understand that an appropriation for one or more additional buildings at the girls' school may be requested of the next Legislature. If such an appropriation is to be made, we suggest that careful consideration be given to the character of the proposed building or buildings with reference to cost of construction and suitability to the type of girls who may occupy it. We suggest further that consideration be given to the question whether, by the elimination of dependents and feeble-minded and greater care in the matter of committals of others to the institution, the present accommodations can not be made to fill the requirements for some time to come.

We do not deem it advisable, with our limited investigation, to report extendedly on the management and operation of these institutions. The sub-committee of the Commission which visited them were much impressed with the management and operation of the boys' school. The institution seemed to be pretty much what such an institution should be in all or most of its activities in spite of handicaps in facilities. Without meaning to pass judgment, the girls' school impressed the sub-committee as being too much a mere institution.

It has been said that the boys' school is a breeding place for a large percentage of those who later are found in the Territorial prison. It may be that, in the absence of statistics, this is an exaggeration and probably it is not so much so now as formerly, for the contrast between now and formerly in the management of the school is marked, but it would be strange if, however well-conducted the school might be, a considerable percentage of the inmates should not fail of reformation. It would, however, be interesting and perhaps of value, if, through an investigation, the facts could be ascertained.

See, appended hereto, the respective reports of Miss Marjorie E. Babcock and Mr. Andrew W. Lind, both of the University of Hawaii, on "Juvenile Delinquency in Two Industrial School Groups" and "Some Measurable Factors in Juvenile Delinquency in Hawaii"; also the paper by Prof. Romanzo Adams, of the University, on "Juvenile Delinquency in Honolulu."

Jails

These are county and city and county institutions. See R. L. 1925, Secs. 1582 (subdiv. 5), 1738 (subdiv. 13), 1849, 1850, 2188. They are for the imprisonment or detention of misdemeanants, persons awaiting trial, etc. Principal of these on Oahu is Honolulu Jail at Iwilei in Honolulu. This is an old institution on an insufficient area and in a locality which has changed greatly since its establishment. Much might be done to improve it, especially in the matter of sanitation, but much better would it seem to be to remove it to a larger area in a more suitable locality and to erect a new and more modern plant. Its shortcoming, however, is not alone physical. Apparently it needs reformation in its management and operation quite as much. This institution seemed to the visiting sub-committee to be about as much what such an institution should not be as the Waialee Training School for Boys seemed to be what such an institution should be. We recommend that the Board of Supervisors of the City and County of Honolulu cause a thorough investigation to be made with a view to bringing this institution up to the highest standards for its kind.

The jails in rural Oahu are used for detention purposes only, the persons detained being sent, when convicted, to Honolulu Jail. The buildings, which accommodate also the district courts, deputy sheriffs, etc., are in general well planned, well constructed and kept clean. The basement (in which the cells are) of that at Waialua is below grade and at times is flooded with seepage water. This should be remedied. The sub-committee were unable to visit the jails on the other islands.

Detention or Shelter Home at Honolulu

This is a city and county institution for the accommodation

of such children, of all ages, as are deemed to require detention while awaiting the determination of their cases by the Juvenile Court. See R. L. 1925, Sec. 1738 (subdiv. 13), Sec. 2132, as am. by Acts 187 of 1925, 200 of 1927 and 239 of 1929. See also, appended hereto, report of Miss Margaret Bergen, a member of the Commission and formerly director of the Social Welfare Bureau, to which report we need add but little. Assuming that such a home is needed, which is at least debatable (Boston, for instance, thinks it does better without one), care should be taken that it prove as harmless as possible. The crowding of the better and the worse children of all ages in idleness cannot but be detrimental to the former. Children should not be placed there who can be left in their homes or placed temporarily with others, nor should they be kept there longer than absolutely necessary. The appearance of criminal procedure should be avoided and the home should not be used as a place of punishment. The Juvenile Judge, his probation officers and the matron of the home cannot give such matters as these too earnest thought.

JUVENILE DELINQUENCY

Under the present laws the Juvenile Court is authorized to commit a dependent child to an industrial school and also to declare any child under 18 years of age a delinquent child. After due consideration, we have definitely reached the conclusion that no dependent child should be committed to an industrial school and that no child under 12 years of age should be declared a delinquent child. We are of the opinion that any child under 12 years of age who might otherwise be found to be delinquent should be adjudged a dependent and not a delinquent child.

We recommend that amendments be made to the statutes relating to Juvenile Courts in order to carry into effect the conclusions above stated. A bill to this end is submitted herewith.

A great deal of work is being done at the present time by the probation officers of the Juvenile Court of the First Circuit in connection with complaints and other matters brought to their attention concerning children under eighteen years of age. When they are of a minor nature or of slight importance they are

handled and disposed of by the probation officers, otherwise they are submitted to the Juvenile Court for disposition under the regular procedure prescribed by law. The cases which are handled and disposed of by the probation officers have increased greatly in volume and it has become difficult for the present number of probation officers to attend to their work in a proper and efficient manner.

At present and for some time past one of the court-room clerks of this court has been assigned the duty of acting as custodian and the keeping of accounts of all moneys earned by children at various employments while under probation.

The presiding judge of this court has expressed the opinion that provision should be made for the appointment of two additional men probation officers and one additional woman probation officer and also for the appointment of an additional clerk so that the increased work of the court may be more promptly attended to and more efficiently performed. We believe that this matter merits serious consideration on the part of the Legislature.

We have considered other phases of the subject of juvenile delinquency and have received reports from various persons who have made studies of the problems involved, copies whereof are appended hereto.

BAIL BONDS AND BONDS TO KEEP THE PEACE

The furnishing of bail bonds and bonds to keep the peace by so-called professional bondsmen has become an established business especially in the City and County of Honolulu. The prevailing charge made for the service rendered by such bondsmen is 5% of the amount of the penalty of the bond. It is commonly known that in some instances excessive charges have been made against ignorant persons. Owing to the isolated position of these Islands the risks involved in the execution of these bonds are comparatively slight and it is generally known that over a long period of years only a few of these bonds have been declared forfeited on account of escapes.

It is our opinion that this business should be regulated by requiring a person engaged in it to procure a license and by

setting a maximum limit upon the charges that may be made. A bill to carry this proposal into effect is submitted herewith.

DANCE HALLS

There should be some kind of supervisory bodies having special jurisdiction over public dance halls in each county and the City and County of Honolulu. The qualifications of dance hall proprietors and the location of dance halls should not be passed upon by the city and county treasurer. The ordinances should, we believe, provide for the creation of supervisory bodies composed of specially qualified persons who would be empowered and required to make a real, not a perfunctory, examination of applicants for dance hall licenses and of the premises proposed to be utilized for dance halls. Such bodies should also, we believe, have supervision over dance halls and their activities, and see to it that the ordinances for their regulation are adequately enforced. Under an arrangement with the sheriff the public dance halls in Honolulu now employ special police officers who are supposed to keep order in them. We believe that specially qualified women, selected not by the dance hall proprietors but by the supervisory bodies, should supplement the male special police officers, and that these women should be responsible to and removable by such bodies.

SUSPENSION OF IMPRISONMENT AND PLACING DEFENDANTS UPON PROBATION

Under the present laws of the Territory the District Magistrate of any district court or the Judge of any circuit court may, upon motion of the prosecuting officer, suspend the sentence of a person convicted of crime, which suspension may be for a period of thirteen months. There is no provision for supervision of the person whose sentence is suspended nor is there any provision in the law authorizing the judge to impose any conditions when sentence is suspended.

Without any doubt there are many cases, especially among first offenders, when it would be far better to place a defendant on probation and give him the opportunity to become a useful member of society without the stigma of being confined in jail

or penitentiary. It would not only save the expense of maintaining the defendant in prison but if he knew his freedom was dependent upon his conduct he would be given incentive to behave himself and correct his mistakes. After much study of the problem we have concluded to recommend restricting the present provision for the suspension of sentence to the district courts and to recommend an entirely new and different method of suspending sentences in circuit courts. Here, except in the more serious offenses, the judges should be permitted to place a defendant on probation with or without a fine, and require him to be carefully supervised by a probation officer appointed by the judge. At any time during the period of probation the defendant could, on violating the conditions of his probation, be committed to prison. Such period of probation with any extension thereof should not extend beyond a period of five years. This is largely the practice in the Federal Courts where it has proved to be very successful.

We have prepared a bill to carry into effect these recommendations which we submit herewith.

PRISONS AND PRISONERS

We believe that the number of members of the board of prison inspectors which handles the cases of territorial prisoners, should be increased from three to five, inasmuch as the duties are now so heavy as to impose an onerous burden upon each of the three members. A larger group will permit of a division of the duties in smaller proportions, as well as permit of the functioning of the board even with two members absent. It is believed also that the hand of the board should be strengthened in certain respects, hereinafter mentioned, wherein the board has found itself handicapped in the past.

It is recommended, therefore, that the membership of the present prison board for the first circuit be increased to five persons to be appointed in the manner required by Section 80 of the Organic Act for terms of five years each, arranged in such manner that one term will expire each consecutive year.

It is also recommended that the name of the board be changed from "Board of Prison Inspectors of the First Judicial Circuit" to "Board of Prison Directors" in order to distinguish it from

the prison boards in other circuits, which deal only with county jails and misdemeanants.

It was at first contemplated that the new board of prison directors be given control of all prisons and jails throughout the Territory with the consequent elimination of the boards of prison inspectors of the various judicial circuits other than the first, but upon further consideration it was finally decided that these local boards should be continued for the purpose of supervising county jails, etc., since direct supervision by one Territorial board would be both expensive and, in view of the distance between counties, impracticable. The new board of prison directors should continue the supervision of city and county jails in the first circuit, as the present board does, in order to avoid unnecessary duplication, but should, it is believed, be given power to call upon the various local boards of prison inspectors for investigations, information, etc., so as to co-ordinate to some extent the efforts of all groups dealing with prison discipline under the direction of one superior body.

To this board of prison directors should be given the exclusive power of supervision of Oahu Prison and all Territorial prisons and prison camps and to this end it is recommended that the present responsibility of the high sheriff as warden of Oahu Prison to the attorney general be transferred from that officer to the board of prison directors which will then have an opportunity to institute and maintain under undivided responsibility methods of prison discipline and administration which may be decided upon. At the present time the responsibility is divided between the board of prison inspectors of the first judicial circuit and the attorney general, which tends to cause uncertainty and in some cases lack of efficiency. The board should also have control of expenditures for all Territorial prisons and prisoners.

We believe that steps should also be taken to provide for a centralized bureau of crime statistics for the entire Territory with power to make investigations and to acquire and compile information relating to the detection and prevention of crime and to the work of the courts, prosecuting officers, the police and other agencies for the prevention and detection of crime. This bureau should be placed under the control of the board of prison directors with power in the board to compel the institution and direct the

operation of the local identification and information-gathering bodies in the various circuits of the Territory. In this manner it is believed that co-ordination can be achieved between the law enforcement and crime prevention agencies throughout the Territory which will aid materially in the study of the causes of crime and the efficacy of these agencies in preventing or detecting crime, which may be expected ultimately to result in the more efficient and effective organization and operation of these agencies.

In order to make effective the powers of the new board in connection with investigation of the records of criminals and the gathering and compilation of other date relating to crime, we believe it advisable that the board be given power to compel the granting to it of access to all records kept by Territorial or county or city and county officers in connection with matters relating to crime, to compel the keeping of records in such manner as shall be prescribed by the board and to compel the attendance of witnesses, and the giving of testimony and the production of books, documents and other necessary information in connection with investigations or hearings made or held by the board.

It is contemplated that this board will have and exercise all the powers and duties of the present board of prison inspectors of the first judicial circuit with the additional powers and duties mentioned in this report.

Thus, the board of prison directors will exercise the same powers with respect to discipline of prisons and prisoners, commutation of punishment, etc., as does the present board of prison inspectors.

The new board will also have and exercise the same duties and powers with relation to paroles as the present board of prison inspectors of the first circuit, except that it is suggested that paroles be granted by the board with the approval of the Governor instead of, as at present, by the Governor upon the recommendation of the board.

In addition, the new board should be granted in clear terms power to retake any paroled prisoner at any time, even though not satisfied that he has broken his parole, in order to ascertain whether or not he has violated such parole. Under the present

statutes there seems to be some doubt on the part of the members of the board as to whether or not the board has such power to retake prisoners merely on suspicion.

In order to render more effective the new board's administration of the parole laws for the benefit both of the public and of the prisoners themselves, it is suggested that the appointment of a full-time parole officer by the board be authorized, such officer to be subject to the control of the board which may require him to keep in touch with all paroled prisoners and report thereon as well as to assist such prisoners in cases where they need such assistance as, for instance, in finding employment, etc.

Provision should also be made for the appointment of assistant parole officers with such of the powers and duties of the parole officers as shall be described by the board. It is thought that in this manner, possibly, reliable citizens who may be interested in particular paroled convicts and who may therefore be expected to take a more active and effective part in advising and assisting such prisoners than is possible for the parole officer may be appointed as assistant parole officers without pay and thus assist in rehabilitating such convicts. This will also make possible, in case it is found that one full-time parole officer is insufficient to perform the duties of his position, the appointment of paid assistant parole officers at such compensation as the legislature may authorize.

In line with this policy of centralization of prison control in one body we also recommend that the power to fix, adjust and allow compensation to prisoners be transferred from the present prisoners' compensation board, which consists of the attorney general, the warden of Oahu Prison and the board of prison inspectors of the first judicial circuit, to the new board of prison directors.

After considerable investigation and discussion, we have had prepared drafts of proposed legislation which it is believed will accomplish the purposes above mentioned. These drafts are transmitted herewith.

INDETERMINATE SENTENCES

The matter of indeterminate sentences, together with other related matters treated under the preceding sub-title, is considered by us one of the most important phases of our entire investigation.

Due to the magnitude of the subject we have been unable adequately to consider the question as to whether or not the various maximum periods of imprisonment prescribed for different offenses are duly proportioned to the gravity of the crime in each case and to the maximums prescribed for other crimes. We believe that some, at least, of these maximums are too high and others too low. We therefore strongly recommend further investigation into the maximum penalties prescribed for all felonies with a view to increasing or diminishing (as the case may be) each maximum to fit the gravity of the crime and also with a view to adjusting such maximum in proportion to the maximums prescribed for other crimes of less, equal or greater gravity, the results of such investigation to be submitted to the succeeding legislature with a recommendation as to the proper maximum for every felony provided for by law.

As regards minimum sentences of imprisonment we recommend that the indeterminate sentence and other statutes contemplating or fixing statutory minimum periods of imprisonment be amended so as to eliminate all minimum periods of imprisonment now fixed or provided for by statute. In this way it is believed that the minimum sentence can be fixed so as more equitably to fit the situation in each case as disclosed by the particular facts and circumstances attending the commission of the crime for which a particular individual is to be sentenced.

In line with this recommendation and to assist at arriving at more uniform and equitable minimum sentences, it is recommended that the statutes be amended so as to provide for the sentencing by the court merely to imprisonment for the maximum provided by law, with a requirement that within a given period sufficient for the purpose—say, three months at the most—the board of prison directors collect all facts ascertainable relating to the crime committed, the convict's previous record, environment, habits and characteristics and other matters which might be of assistance in fixing the degree of severity of the punishment and transmit such data to the court together with the board's decision as to the minimum period prior to the expiration

of which the prisoner should be ineligible to parole, such decision to be subject to approval or amendment by the court.

In other respects the present indeterminate sentence laws and the powers of the board of prison directors, which it is contemplated would supplant the present board of prison inspectors of the first judicial circuit, would be left substantially unchanged except as recommended under the preceding title.

Copies of proposed legislation to accomplish the objects recommended under this title are submitted with this report.

CONTINUING COMMISSION

Our work and studies have brought us to the conclusion that there should be some body to insure the continuous study of the problem of crime and its prevention. We have given considerable thought to the question of who should carry on the work and have concluded that it can best be done by a public commission appointed by the Governor. Such a commission would not need very much in the way of funds but should have a sufficient amount to insure clerical assistance and the services of some investigators. The research work could probably be conducted in conjunction with the University of Hawaii. While we have made a number of recommendations regarding criminal procedure we realize not only that more may well be done in this direction but that crime prevention is of far greater importance. Crime can best be prevented by ascertaining its causes and we believe that, if for no other purpose, a continuing commission should be provided to secure the facts in regard to such causes.

Dated, Honolulu, T. H., February 9th, 1931.

R. A. VITOUSEK, *Chairman*
W. F. FREAR
GERTRUDE M. DAMON
FRANCIS K. SYLVA
WM. H. HEEN
BERNICE P. IRWIN
H. I. KURISAKI
S. D. PORTEUS
H. R. HEWITT
MARGARET BERGEN
A. G. M. ROBERTSON

APPENDIX No. 1

BEING EXTRACTS FROM LETTERS RECEIVED BY THE COMMISSION RELATIVE TO CAUSES OF CRIME AND MEASURES TO REDUCE CRIME IN HAWAII

BY HONORABLE ANTONIO PERRY, CHIEF JUSTICE, SUPREME COURT, TERRITORY OF HAWAII

"The remedy must always lie, as it seems to me, very largely in the personnel of the courts and the prosecuting department of the government, and in the ability, courage and firmness with which the duties of those officers are administred. The salaries of the prosecuting officers should be such as to attract to those offices lawyers of high ability who can efficiently represent the people in criminal cases and secure the highest possible percentage of convictions in cases where there ought to be convictions. It would aid those departments, however, in the prompt and efficient performance of their duties if the law should be so amended as to permit the prosecution to call the accused to the stand in criminal cases and require of him a complete statement, as though under cross-examination and within the ordinary, reasonable limits of cross-examination, of his doings at the time of and in connection with the alleged offense and so as to permit prosecuting officers in their arguments before courts and juries to comment upon the absence of the dependant from the stand. Constitutions, if necessary, should be so far amended as to permit these changes. Perhaps these changes will be deemed radical and are as yet unobtainable. Every judge who has presided at trials, with or without juries, has felt, when a defendant absents himself from the stand, that justice, as distinguished from law, would draw an inference of guilt from that silence. And why should not a defendant be compelled to state his version of the facts? He has complete knowledge of the subject under investigation and should be subject to the same tests of credibility as are other witnesses.

So, also, in the same connection the law should be amended so as to permit of verdicts by less than all of the twelve jurors, say by nine out of the twelve. Absolute certainty is not always to be attained by judicial findings, any more than it is to be attained in other activities of life. If nine men out of twleve upon their consciences say that a defendant is guilty, that ought to be sufficient certainity upon which to proceed to pronounce and execute sentence. That rule was in existence in Hawaii for many years prior to its annexation to the United States; and I think that it was generally deemed in this island community to have worked well. It should not be possible for one or two or even three jurors, whether dissenting from motives of honesty or dishonesty, to present judicial deecisions against individuals adjudged by the nine to have violated the law.

The indeterminate sentence law should be repealed and it

should be left solely to the judges who hear all of the evidence adduced to say what the sentence should be.

Speaking generally, sentences should be more severe than they are at present.

The punishment for rape, irrespective of the age of the female, should be either death or imprisonment for life, in the discretion of the court—and should not be any more lenient. So, also, the penalty prescribed for assaults with intent to commit rape should be made more severe than is now prescribed. Perhaps there are other crimes the penalty for which should be made more severe.

Life in a prison should not be made so attractive as to become a source of attraction rather than fear to those contemplating violations of the law."

BY THOMAS B. VANCE, PRINCIPAL KALAKAUA JUNIOR HIGH SCHOOL

"At present I am making a study of the 20% of our junior high school graduates, to whom we refused permission to continue in school. Of the 89 children, in my own school, who were refused admission to a public senior high school, I find that 19% are working, 41% have gone to private schools, and 40% are loafing.

From the Kaimuki district our figures show that, of the pupils who were refused permission to continue in the public schools at the time of their junior high school graduation, 20% are working full time, 10% are working part time (one of these is only a caddy) 55% have gone to private schools, 15% have not yet been traced, and none are known to be loafing all the time.

I am also planning to find out about the pupils who have dropped school of their own accord and am planning to check all of this information with juvenile court records.

One of the two boys who raped one of my school girls while on her way to language school last fall was a former pupil of my school who had droppeed out of his own accord after he had passed the upper limit of the compulsory school age law. I know of a few minor infractions of the law by those who have dropped out of school or who have been dropped from school but I have not yet made an extensive study of this situation.

A recommendation which came from Clyde E. Crawford,

Principal of Central Junior High School, has my hearty approval. That is that our compulsory school law remain the same except that a pupil between the ages of 14 and 18 may not leave school unless she goes to work.

The two years discrepancy between the upper limit of our compulsory school age law and the lower limit of child labor laws will I judge need consideration.

Anything that will improve unemployment conditions such as the development of minor industries would be valuable.

If you wish it I shall be glad to furnish you with information about the records of pupils who leave school at an early age and who are dropped from school. I shall probably be able to complete these records in a few weeks. If you prefer I shall be glad to meet with your commission to discuss our findings referred to herein."

BY THE SECRETARY TO THE GOVERNOR OF THE STATE OF DELAWARE

"In reply to your letter of July 28th, Governor Buck has asked me to advice that the whipping post is not used as much now in Delaware as it was formerly. However, it is the opinion of those having to do with the enforcement of law that the whipping post has been a deterrent for the commission of those crimes where it is a punishment."

BY GORDAN R. VIRGO, CHIEF PROBATION OFFICER CITY AND COUNTY OF HONOLULU

"I have for acknowledgment your letter of many weeks ago requesting views and opinions regarding causes of crime in the Territory of Hawaii and possible methods of reducing crime. This is a timely subject and one that claims the time and attention of the Juvenile Court staff night and day. I am glad Governor Judd has set a period of at least a year in order that the Commission might properly gather all valuable data on this subject. Even a year is all too short and I feel that the Crime Commission should be a more or less permanent organization to continually study and seek efficient methods of prevention as

well as to effect cures just as the Medical Association has been doing for the past 35 years. I do not know whether or not all the members of the Commission are familiar with the inside working of the Honolulu Juvenile Court. Perhaps a bird's-eye view would not be out of place at this time.

Honolulu's Juvenile Court is a branch of the Court of Domestic Relations. It is located in the Judiciary Building. The staff consists of:

1 Chief Probation Officer
2 Probation Officers (Male)
2 Probation Officers (female)
2 Truant Officers (male)
2 Truant Officers (female)

The Shelter Home or Detention Home is located on King Street. The staff consists of:

1 Matron
1 Assistant Matron or nurse
1 Second Assistant Matron or cook
1 Washwoman
1 Night watchman
1 Handyman

The Court is presided over by Judge E. M. Watson of the Court of Domestic Relations, First Circuit, Territory of Hawaii, who is appointed by the president of the United States.

The Chief Probation Officer is appointed by the Judge and he is expected, acting under the direction of the Court, to exercise general oversight over the work of the other probation Officers in the Court; to determine methods of dealing with cases; to have general superintendence of the records, accounts and administrative work of the office.

Preliminary Investigations by Probation Officers:

Every Probation Officer, when so directed by the court in which he is serving, shall inquire into the antecedents, character and circumstances of any person accused within the jurisdiction of such court, and into the mitigating or aggravating circumstances of the offense of such person and shall report thereon in writing to the court.

Such an investigation is called a "preliminary' 'investigation because it is preliminary to sentence or probation and is distinguished from those investigations which a probation officer makes concerning his probationers after they have been placed on probation.

The purpose of a preliminary investigation is to ascertain

such facts concerning the personal and family history, character, habits, associations, environment, circumstances, mental and physical condition, and abilities of a defendant, as will aid the court in determining whether the defendant should be placed on probation or dealt with otherwise. Its purpose is not primarily to secure evidence as to the guilt or innocence of the defendant, but information which will enable the court to know whether the defendant's personality, record and relations to society seem to indicate that he is suitable for probation or should be otherwise treated.

The Difference Between a Police Officer and Probation Officer:

A *police officer,* our dictionary tells, is a person engaged in detecting, apprehending, and prosecuting the delinquent. But not even the newest dictionary defines a probation officer, so we are forced to consult some of our new treatises on probation and social methods of dealing with crime. Here we find this explanation: a *probation officer* helps the delinquent child or the older lawbreaker to develop his latent possibilities and assists him in making good without a jail or institutional sentence, if investigation proves he is worthy of this opportunity. The probation officer has been spoken of as a Human Engineer or Social Surgeon. He is the social physician. He steps into the breach where the normal agencies fail. He tries to show the community how to patch up cases without friction and without a court experience by close co-operation with all other social agencies. A probation officer should know the functionings of all other organizations. All of our officers are familiar with the functions of all other welfare or social organizations and call upon the respective agencies to help handle cases. Co-operation comes from both sides.

Our officers have been asked to lay more stress on investigation of parents for they are to blame for the delinquency of their children in most cases. The aim of our Juvenile Court is to adjust rather than punish. The judge is the only one to meet out the punishment and the scoldings. Each officer tries to understand the child and to get his view point. Misjudgment of the child on the part of parents and teachers and court officers often is the cause of the downfall of many a young person. A probation officer is expected to size up each case and to use judgment as to how it should be adjusted and try his utmost to settle out of court. Our officers do not have an attitude of revenge. Sympathy and courtesy are the qualities that they try to exercise and in most cases find a ready response on the part of the young offender. I heartily agree with

the person who has said that "The Secret of Success in Probation lies in an opportunity for the proper placement of our charges."

I have often been asked "What method do you use in dealing with the young offender." I explain that we cannot use any standard in dealing with our cases as one method might be suitable for one case and inappropriate for another. Our officers have to be guided by the circumstances with regard to the case. Every personality and disposition is different. Lots of tact and diplomacy has to be used in dealing with these young lives.

The following is a list of offenses committed by boys and girls of the Territory:

Waywardness and Truancy, Disobedience, Common Nuisance, Running away, Violating Probation, Curfew, Profanity, Forgery, Assault and Battery, Using cut-out, Incorrigibility, Riding on train free, Riding on cars free, Malicious injury to property, Vagrancy, Gambling, Heedless Driving, Driving without license, Malicious conversion, Speeding, Cruelty to animals, Indecent Assault, Rape, Sodomy, Larceny and Immorality.

Largest number of offenses:

(1) Larceny—biggest percentage
(2) Gambling
(3) Incorrigibility
(4) Immorality

Library:

The officers of the Juvenile Court are rich in experience in dealing with the various races. Experience that could not be gained in school or college. In order to keep them abreast with times and up to date methods the following books have been ordered for the juvenile court library.

"The Child in America" by Thomas and Thomas
"Reconstruction of Youth" by Healy, Bronnor & Healy
"Youth in Conflict" by Van Waters
"Parents on Probation" by Van Waters
"The Gang" by Thrasher
"The Young Delinquent by Burt
"The Problem Child in the Home" by Sayles
"The Problem Child in the Home" by Sayles
"Our Enemy the Child" by De Lima
"The Unadjusted Girl" by Thomas
"Personality and the Social Group" by Burgess

Domestic Cases:

This office is a veritable bureau of family relations as it were. Scores of people seeking advice. Husbands and wives

come to us at all times for family adjustment. To the best of our ability we analyze the problem and suggest possible solutions or recommend organization and institution and individual who can be of service. This work alone is so important and entails lots of time but worth while.

Definition of Probation:

Probation is the method by which the community, through its court, seeks to aid, supervise, discipline, and if need be reform offenders without imprisoning them. It is used especially for young or first offenders and others not hardened in vice or crime.

Persons found guilty or adjudged delinquent or in need of the care and protection or discipline of the state—whether children or adults—after an investigation by the probation officer and conditionally set at liberty, usually under suspension of sentence, and are placed under the authoritative helpful oversight of a man or woman appointed by the court. Those placed on probation must report regularly and try to live up to the following rules:

1. Avoid bad habits.
2. Avoid bad companions.
3. Report promptly to Probation Officer as ordered.
4. If attending school, attend regularly every day. Do not be absent or late without a reasonable excuse.
5. If working attend strictly to business.
6. Notify Probation Officer of change of address.
7. Do not leave Oahu without permission from the Court.
8. Remember the advice given by the Judge and obey his orders.

He is given a school card which must be presented each week to the school principal who reports on the boy's behavior and progress, and signs same. This is exchanged for a new card when the boy reports to the probation officer Saturday mornings. As soon as a boy is placed on probation the priest, or the minister, or the club leader, or organization, or school, in his residential district is notified and asked to take a friendly interest in the young offender. In addition to this the probation officer and traunt officer is given a list of the probationers and a periodic visit is made to the boy's home. A written report from the parents or guardian is also obtained from time to time, which is as follows:

1. Behaves how, at Home?
2. Spends evenings where, and how?
3. Is usually at home in the evening, by what time?
4. With bad associates or in bad places?

5. Absent from school or work, when?
6. Why absent?
7. Remarks.

The above entails a tremendous lot of work and keeps the small staff working full blast morning, noon and night. Time is no object in dealing with these young lives and the probation officer is on call for 24 hours.

Practically every district of the Island of Oahu has its honorary or unpaid probation officers appointed by Judge Watson. These officers do much in relieving the regular officers of petty or minor cases away from the city such as Waipahu, Waialua, Hauula, Ewa, and Kalihi, which have one volunteer officer.

Causes of Delinquency:

From years of experience working with delinquents as a social worker and now as a probation officer, I have come to the conclusion that one of the greatest causes of delinquency is the broken home where the parents are at logger-heads all of the time or have been divorced. Parental laxity is another cause; lack of parental control; parents shirking responsibility; children allowed to have their own way in practically everything; poor home atmosphere; lack of work or steady employment; poor surroundings or environment; defective discipline; ignorance of the law or lack of understanding; failure in school; lack of employment for the boy between the ages of 14-18 years. Automobiles are another cause for lots of our delinquency and a series of handicaps.

1. Home—parents incapable; ignorance, selfishness, neglect, proverty, in some cases wealth.

2. School—child often misunderstood, children differ in their mental capacity. A boy may be troublesome in school because the particular course of study does not fit into his life. He should be adjusted rather than punished.

3. Moral and Spiritual—include the home, the church, the school and the club is responsible for the training of the child in christian character.

4. Physical health affects conduct. Undernourishment, defective teeth, defective tonsils, defective eye sight, causes restlessness and irritability. Close supervision and medical attention needed to discover these causes.

5. Lack of wholesome sex education—boys and girls get vicious ideas along these lines from companions.

6. Lack of proper recreation—this is as important as education itself. Stricter discipline in the schools. Some principals are not in favor of strict military discipline. They feel the chil-

dren should be given greater freedom, but I have noticed that the principals who employ strict discipline in the school very rarely call upon the assistance of the Juvenile Court.

7. The automobile makes it easy to commit crime.
8. Unemployment.
9. Leaving school at an early age.

Crime Prevention:

More play grounds. More trained and higher paid men directors for play grounds. Parks and play grounds need illumination and adequate supervision at night as well as day. A man in charge of play grounds with woman assistants. More kindergartens, more visiting nurses, more welfare workers, more boy scout troops, enforce the anti-loitering law, enlarge clinics, more boy's clubs needed, one in Pawaa district, another in Kaimuki, Waikiki and Kalihi. Stricter law enforcement. Reward police for outstanding pieces of work instead of "balling" them out and fining them. Raise standard, increase the number, enforce curfew law, punishing the parents who are at fault in a great many cases.

A type of employment to take care of the boys who cannot get white collar jobs and who don't wish to go back to the plantation.

The compulsory school age should be raised from 14 years to 16 years unless a boy is assured of employment and can prove that he is to be employed.

We need some institutions between the Detention Home and the Reform School for juveniles who cannot be kept in the Detention Home who are not bad enough to be sent to the Boys Industrial School. For example, the county farm such as those operated by the State of California, or training ship to be placed in Honolulu Harbor or Pearl Harbor, where boys between the ages of 14 and 18 years could be sent for strict discipline, and efficient training in seamanship. Our Hawaiian young men are natural sons of the sea and are a hardy race, good swimmers and make successful seafaring men. With the number of trans-Pacific steamship companies such trained men would find ready employment.

Talks on delinquency in all of the junior high schools down to the 7th grade should be given every effort to help assist the social agencies if we are to prevent crime. These agencies should be spurred on to greater effort. Membership drives to be made at all times in order to bring most of our young people under the spendid influence of these organizations. All gangs of boys under 18 years of age should be checked up and registered. They

should be organized rather than broken up. Stricter measures for truancy and violation of curfew law. The need of more religious education and character training. Up until recently all probationers were required to report to the court every Saturday morning. This to my mind was not a good influence. In order to break away from this practice the Y. M. C. A. and Palama Settlement were asked to have these boys report to them at their respective organizations where a recreational program was carried out regularly every week. This to date is working out very satisfactorily. If a boy fails to report as instructed these organization srefer him back to the court for punishment. It is interesting to note that very few reports are received along this line.

The Handling of the Delinquent:

All cases referred to the Chief Probation Officer by parents, organization or police, who sizes up the situation and hands same to an officer. Girl cases to lady probation officers and boy cases to men probation officers who make the following investigation. (See attached forms).

The child today is being brought up in a very fast age. This is the fastest age the world has known. Automobiles, airplanes, radio, movies, etc., are influencing the lives of our young people more than we realize. We of today should adjust ourselves to the child rather than try to make the child adjust himself to our way of thinking.

The general impression of any community is that juvenile delinquency is on the increase. I think the reason for this is the fact that the social agencies are more active today than ever before and are giving more publicity to the subject. Many of us are inclined to be too pessimistic about the youth of today. Many people are of the opinion that there is a crime wave among juveniles in Honolulu. I feel that there is no crime wave and the following facts and figures lead me to believe that the territory is practically normal. (See attached reports of years 1921-1929).

Annual Report—January 1st to December 31, 1929

Delinquents:

	Male	*Female*
Declared delinquent	333	112
Placed on probation	263	27
Care and custody Private Family	3	23
Care and custody Charitable Institution	2	17
Committed to Industrial Schools	65	45
Committed to Waimano Home	....	....
Nationality:		
Chinese	30	6
Filipino	8	10
Hawaiian	67	32
Japanese	54	11
Korean	11	....
Porto Rican	27	6
Russian	1	....
Spanish	7	2
White—including Portuguese	56	10
Mixed Races	72	35

Semi-Annual Report—January 1st to June 30, 1930

	Male	*Female*
Declared delinquent	170	42
Placed on probation	130	9
Care and custody private family	4	9
Care and custody Charitable institution	3	3
Committed to Industrial Schools	33	21
Nationality:		
Chinese	18	2
Filipino	13	2
Hawaiian	46	20
Japanese	17	2
Korean	10	....
Porto Rican	12	5
Russian	....	....
Spanish	3	....
White (including Portuguese)	50	8
Mixed races	2	3

Adult Probation Needed Here:

It costs $15.00 to $18.00 a year for probation while it costs over four to five hundred dollars to keep the prisoner in jail. Of course, habitual criminals cannot be put on probation. It depends on the case and the circumstances.

Kindergartens:

Double up on the number of kindergartens. Give all children in the Territory from the age of three to six years a kindergarten training. This period in the life of a child is most impressionable. Gives him character and health training and discipline besides preparing his mind for the public school. Children with kindergarten training show up to greater advantage in every way on entering grammar grades.

Ignorance of Laws:

The average person never reads the law. There are so many laws and every time the legislature meets more are added. Would suggest that the newspapers publish a law a day or one per week. The Department of Public Instruction to have all grades devote a few minutes per week to the educational of territorial laws. Small placards containing certain laws should be placed in organizations and schools and other public places from time to time.

Points that could be added to our community program for lessening crime:

1. Improve housing conditions.
2. Open more club houses.
3. Factories—man employment.
4. Training ship.
5. County farms.
6. Parents on probation.
7. Stricter discipline in schools.

I do not know whether or not the foregoing will be of any use or help to your Commission. "Delinquency" is a broad subject and a one that is being added to continually month by month. Every cahe has a different angle and is a new problem in itself.

NUMBER OF JUVENILES DECLARED DELINQUENT FROM 1921-1929

In the City and County of Honolulu

	1921		1922		1923		1924		1925		1926		1927		1928		1929	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Assault	10	....	....	....	8	....	15	....	4	....	9	....	7	....	4	....	11	....
Disobedience	8	....	....	....	....	11	3	6	2	2	....	2	3	5	4	3	1	1
Gambling	8	....	30	....	4	....	14	....	11	....	7	....	3	....	16	....	18	....
Larceny	139	6	168	5	131	8	120	6	154	5	62	5	150	5	175	7	168	12
Truancy	53	4	57	3	37	1	18	....	19	2	5	....	7	1	10	....	8	....
Incorrigible	25	27	31	13	10	6	18	11	23	23	24	20	24	29	24	27	31	29
Immoralty	1	28	....	33	3	20	....	44	....	31	4	38	3	38	9	33	13	61
Waywardness	....	....	13	19	24	10	20	13	23	35	17	26	20	8	15	16	10	4
Vio. Traffic Ord.	....	....	11	....	11	....	12	....	11	....	9	1	4	....	3	....	13	....
Com. Nuisance	....	....	12	....	18	....	35	1	9	....	2	....	4	....	11	....	6	....
Curfew	....	....	58	....	5	....	1	....	12	....	21	....	3	1	4	....	29	1
Other Offenses	3	....	18	10	39	1	19	1	12	1	17	1	25	10	7	6	25	4
Total	247	65	398	23	290	57	275	82	280	99	177	93	253	97	282	92	333	112
Gr. Total M&F	312		421		347		357		379		270		350		374		445	

Population:									
Honolulu	86,929	90,100	93,500	97,000	101,500	104,300	106,600	113,000	116,260
Outside	54,190	53,440	58,700	59,500	64,300	65,000	64,650	67,000	68,556
OAHU	141.119	143,540	152,200	156,500	165,800	169,300	171,250	180,000	184,816

FOLSOM

"Immediately after argument of the Rapid Transit case in the Ninth Circuit Court of Appeals, I went to Folsom Prison, located at Represa, some thirty miles above Sacramento, spending two days on the trip.

I have visited several penal institutions, but never have I seen one which, from external appearances, more deeply impressed me as being so indubitably just such an institution. Folsom Prison is located in a rather bleak and desolate country, being flanked on the lower side by the Sacramento River, which immediately adjoins it, by a granite quarry on the right, the sheer cliffs of which reach up approximately one hundred feet, and by a double line of walls on the remaining two sides. At intervals along the outer wall are towers, manned by guards with machine guns and carbines, and on the inner walls are sentry posts between which guards pace the walls armed with rifles. Everything about the atmosphere of the place suggests a prison, and nothing else, and upon making similar observations to the Secretary of the Warden, he rejoined that that was their wish, and that everything possible was done to further that impression.

Cars admitted proceed through the outer gate, which is then closed, and the car undergoes a thorough inspection before the second gate is unlocked, a procedure which is repeated, even to the extent of close scrutiny underneath the car, when the machine passes out again. I was informed that it had been discovered that some escapes had been made by convicts clinging to the under frame of cars passing out of the penitentiary. Unfortunately, the Warden, Court Smith, was absent at the time of my visit, and I was turned over to the care of the Warden's Secretary, Barnett Huse, a comparatively young man who manifestly was accorded a great deal of trust and responsibility by the Warden. Mr. Huse still shows in his gait the results of a shot fired through his hip by the rioters in the famous mutiny of last February at Folsom, which has resulted in the hanging of six of the rioting convicts.

Mr. Huse gave me his entire time during my visit, and conducted me through every part of the Prison. There are at present well over two thousand men within the walls, in addition to the men stationed at various road camps throughout the State. But for about three hundred, the inmates are all recidivists, or

men convicted of at least their second offense. The result is that the average age of the men is considerably higher than at San Quentin, to which all first-timers are originally sent. As I recall it, the average age at Folsom is in the neighborhood of thirty-five years. As a further result of the great majority of the inmates being recidivists, it is borne in mind by all the authorities and the officials at the institution that they are dealing with a more hardened type of criminal than is the case at most state penitentiaries. I was informed that the three hundred odd first-timers now at Folsom are there mostly upon their own request, principally for health reasons, or from a desire to escape from the enmity and possible revenge of some certain clique or gang at San Quentin.

EMPLOYMENT OF TRUSTIES OUTSIDE THE WALLS

Whereas at San Quentin I found the prison equipped with shops for the carrying on of various trades by the men, at Folsom the men are mostly employed in the rock quarry, machine shops, on the prison farm, or outside on various road gangs.

The farm and dairy comprises two thousand two hundred acres of land, all but forty of which lie outside of, but closely contiguous to, the Prison, and some four hundred of the inmates are there employed. The land is poor and the primary pursuit is the raising of hogs and fowls for the institution, and the conduct of a thoroughly modern dairy. These men are considered as trusties and have considerable latitude in their activities.

At the time of my visit I believe there were in the neighborhood of two hundred men stationed outside in road camps, engaged upon construction of state highways. Inquiry revealed that only those prisoners who were fully trustworthy were allowed outside on the roads or the dairy, but that once they are stationed there they were subject to approximately the same surveillance and supervision as are our convicts stationed outside the walls in prison camps. For every day on the highway the prisoner is credited with a day and a half on his sentence, and pay is allowed in gross up to a maximum of 75c a day. From this is deducted the cost of all tools and equipment which he loses or destroys, thus discouraging the wilful and malicious destruction of such equipment. Deductions are also made for remittances to dependents.

The men assigned to these outside activties are in most cases prisoners who have earned sufficient commutation to act as a restraining influence to deter them from doing anything to forfeit the same, and I was informed that it would be an exceptional case where one previously addicted to drugs would be allowed

one of these outside asignments, due to the realization that the call for narcotics might easily become too strong for the prisoner to conquer. Folsom also has its road gang escapes, and since the camps were inaugurated on March 1, 1916, of the 2,478 men transferred to camps, 194 have escaped, of whom 2 were killed, 140 apprehended, and 52 not apprehended. For the fiscal year of July 1, 1926, to June 30, 1927, there were 4 escapes from the prison proper, and 8 from the highway camp. I believe that Folsom boasts a record of the recapture of all of her recent escapes but one.

ESCAPES AND PROCEDURE

This brings me to an interesting phase of this subject. Once an escaped convict is retaken in California he is brought to trial before a jury on a new offence of escape, receiving a separate and distinct sentence therefor.

Although we have somewhat similar statutes making escape a distinct criminal offence (Sections 4315 to 4319, Revised Laws of Hawaii, 1925), I off hand know of no instance wherein any prisoner has been tried for escape under any of these sections. Our practice has been for the Prison Board to impose additional servitude over and above the minimum sentence, and for the Warden to forfeit certain of the prisoner's privileges at the institution. I can see the reasons lying back of these two varying procedures, as follows:

Under the California law the court, upon conviction, merely fixes the minimum-maximum required by law, as, for instance, a sentence of one to ten years. After the prisoner has served one year his case then automatically is placed upon the ensuing calendar of cases to be considered by the Prison Directors, corresponding to our Prison Inspectors, and they then, upon consideration of his case, and of all the data in the meanwhile secured by the State Parole Officer and assistants to the Board, fix a definite sentence for the prisoner to serve. On the above minimum-maximum of one to ten years, let us assume that the Prison Directors fix his sentence at five years. Such is his sentence, nor is he eligible to parole until the five years, less commutation for good behavior, have expired. Shoulld he fail to earn any commutation his sentence in any event is up at the end of five years. It is apparent then, that any additional servitude for escape must come from the courts.

In Hawaii, however, a sentence of from one to ten years remains the sentence throughout the term, the Prison Board at no time in any way altering it. At any time then, until the expiration of the maximum term, the Prison Board has power to impose servitude, in addition to what they otherwise would, for

any violation of the rules and regulations of the penitentiary, or of the laws of the land, and in a majority of cases it is apparent that they can effectively deal with escapes.

However, in those cases where the escape occurs shortly before the expiration of the maximum term, it would seem not only wise but necessary to resort to a criminal prosecution for the separate and distinct offense of escape in order to inflict a proper penalty for the escape.

LIVING CONDITIONS

The new cell house at Folsom is fairly comparable as far as living conditions are concerned with ours at Oahu Prison. The building is of stone with windows beginning high above the floor and extending for a good many feet almost to the roof, and inside a corridor some twenty feet wide extends completely around the outer part of the building. Inside this wide rectangular corridor is the cell block with three tiers of cells superimposed one on the other. The doors consist of steel bars, giving plenty of light and air to the interior of the cell, particularly in view of the fact that the open space inside the exterior walls extends not only on all four sides of the cell block, but overhead as well. An excellent view of a portion of this new cell block appears on page 121 of the Prison Directors' Report filed herewith.

An entirely different picture is presented by the remaining cell house, the one first installed at Folsom Prison. There the windows are small and high, allowing very little sunlight to penetrate the cell house, and furthermore, the cells themselves, some twenty feet removed from the outer wall, are built of masonry some three feet thick with steel doors solid except for a small grating through which the prisoner may peer. It is a physical impossibility for enough sunshine or air to enter these cells to keep them in a healthful condition, especially during the wintry season. Life must be one of misery indeed in any of these cells.

Overcrowding has necessitated the placing of two, four, and sometimes six men in a cell, with barely enough room for the men to move between the bunks. Although the authorities realize the undesirability of having more than one man to a cell, nevertheless the tremendous increase in prison population in the last few years has made it impossible to provide individual cells for the men, at least with the appropriations so far made available to the prison.

Another cell house modern and hygienic in design, is under construction at the present time to replace the old cell house just described.

DISCIPLINE

Discipline in the California prisons is strict, and although corporal punishment is not allowed, it was interesting to note how many of the authorities expressed their belief in the efficacy of the lash and their regret at not being able to avail themselves of it. Almost the sole punishment imposed for infractions of prison rules consists of incarceration in the dark cells, with a diet of bread and water until the eighth day, when a full meal is served, with one good meal every fourth day thereafter. Our records show that our prisoners are very seldom retained in the dark cell for more than forty-eight hours, the belief being that anything longer than that may be inimical to the prisoner's health, both mentally and physically. I was told, both at Folsom and at San Quentin, that the limit of time of solitary confinement in the dark cell depends entirely upon the prisoner himself—that he is kept there until such time as he announces his willingness to do the tasks assigned him and obey the prison rules in all details. I was informed that confinement for a few days or a week usually suffices to bring the desired results, although I was shown records of instances where prisoners had been so confined for as long as a month. At Folsom the dark cells are in one section of the old cell house, on the second tier of cells. It seemed to me that the cells were not strictly dark cells, some little light being admitted, but no one was allowed to talk along that corridor.

At San Quentin, however, the cells were practically underground, or at least under a building with no other access to the outer world except a main door of steel bars admitting to the aisle which separates the two rows of cells facing each other. Each cell has a solid steel door with a few small holes about the size of a man's thumb through which the prisoner may peek, seeing nothing but the dimly lighted door of the opposite cell. Inside they are given a mattress, blankets and a latrine bucket, as are our incorrigibles placed in the dark cell at Oahu. I can well see how a few days in one of those cells with the fumes of the lime in the bucket and no food but bread and water for eight days in prospect, would serve to bring to time the most incorrigible of prisoners. However, I believe that corporal punishment, which would break only a vicious will and not the body, would be more humane.

In reply to my inquiry as to the punishment which would be meted out should a prisoner in the quarry assault a guard, I was informed that probably none would be necessary, as the guards on the walls were chosen at least partly for their marksmanship and had strict orders to act speedily and decisevely in any such event.

HARD LABOR—TASK ASSIGNMENTS

Throughout the Prison I noticed many men apparently loafing. For instance, in the quarry some men would be working diligently and others sitting around. The same would be true of the kitchen or the dining hall, and none of the guards seemed particularly concerned. Inquiry developed the fact that every man capable of work in the institution is given a detailed assignment—a task, as they term it, and once that task is finished, his time is his own. Thus he may work more industriously and have a period of rest additional to what he would have should he work leisurely throughout the day. I was informed that this system of task assignments has proven very effective.

PRISONERS' RECORDS AND HISTORY

I found Folsom equipped with a most efficient clerical system for securing every bit of available information concerning each and every prisoner in the institution, all under the supervision of Myron H. Clark. I went all through their system of records with Mr. Clark and the trusty in charge, and was much impressed with the thorough manner in which this information is secured. Upon entry each prisoner is closely questioned regarding his entire past life, particularly his whereabouts and former servitude, if any. They recognize, of course, that these statements are oftentimes colored by personal interest, and that sometimes former convictions, especially in other states, are concealed, but from the history of his whereabouts at various times during his career, the authorities are usually able by correspondence with officials at such places to draw finally a fairly complete and accurate picture of the prisoner's past. This record is slowly but painstakingly compiled throughout the first year of the prisoner's incarceration, and a resume of his history, taken therefrom, and the gist of the story of his crime, with recommendations, as set forth by the presiding judge and counsel, both for the prosecution and defense, are all a part of his record as made up and presented in the docket or calendar for the Prison Directors, and all of this is considered by the Directors in reviewing his case and fixing his definite sentence. I was given some assurances that I would be furnished with copies of forms of all these letters and questionnaires upon the approval of the Warden when he should return. To date I have not received them, but have wired the Warden and fully expect to be in receipt of them shortly. I had hoped to include that material with this report for transmittal to the Prison Board, should they care for it, and shall forward it as a supplement hereto, should it be sent to me."

SAN QUENTIN

"Some few days later I made my first trip to San Quentin, located on a small peninsular jutting out into San Francisco Bay above Sausilito. San Quentin, to me, had more the atmosphere about it of a military barrack than a penitentiary, a contrast to Folsom which I could not help but feel redounded to Folsom's credit. As stated above, San Quentin's population is almost entirely made up of first-timers, at present consisting of approximately four thousand five hundred convicts.

James Barnard Holohan, Warden of San Quentin Prison, extended to me every courtesy possible during each of my trips to San Quentin, turning me over to "Straight-Line" Smith, formerly in charge of all highway camps, and now traveling inspector. Mr. Smith has devoted a good many years to prison management and discipline, and most obviously commands the respect and confidence of every prisoner in his charge. He informed me that no guards are taken on under thirty-five years of age, it being their experience that younger men are still susceptible to influence from the prisoners.

VISITING ROOM

Our first inspection was of the visiting room; where two long tables stretched throughout the length of the room with a guard in a slightly elevated position at one end and between the tables. The prisoners sit on the outside of each of these two tables with their friends sitting opposite them, the tables having a solid panel extending from the floor through the table and about ten inches above to prevent the passing of drugs or weapons from visitors to inmates. The room at the time of our inspection was full of visitors and convicts, but no attempt was being made to censor what was being said.

MESS HALL

At noon we went to the gigantic mess hall where the entire prison population is fed during the space of fifty-five minutes. The only segregation by race was of orientals, negroes and others. The food was quite similar to that at our penitentiary, and I learned that all the bread and pastries were baked at the prison. Whereas at Folsom a steel protected runway extended above and across the center of the dining hall, opening at either end to a barricaded guard's room, at San Quentin a narrow corridor ran around all four sides of the dining hall, and during meal time two guards with rifles patrolled this corridor.

CONDEMNED ROW

On the way back from the dining hall we passed a small block of cells known as "Condemned Row", a small block of three tiers of cells, all opening to open corridors, with the entire block surrounded by a low masonry wall. It was the recreation period for these condemned men, and some dozen of them were playing ball in the court. Later I noticed electric lights burning in these cells, as I had in the condemned cells at Folsom, and saw some of these prisoners reading magazines and books. I was told that no privileges whatsoever are denied those condemned to die.

JUTE MILL

We later visited the jute mill, where some nine hundred odd prisoners are employed in the manufacture of burlap bags from raw jute shipped in. The clatter of the machines is terrific, and I was told that certain types of prisoners quickly went to pieces in the mill.

SHOPS

In a neighboring four-story barrack, one of the original buildings at San Quentin, and composed of brick with wooden floors and stairways, are various other shops such as shoe shop, printing shop, tailor shop, furniture factory, etc. Practically all furniture for the institution and certain other institutions is made here, as well as all the shoes and clothing worn by the prisoners during their servitude, and when discharged. The uniforms of all guards are also made in the tailor shop at San Quentin.

EXECUTION CHAMBER

On the top floor of this old building is the execution chamber. In the center of a large bare room are two cage-like cells with nothing but a mattress inside. Forty-eight hours before execution, and while the other prisoners are in their cells, the condemned man is walked from condemned row through the prison to this old four-story barrack, marched up the wooden stairway on the outside of the building to one of those cage-like cells, where he spends the last forty-eight hours of his existence, under the constant surveillance of a prison guard. On the morning of his execution he is led from his cell, his elbows and wrists manacled, and he is marched to the adjoining room and up thirteen steps to the scaffold platform, where an assistant quickly throws and tightens a thong about his ankles as he reaches the top step, is lifted to the trap and fourteen seconds after being

led from his cell in the adjoining room, is dropped to eternity. No hypodermic or anything to dull a sense of fear is given. I inquired as to the reason for having the execution chamber so far removed from condemned row, and also in the midst of the various shops in the old barracks, and was informed that it was merely retained there from custom, it having been orginally so arranged.

At Folsom the scaffold is each time temporarily erected at the end of a wide corridor in one of the cell blocks, and upon the occasion of each execution it is necessary to remove all the prisoners from that block. I think the arrangement at Oahu Prison is far superior to that either at Folsom or San Quentin, and I also feel that our cell blocks are far more healthful than those at the California institutions.

HOSPITALIZATION

San Quentin's tuberculosis sanitorium, with some thirty to forty inmate patients, is under the charge of "Bluebeard" Watson, the man who is reputed to have killed some twenty odd wives during his lifetime. The fire department is under "Kid" McCoy, the oldtime pugilist who murdered his common-law wife.

While inspecting the hospital I watched the physicians sew together a negro convict's nose, a part of which had been almost severed by another convict in a gang feud within the walls. I was told that the authorities would probably never know who had inflicted the injury.

It was apparent that San Quentin has only a fraction of the space necessary to house such a tremendous number of convicts as it has. The buildings, both old and new, were crowded together almost in tenement style, and in case of a mutiny, although the guards on the outer walls would be able to keep the prisoners within the walls, it is difficult to understand how they would be able to cope with the situation inside. In this connection it is interesting to note, in the last biennial report of the Captain of the Guard, that "tear gas pistols, tear gas billies, gas cartridges, new Riot Guns, Army Rifles, Revolvers and three Browning Machine Guns have been added to our stock of Firearms. The Machine Guns have been placed on Points of Vantage."

WOMEN PRISONERS

A new unit has recently been completed for the women prisoners, separated from the balance of the prison by steel fences. The building is strictly modern, with large recreation rooms and attractive dining room downstairs, the upper floors resembling somewhat a modern hospital. The rooms are small

but adequate, well ventilated, lighted and heated, with modern toilet facilities in each room. The State furnishes these rooms in the plainest materials, but the inmates are at liberty to redecorate them at their own expense, and it was astonishing to see how neat and attractive most of them had been made. I saw Clara Phillips, the notorious hammer murderess from Los Angeles, as well as Mrs. Baldwin, who had just that day been admitted for shooting her husband when he refused to allow her to go out to a dance.

MURDERERS BEST PRISONERS

I was impressed at the large number of cold blooded murderers who, in the California courts, escape the gallows, similarly as here.

I was informed by the officials at both Folsom and San Quentin that murderers make the best prisoners, in very few instances giving the authorities any trouble. This is assumed to result from the fact that the murderer is usually not a hardened criminal, but one whose temper or jealousy has moved him momentarily to violence, the occasion for which will probably never arise again during his lifetime. I was also informed that the most difficult prisoners to handle are the younger first-termers, they not yet having learned to take the consequences of their crime as philosophically as the older and more seasoned convicts.

At both institutions each prisoner when received is given a thorough physical examination, including a Wasserman test and dental inspection, and any ailment is promptly treated or operated on. Clinics are held periodically and outside physicians and surgeons come in and donate their services. At Folsom ten per-cent of all Wasserman tests show positive.

Prisoners are also examined as to mental development and capacity, and many classes are conducted for the mental improvement of the men. Many of the prisoners are availing themselves of the Extension Courses given by the University of California.

Various sports are also sponsored, but movies, although once given, are now discontinued, they having proven a disturbing factor in the prison.

STATE BOARD OF PRISON INSPECTORS

On the day of one of my visits to San Quentin the California State Board of Prison Directors were in session there, and I spent an entire day sitting in on their deliberations. They hold their meetings to consider Folsom Prisoners at Folsom, and to consider San Quentin prisoners at San Quentin.

The proceedings preliminary to the Board's consideration of a prisoner are set forth hereinabove. On this particular day their calendar consisted of fifty-five cases, only twenty of which were completed that day.

PERSONAL APPEARANCE OF CONVICT BEFORE BOARD

As the Board convened, with the Warden, Chief Clerk and Parole Officer in attendance, the cases were called by the Chairman in the order in which they appeared on the calendar. As each case was called the prisoner himself was summoned to the room. He took a seat at the end of the table and the Chairman of the Board asked him whatever questions were felt to be pertinent. When the Chairman had finished other members of the Board proceeded to question him, and he was thereafter dismissed from the room. The Board then discussed his case, and decided upon his sentence. I believe this element of personal appearance is greatly to be desired in passing upon the term which the prisoner shall serve. I remember one case in particular where, from the record before the Board, it was perfectly patent that the prisoner was telling a completely false story concerning his crime, and although the Board had in several analogous cases previously shown marked leniency, they in this case departed from the precedent of their previous rulings, and acting far more severely in this case. The conviction expressed was that the man by his attitude before the Board had proven his unfitness to be trusted by the community.

I believe this a desirable procedure for the local board to follow.

SEVERE SENTENCES

I was most favorably impressed with the uniformly stiff sentences meted out by the Board, in some instances made mandatory by specific statutory provision. For instance, in cases involving consummated outrages upon children, where the court's sentence ran from one to ten years, the almost invariable sentence fixed by the Board was seven years, and in the case of lesser indignities upon children, the usual sentence was five years. In the more vicious crimes against children the sentences fixed were fifteen years. Incest received a uniform sentence of twenty-five years. The robbery second degree sentences, fixed by the court at one year to life, were invariably fixed by the Board at fifteen or sixteen years, in those cases where weapons were used.

A typical case, and picked at random from the second degree robbery cases, listed in one of the calendars forwarded as a

part of this report, is as follows: George P. Halpick went to the window of the Chief Teller of a Los Angeles bank and demanded $20,000. The teller sprang the robbery alarm, and had given Halpick $480 by the time the bank detective covered Halpick and turned him over to the police. After serving one year and seven days of a one year to life sentence, he came before the Board on a record which showed him to be 38 years old, a civil engineer, and of temperate habits. No prior convictions were shown, and several letters were on file pleading his case, stating that he had never been in trouble before, together with a letter from his mother to the effect that he was her sole support and only hope for her remaining years. Former employers spoke well of his character, and one had signed an agreement to employ him as a draftsman at a salary of $150 a month, and to take a fatherly interest in him. His prison record was clean, and the Board fixed his sentence at fifteen years, with no provision for parole at any earlier date.

Practically all automobile thieves were given a straight four year sentence, as were also the smaller forgers .

One particularly heinous case of rape drew a sentence by the Board of fifty years.

The study of these two calendars forwarded as a part of this report is a most interesting and instructive pursuit, the sentences proving what great good fortune it is to be convicted of a crime in Hawaii rather than in California.

All in all, I am convinced that the present Prison Board for the First Judicial Circuit, considering the facilities and information at hand, gives just as scientific consideration, and arrives at just as equitable results, as does the Board in California.

In California, as here, there is a great deal of criticism of the indeterminate sentence law, and the parole system.

As a result of my limited study of conditions relating to crime and prison control in California and elsewhere, I have drawn ten conclusions, which are herewith submitted for what they are worth:

(1) That in most cases our court sentences for crime in Hawaii are woefully inadequate, even where the law itself permits an adequate sentence.

(2) That our Legislature should raise the maximum sentences allowable for certain more heinous crimes, particularly sex crimes, the maximum punishments for many of which are woefully inadequate.

(3) That the Legislature should revise the minimum sentences allowable under the indeterminate sentence act in many instances. Under our law, where the minimum sentence is not prescribed by specific statute, it automatically is fixed by law at

not more than five years. Some of our more heinous crimes carry no specified minimum in the statute, the result being that the court may not impose a minimum of more than five years. Thus a man may commit incest and completely shatter the life of his defenseless daughter, and still, under our law, the court may not impose a minmum of more than five years.

(4) That our indeterminate sentence law, if to continue, should be supplemented by a system analogous to that in California where the Prison Board fixes, somewhere between the minimum-maximum prescribed by the court, a definite sentence in each and every case, thus insuring uniformity and avoiding the possibility of identical crimes receiving, for instance, a thirty day sentence in one circuit, a one year sentence in another, and possibly a three, four or five year sentence in still another.

(5) That our Prison Board should be increased in number to five, thus allowing it to function when two members are absent, and giving the prisoner and the community the benefit of the best judgment of five rather than three of our most substantial citizens, one board to function throughout the Territory.

(6) That our Prison Board should be provided by the next Legislature with ample funds for the organization and maintenance of a thoroughly efficient system for the gathering and preserving of all the information available concerning each and every prisoner under its jurisdiction, whether on parole or not.

(7) That all able bodied prisoners should be enabled and required to do hard labor, both as a protection to themselves as well as to the community, and wherever possible such labor should at the same time teach a vocation which would better equip the man to compete in the outer world upon his release. If our statutes are to remain in force contemplating the employment of prisoners upon the public works, the Legislature should provide ample funds for a sufficient number of efficient guards to make that employement safe for the community.

(8) That in our administration of Oahu Prison we should always place the welfare of the community above that of the prisoner, and realize that more good will come from making penal servitude a real deterrent to crime, not only to the prisoner, but to other potential criminals at large, than from stressing its reformative value.

(9) That ultimately we should work toward two main penal institutions, the one for offenders not yet hardened and confirmed in the ways of crime, and apparently amenable to reformative measures, the other exclusively for those who have indicated a continued future career of crime, with appropriate methods used in each institution. The accomplishment of this latter recommendation would involve large expenditures of money,

and probably will not be realized for many years to come, yet it is the ideal toward which every community should strive and which must ultimately be attained.

(10) As a corollary, it follows that we should have institutions for *dependent* boys and girls entirely separate and apart from those now provided wherein dependent children are herded together with delinquent children of all types."

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FROM ED. H. WHYTE, STATE PAROLE OFFICER OF CALIFORNIA TO MR. HARRY. R. HEWITT, ATTORNEY GENERAL OF HAWAII

"Supplementing our conversation, wherein I promised to give you a general idea of the Parole system as it is operated in this state beg to quote as follows:

Our first parole law was approved on March 23rd, 1893, by that law the State Board of Prison Directors (a body created by the constitution of the State) became also the Parole Board.

The constitution of the State of California provides that:

> "There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurng before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The governor shall have the power to remove either of the directors for misconduct, incompetency or neglect of duty after an opportunity to be heard upon written charges."

Also that:

> "The members of the Board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the legislature may direct.

The members of the State Board of Prison Directors at the present time are:

C. L. Neumiller, Attorney, Stockton, California, President
C. E. McLaughlin, Attorney, Sacramento, California,
Henry Eickhoff, Attorney, San Francisco, California,
Julian H. Alco, Capitalist, San Francisco, California,
Will F. Morrish, Banker, Berkeley, California.

The Parole Law Provides that:

1. A prisoner serving his term may be paroled after one year, providing one year is the minimum of his sentence.
2. A prisoner who has served a previous term in any State Prison may be paroled when he has served two calendar years, providing one year is the minimum term of his sentence.
3. A prisoner serving a life sentence is eligible to apply for parole after serving seven calendar years. (Consideration, however, is rarely given, until ten calendar years have been served.)
4. No prisoner who has had imposed upon him two or more cumulative or consecutive sentences shall be paroled until he has served at least two years of the aggregate time of such cumulative or consecutive sentences.

Since 1917, persons convicted and sentenced to the State's Prisons have been sentenced under our Indeterminate Sentence Law, and the State Board of Prison Directors are charged with the duty of fixing the definite term that the prisoner shall serve, after having completed the minimum term provided for the offense by law.

To illustrate the mode and method the indeterminate sentence and parole laws are put into effect in this state, I will take as an example, the case of a prisoner who has been sentenced under the indeterminate sentence law, we will say, to serve an indeterminiate sentence for the crime of Issuing Fictitious Checks, for which the minimum penalty is one year and the maximum fourteen years.

At the end of one calendar year, he is scheduled to appear before the Board of Prison Directors to have his definite sentenced time fixed. In the meantime, the Clerk of the Board has had an opportunity during the ensuing year prior to the prisoner's appearance before the Board, to carefully investigate his record prior to his being imprisoned and the prison officials have had an opportunity to observe from his habits, conduct and general demeanor, something of the nature and habits of the individual. This information is all compiled in the form of a narrative history of the prisoner and is available for the Board when the prisoner appears at the regular meeting at the prison.

After making a thorough review of all the facts in his case, delving into his former record, biographical history, former occupation, education and a physical inventory of the prisoner, his term would be set, at say, on a check charge, under a sentence of from one to fourteen years and it was the first serious charge, at four years. The Board can then at the time of his appearance, as it frequently does, specify as to whether he is to be paroled and the time eligible and whatever conditions to be complied with, necessary to effect such a parole. His sentence could be also set at four years without mention being made as to his parole.

In such a case he would be eligible to apply for parole consideration, when he has served one-half of his sentence, less credits allowed by law, for good behavior and attention to his tasks, a four year sentence with good time credits, amounts to three calendar years and the prisoner would be therefore, eligible to apply for parole when he has served one year and six months. The Board of Prison Directors however, reserve the right to grant or deny a parole and this entirely in their discretion.

When the meeting has been completed and the prisoners whose paroles have been granted and will be effective before the next regular meeting of the Board, they are assembled and it is clearly and concretely explained to them the rules under which they are to be governed during their parole period and answer all problems and queries they may desire to be supplied with information, regarding said paroles.

Upon the arrival of the prisoner's day for release on parole, he is duly released, provided, in the meantime, he has submitted in his favor, steady and bona fide employment, paying him regular going wages, compatible with his occupation, and an agreement to that effect is signed by his prospective employer and duly notarized, this is evidence that the employer knows who he is employing and the nature and character of the subject he is taking into his employ; the employment is then thoroughly investigated by the Parole Officer, approved if found satisfactory and forwarded to the Warden of the prison, whereupon the prisoner may be released. Prior to being released he is required to sign an acknowledgment testifying he understands clearly the rules which will govern him during his parole period, and also determine that he is familiar with the nature of the employment he is to go to and the arrangement is satisfactory to the prisoner. Upon being released he is furnished with a ticket of leave containing the rules as set out for his guidance by the State Board of Prison Directors.

The prisoner is given on his release, sufficient funds with which to pay his transportation to his place of employment, providing it is within the confines and boundaries of this state and ten dollars over and above said transportation to keep him until he receives his first pay. If he has funds of his own on deposit at the prison, the Warden gives him such additional funds as may be deemed necessary, the balance to be kept upon deposit until his parole expires. The parole subject then proceeds to the office of the Parole Officer, unless his employment would take him in a direction that would cause him additional expense.

If the parole subject, upon his arrival at the parole office, is found to be doing laboring or ranch work, he is provided with overalls, change of underwear, several pairs of hose and a work shirt, which amply and generously outfits him for his duties, or,

he may be given tools on some occasions if his work requires he must have them. Should, through no fault of his own or due to adverse labor conditions, he loses his employment and be without funds, he is furnished with food and lodging until such time as he can be placed in other employment. In other words, the purpose of the money appropriated is to help the parole and discharged prisoners in every way which seems to be necessary for the individual and the public good. Should he become ill or needs medical attention and cannot afford the cost of treatment or an operation beyond his means, arrangements are made whereby he can return to the prison and receive such hospitalization and medical treatment as his condition may warrant until he is again able to resume the duties of his employment.

The prisoner after leaving the parole office, where he has been again instructed in his obligations, each prisoner given an individual hearing, he proceeds to the place of his employment. A follow-up form letter is sent to his employer to make sure of his arrival, said form containing a full copy of the parole rules, this in order the employer may also know what is expected of the subject. For an infraction of any one or all of these rules, the prisoner is subject to return to prison to serve the unexpired balance of his sentence and as a penalty for such failure to make good on his parole, his good time credits that he has earned and were to be earned are forfeited. Every effort, however, is made to circumvent this and to keep him from breaking the rules. Should it develop they are showing any signs of reverting to their former habits or becoming careless and lax in their obligations and habits, a little pressure applied at the proper time will do much good and has a tendency to straighten the subject. Often a good reprimand or a few days in a city or county jail, with the parole subject to be given the impression he is to be returned to prison. Otherwise a good scare; this has a very psychological effect and will wake them up to their status better than a scolding. However, should the prisoner demonstrate by his conduct and continued failure to observe the rules and refuses to become anything more than he was before his entry into the prison, it is necessary to return him to prison. A sentence for a new offense, whether felony or misdemeanor, can subject a prisoner to immediate loss of parole. This constituted prima facie evidence of parole violation.

The parole system cannot be carried on strictly to any set form of rules, as each case presents an individual problem and the type and character of the prisoners must be taken into consideration. The educated and illiterate, the vicious and the weak petty type, must be classified and their cases carefully studied and obligations made as far as possible to conform to their different types.

A Prisoner is kept on parole until his regular sentence expires the same as it would have been served if he had been confined in the prison, unless the Governor of the State should grant a commutation of sentence or a pardon."

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FROM ELMER J. LEACH, WARDEN NEW CASTLE COUNTY WORKHOUSE, DELAWARE

"Your letter of March 27th recently received, inquiring as to the use of the whipping post in this state. You of course understand that this is never used as any part of the prison discipline, but only in carrying out the sentence of the Court as provided by law, which calls for a given number of "lashes on the bare back, well laid on," for certain offenses.

As to the extent of its use, you will get an idea of same from the number whipped last year, as follows:

For Larceny	19
For Breaking and Entering	5
For Robbery	1
For Highway Robbery	5
For Assault	2
For Wife Beating	1
Total number whipped	33

There is a wide range of opinion as to the reformative effect of whipping. Personally I cannot feel that it is of much value in the reformation of the prisoner or as a deterrent to others. This is indicated, I believe, by the fact that we have many cases where man have been whipped several times and still continue their criminal career."

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FROM LAU TIT WAN, PASTOR BERETANIA STREET CHINESE CHURCH OF CHRIST

"Although my knowledge of the broad subject of crime is meager, still, with my 19 years' experience as an educator, 7 years' acquaintance with Y. M. C. A. work, and more than 2 years of religious work, I feel justified in expressing myself briefly on the subject.

Fundamentally the question of crime resolves itself into a question of education. Education is a life process. It is so important that it may be compared to eating and drinking. One cannot go through life without it. "It is education which distinguished us from animals", the Chinese sage Confucius said. Of course with education there are extremes. It may be good, bad, constructive or destructive. It is up to us to struggle for the best. At a time of moral decay and increasing crime it is important that the school should undertake the important task of preventing and reducing crime.

Hawaii is fortunate in having a territory-wide public school system. Practically every child is given an education. So the crime problem and solution lies not so much in promoting education but centers on the type of education to be given. This not only calls for teachers of good professional training but also of sound moral character capable of leading pupils into a virtuous and good life. Some means must be devised to include religion and morality,the strongest props of government according to George Washington, in the curriculum. Teachers with low or questionable moral character should be barred from the profession.

Thus education furnished a direct method of attack in the solution of the crime problem. Yet in order to best carry out the school program and to supplement the work of the school a survey of the causes of crime would call for varying methods of procedure. Herewith I shall advance a few suggestions as to the probable causes of crime.

1. The movies and its baneful effects upon the morality of the people. This may be a trite expression. But a disinterested view of the situation would disclose that most of the idealism and conditions of life presented in the movies are impractical in everyday life. It advances phantom standards impossible of realization. Wrecked homes, divorces, discontentment, etc., may be largely attributed to the movies.

   Children indulge in attendng the movies. They get so that they lose the distinction between right and wrong. Undesirable habits, such as the spendthrift, abhorence of work, are engendered. Parents are largely to be blamed for this.

2. The perverted use of the automobile. That the automobile has worked a tremendous change in the life of our people there could be no question. But it has gone farther than we would admit. It has wrecked individuals. It has bred crime. Witness the parade of drinking, joy-mad, petting parties. Aside from the morality side, think of the great economic loss in the form of gasoline consumption, depreciation, etc. Thus, it is not far from truth to say that the use of the automobile has been perverted and that it possesses a high potential for evil.

3. Unemployment. Crime is a natural concomitance of unemployment. The latter is due to an imperfect state of society. We have never devised a perfect state, nor will we ever, for that matter. But today we can better solve questions of social

and economic welfare. Solve the problem of unemployment, then crime would be noticeably reduced. Why? The answer is obvious. Idle minds and idle bodies are devils' workshops. Diminish the latent sources of evil, there would be less evil developed."

FROM B. T. MAKAPAGAL, EDITOR ANG TAGAPAGHALITA

"I have decided to submit the following few suggestions to which the Commission may give consideration, and may they, along with opinions of others, improve the administration of criminal justice, and reduce crime in the Terirtory.

1. By enactment of a statute we cannot create nobility of character.

2. Laws may frighten those who are wicked into refraining from stealing the property of their neighbors.

3. The terrors and penalties of prison and the scaffold can only restrain the hand of a murderer.

4. Fraud can be minimized by the enactment of laws to punish fraud.

The sole effect of these laws is to protect the good citizens against the violence and wrong-doing of the bad citizen.

Yet, all the laws that have ever been passed have not instilled into the hearts of men a single noble principle.

The good that is in our hearts we get it from the home. The source for recognition and obedience to law is the home. Admittedly, the home is the universal schoolhouse in which character is formed. The school gives the youth a sufficient training or certain degree of efficiency to make him useful in human society.

Will it be possible, by recommendation of the Commission to create a legislation by which these two human institutions, (home and school) could effectively function together for the reducing of crime?

Another consideration:

We have in Hawaii an increasing number of Oriental elements, largely from the Philippine Islands. Approximately, about 85 percent of this Oriental portion of Hawaii's population can neither read the English language or any of their native dialects. This, of course, does not mean they are bad. Their unfortunate circumstances and in the conditions where they find themselves, make them easy victims of the bad men—the habitual or professional criminals. The Filipinos here form the second largest portion of the population of the Territory, and represent the biggest margin of illiteracy and ignorance. Can this type of population deserve protection by a more severe legislation against the criminal? It can be suggested here that deportation of the most undesirable criminal, (be that criminal belonging to that race, or happens to be a foreigner), and longer prison term for the otherwise, may substantially reduce crime in Hawaii.

To be sure there are laws in the Territory of Hawaii against all sorts of gamblings, burglary, sexual assault, white slavery, (and of course bootlegging). Yet gambling is rampant in some parts of this city, and surely in the rural districts. The local press very often gives the reading public glaring headlines on crimes.

Will it be possible, by recommendation of the Commission, to create, or amend the existing laws making them extremely severe against the criminal and the individual who gives him protection?

Vigorous emphasis on moral virtues, sex hygiene, mental health, and on the nobility of labor, for the sake and future of the youth should call the attention of both the school and the home.

Create remedy for the laxity of law enforcement, and severe statute or law against the criminal, in the judgment of the writer, may reduce crime in the Territory of Hawaii."

SUGGESTIONS RELATIVE TO PREVENTION OF CRIME
BY HAWAII KYOIKU KAI

I. Matters Pertaining to Movies.

- a. Strict and rigid censorship of films desirable.
- b. Clergy, civic leaders and school teachers urged to interest themselves in this matter and to use all power and influence in their command to prevent and to avoid evil consequences of unwholesome and unfit movies.
- c. Prohibit admission of youths under 14 years from certain movies of questionable values. (Ban to be placed on undesirable types of films for children.)
- d. Showing of educational films in schools to satisfy the desire of children for "matinee shows."
- e. Undertaking by Department of Education for the making of and the encouragement of the showing of educational films to children.

II. Relating to Curfew Laws.
   a. Strict enforcement of Curfew Laws throughout the Territory (not only Honolulu).
   b. Appointment of special deputies or officers (besides police and probation officers) in charge of enforcement of said laws desirable.

III. Relating to the Police Powers and Regulations.
   a. More efficiency desired in police administration.
   b. Bonding system should be established and rules should be rigidly enforced and without discrimination.
   c. Establishment of Special Police Committee system throughout the Territory.
      1. Special Police Committeemen to be appointed (by Sheriff or other appropriate appointing official) in each district or locality.
      2. Local educator, clergy and other responsible citizen (or aliens) to be appointed special police committeemen for each locality.
      3. Special police committeemen of each locality to be organized as a unit; and to look after the welfare of the community, to lead those criminally inclined to follow the righteous path and to work up a system of general civic education, etc.
      4. Special police committeemen to be given powers, rights, duties and privileges of special officers.
      5. Special police committeemen to be (preferably) from different nationalities residing in the locality.
   d. Systematic and stern reprimand and/or punishment for juvenile delinquents.
   e. Deputizing of school principals (public and private schools) in the Territory as special police officers, or otherwise—with power of discipline over juvenile delinquents within their schools and/or districts.

IV. Relative to Religious Education.
   a. Encouragement and advancement of religious education among children and young people and the encouragement of their joining religious organizations, societies, clubs and/or other organizations having for their object the advancement and promotion of the moral welfare of the members.

V. Relative to "Moral" Education.
   a. More emphasis should be placed upon the upbuilding and the molding of character and moral education in the public schools.
   b. The introduction of a course (lecture course or otherwise) in the curriculum of the public schools on the subject of civics including moral education.
   c. Selection of proper books and reading matter for children and young people.
   d. Encouragement of manual labor and the teaching of the philosophy of the "dignity of labor."

VI. Relating to industrial Education and Vocational Guidance.
   a. Extension of the work of the Social Service Bureau and kindred organizations so that the unemployed may be given a job (minimizing the evils arising out of the unemployment situation).
   b. Discouragement of youths in the country from flocking to the city. ("Back to the 'field' movement" a necessity?).
   c. Establishment of manual training and vocational schools in all parts of the Territory to meet the needs of the age and the encouragement of youths to enter such school rather than schools in preparation for "white collar jobs."

VII. Social Intercourse of Young Men and Women.
   a. Regulations relative to dances (chaperones, hours, etc.).
   b. Prevention of evil consequences of evening social affairs.

VIII. Matters Relating to Paroled Prisoners and ex-convicts and betting.
   a. Establishment of institution or organization for the protection, aid and "rehabilitation" of ex-convicts and paroled prisoners.
   b. Regulations (prevention) of gambling and betting by children and young people at ball games and athletic events.

IX. The Relation of School and Home.
   a. The furtherance of the work of "Parent-Teacher" associations.
   b. Cooperation of home and school in the matter of the education and the bringing up of children.

The foregoing is a brief resume or outline of the opinions and suggestions received by the Hawaii Kyoiku Kai (Japanese Education Association of Hawaii) from the various educational (Japanese) associations of the Islands of Kauai, Maui, Hawaii and Oahu and from the Honolulu Kyoiku Kai (Honolulu Japanese Educational Association). We have attempted to organize the great mass of material and have prepared this outline for your consideration and reference.

We feel that the foregoing represents the views and the consensus of the opinions of some of the leading members of the Japanese race residing in the Territory upon this subject matter.

We are sorry that we were unable to make this report to you sooner but, as it was, we were endeavoring to do our best and had to wait for the expressions of opinions from various associations throughout the Territory, hence this delay for which we owe you an apology."

FROM THE HONOLULU CITY PUBLIC SCHOOL PRINCIPALS

The following is the report which the Honolulu City Public School Principals submit:

"Your committee decided that as a professional group we should limit our recommendations to the Crime Commission to those matters which pertained specifically to education. It also felt that we should limit ourselves to a few central aspects of the problem and lend all our influence to their acceptance, rather than make a great many recommendations and have our influence scattered among them. Consequently it has limited itself to the following six recommendations.

1. We recommend that the Department of Public Instruction be authorized to appoint, and be given funds to maintain one competent specially qualified visiting teacher for every 1,000 school children. Such teachers should be qualified first by disposition and understanding of children and second by training in the following fields: Clinical Psychology, Mental Hygiene, Sociology. The salary of those teachers should be sufficient to enable the department to engage only qualified people, and should be the same on whatever school level they are employed.

2. The Department should be authorized and enabled to conduct classes in each school for parents dealing with problems of parental responsibilities and the causes of delinquency. These classes might be in charge of the Visiting Teacher. They should be of a practical character dealing with the immediate and specific practical problems of parents in relation to children.

Other work in adult education might also be given which would be concerned with enabling adults to meet other responsibilities, vocational and civic. These would be of value in that they would help adults make and maintain adjustments which are essential to their civic and moral integrity.

3. A Parental or Boarding School should be established for the accommodation of those children who are unable to make satisfactory adjustments in the regular public schools. This school should not be regarded as primarily punitive, but should consider its function to enable children to assume their ordinary social and school responsibilities as soon as possible. Its primary function should be reconstructive and educative. Every delinquent should be sent here and given an opportunity to find himself before being finally committed to the Industrial School.

This school might also accommodate those children whose homes are too vicious or disorganized for children to live in.

4. All children from the ages of fourteen to eighteen should be compelled to attend school unless satisfactorily employed.

5. The Department should be provided with adequate funds for personnel and equipment to maintain classes for slow and unadjusted children. These classes should be of such a character as to enable the children to find themselves vocationally. They should have such contact with business and industrial concerns as will enable them to educate children around the vocations, to help them discover their vocation aptitudes, interests and powers, and to place them in gainful occupations when they are compelled from economic necessity to leave school.

6. More playgrounds should be established with adequate lighting and supervision. Moreover we recommend that the present school playgrounds be used after school hours providing they are adequately supervised. It is further suggested in this respect that buildings be erected on each school playground which might serve as auditoria and gymnasia during the school day and as community center evenings and week-ends. Such community center should be in charge of someone in the employ of both the Playground Association and the school department in order to maintain proper relationships."

Respectfully submitted,

MR. E. A. BROWN, Chairman
MRS. PHOEBE HEEN AMOY
MISS EVA MITCHELL
MR. GEORGE AXTELLE
MRS. MABEL KING
MRS. MARIE BROWN

BY PATRICK GLEASON, SHERIFF OF CITY AND COUNTY OF HONOLULU

"The President of the United States recently voiced the general belief that in our country "life and property are relatively more unsafe than in any other civilized country in the world", and an equally general demand that a cure be found for this condition.

The subject of Crime is probably the most discussed of topic of the day. It is attracting the attention of criminologists, lawyers, judges and jurists, scientists, psychologists and alienists, clergymen and members of the medical profession. Crime commissions and crime boards have been created throughout the country to investigate, study, and report on the situation.

IMPORTANCE OF CRIMINAL STATISTICS

It is difficult to say definitely whether or not crime is actually on the increase. In Hawaii and elsewhere, there are no accurate statistics on crime available. For the Island of Oahu, complete criminal statistics are now being kept, which will in time be most helpful and enlightening, as they give the relative figures as to the nature and number of crimes committed, number of arrests made, age, sex, and nativity of those taken into custody, the number of convictions secured, etc. Statistics are also being kept of the comparative criminality of Honolulu proper versus the country districts from which we may determine the accuracy of the assertion frequently made that so called "crime waves" are due to the congestion of population in city centers which results in increase of temptations to crime. With these figures available for a period of say, twenty years, we could base our discussion of this topic of Crime on impressive tables of criminal statistics, from which comparisons could be made of various periods with the present time. However, it is probably safe to say that at the present time our penal institutions and the like are full to capacity.

EFFECT OF SOCIAL CHANGES

If crime is actually on the increase, it is but expected. Today, we have more laws to abide by than ever before. Economic and social conditions have changed radically during the last two decades. The many new discoveries, modern inventions, and present day conveniences have brought about a desire among the youths of today to acquire money or its convertible equivalent with which to procure these luxuries. The lack of proper home training, gangsterism, and unemployment have contributed heavily towards the present state of recklessness and criminality.

DANGER OF UNEMPLOYMENT

It seems that crime and unemployment go hand in hand, and that if the latter could be done away with, crime would subside to its lowest ebb. Like elsewhere throughout the United States today, Honolulu has its unemployment problem. A large percentage of last year's graduates from the various local high schools has not yet been able to secure steady employment. Requests for employment are received by my office daily from persons from all walks of life. Many of these have been laid off from their former jobs because of the shortage of work.

The number of crimes committed, particularly robbery, burglary, and larceny has shown marked increase during the last twelve months. A large majority of the persons arrested for

having committed crimes of this nature are between the ages of 16 and 30. When asked what prompted them to steal, they invariably blame the unemployment situation for their actions. Most of them are not habitual criminals who would rather resort to a life of idleness and crime merely because such a life is more fruitful, but youths who, if given profitable work to do so that they could keep body and soul together, would prefer to be useful and law abiding citizens. The one solution to this problem is to create more jobs by establishing new industries and by speeding up public improvements, federal, territorial and municipal alike. Much remains to be done by local educational, charitable, and civic institutions and organizations in remedying this situation.

PRESSING NEEDS OF POLICE DEPARTMENT

I have been asked to discuss in particular the difficulties with which the local police department is confronted in its campaign against criminality. With the present force of officers and equipment available, the Honolulu Police Department is just as efficient as any other police department elsewhere under similar circumstances. By continuously adding and building up, the Honolulu Police Department will no doubt eventually attain the standard that leading police departments on the mainland now enjoy. It seems that the main obstacle in the successful apprehension and conviction of the criminal lies in the lack of professionally trained men and proper equipment and crime combating facilities. With the small salaries that are now being paid police officers, it is impossible to induce professionally trained men such as lawyers, scientists, psychologists, and criminologists to apply for police positions.

The police department in its present state is sadly undermanned. This condition may prove disastrous in an emergency. The last Legislature, realizing the seriousness of this condition, directed the Board of Supervisors to increase the number of police officers for the district of Honolulu to a ratio equivalent to one active police officer to every 600 inhabitants. At the time of this writing, the matter of complying with this legislative act is still being considered by the Mayor. In order that the taxpayers of Honolulu may decide for themselves whether or not more men are necessary for the protection of their lives and property. I submit herewith the personnel of the Honolulu Police Department for the last five years as compared with the population and number of registered motor vehicles for the same period of time.

	1925	1926	1927	1928	1929	1930
Detectives	28	28	28	21	26	26
Foot Patrolmen, Switch Board Clerks, Turnkeys, Matrons and Drivers	61	61	55	53	53	53
Unattached	11	11	12	12	12	11
Country Police	29	29	29	30	33	33
Clerks	9	9	9	9	8	8
Traffic Officers, Motorcycle Officers	52	52	58	62	74	74
Total	190	190	191	187	206	205

Population, City of Honolulu:

1925	1926	1927	1928	1929	1930
101500	104300	106600	113000	116260	Not Available

Population, Island of Oahu:

1925	1926	1927	1928	1929	1930
165800	169300	171250	180000	184816	Not Available

Registered Motor Vehicles:

1925	1926	1927	1928	1929	1930
17439	19666	22268	25134	27631	Not Available

With about 25 officers out each month on vacation, sick leav and suspension, there remains but eighty-eight per cent of th force on actual duty. During the past five years there has bee a slight increase in the personnel of the Honolulu Police Depart ment, but the cost of maintenance has increased tremendously Likewise the cost of maintenance of other departments of th government has greatly increased.

Unless more officers, better salaries and up to date polic facilities are provided, the chances are that the brighter and mor capable criminals will escape detection and arrest. Criminals o this type avail themselves of the use of the many moder facilities and appliances, and in order to successfully repress them the police must keep uniform pace in adopting the use of thes modern scientific and technical equipment and devices.

A sufficiently large roaming squad of detectives equippe with small but fast motor cars of uniform make should b provided; first, for the prevention of crime in the various resi dential sections of the city, and second, in case a crime is com mitted, for the apprehension of the criminal without loss of tim Recent events have shown that the residential sections are need of more adequate police protection.

The radio is fast becoming a necessity in police work, and some study should be made of the advisability of equipping police cars with this means of communication. The installation of the electrical flashlight signal system throughout the entire city for quick communication should also be seriously considered.

A permanent revolving secret service fund of say about $500.00 should be created and maintained for the sole purpose of securing evidence against criminals. The work of the police has been hampered time and again because there is no money available with which to employ secret service agents, whose affiliations with the police are unknown, to do special work that could not be properly performed by regular members of the force. There is such a fund for this purpose in existence in every police department that is worth mentioning on the main-land and elsewhere, and, anyone familiar with police duties will agree that the work of secret service agents is a necessary function in the successful detection of crime and the apprehension of criminals.

Formerly it was an easy matter to secure a search warrant or a warrant of arrest merely upon information and belief that a certain offense or crime was being or has been committed, but now, before such a search warrant or warrant of arrest is issued, the committal of the offense or crime must be positively established by oath of either an eye witness or one who knows of his or her own knowledge that such an offense or crime is being or has been committed. Without the aforementioned secret service fund, it is almost impossible to secure sufficient and positive evidence upon which to base our application for search warrants or warrants of arrest.

As to the matter of fines collected during the past five years, the records will show that several years ago, fewer jail sentences but heavier fines were imposed than at present, so that the fact that more money was collected in fines and bail forfeitures five years ago than one year ago is no indication that the police department has fallen down on the job. Of late years, it seems that the courts are more inclined to impose jail sentences upon conviction than money fines. Again, five years ago, a large percentage of the money realized in fines and bail forfeitures came from National Prohibition Act violators who often for-feited large sums in bail money. At present, the more serious violations of this law are turned over to the Federal Court for trial, and the fines and bail forfeitures collected in that court go into the federal treasury.

Another pressing need of the local police department is the enactment of a uniform Territorial Traffic Code and the creation of a Traffic Fines Bureau for the expeditious disposition of minor violations of the traffic rules and regulations. With the court

calendars free from those minor traffic law infractions, all of the time of the judges could be devoted to cases of a more serious nature. This procedure would tend to eliminate long court delays which are so detrimental to the proper administration of justice. It would also permit traffic officers more time to attend to actual traffic duties.

THE SENTENCE

Personally, I favor the Straight Sentence Law in preference to the Indeterminate Sentence Law. I will not dwell on the merits of either one of these laws as they are being carefully studied by the Crime Commission, but will merely state in passing that under the Straight Sentence or Federal Law, if a prisoner is sentenced, say for nine years, he is eligible for parole after he has served one-third of his prison term. The prisoner is not released on parole until he has been assured of steady employment. While out on parole, if he violates the terms of his conditional release, he is returned to prison to serve the unexpired term of his sentence. The parole violator or second offender is not given a second chance, and he is kept separate from the first offender.

TREATMENT OF PRISONERS

More study should be made of the criminal, the person who has been convicted of having committed or attempted a crime. In the first place, we cannot assume that all convicts are criminals in the sense of being individuals who willfully and persistently commit anti-social acts. We should not brand an individual a criminal merely because he has been convicted of having committed a single delinquency. Whether an individual convicted of having committed or attempted a crime comes out of prison a reformed, useful and law abiding person or a hardened, bitter and determined criminal depends almost entirely upon the treatment accorded him while he is in confinement.

Careful scientific research has revealed that various diseases could be cured. The same applies to the treatment of those afflicted with a criminal disease. In the year 1924, I had the pleasure of visiting San Quentin penitentiary in the State of California, and from my observations there, I found that prisoners, before admission into that institution, were thoroughly examined by both physicians and dentists. If they were suffering from any disease or ailment, they would have to undergo treatment until finally cured. The prisoner, when restored to a normal state of physical and mental condition, is then put to work where he is most adaptable. He is taught to go straight

and given an opportunity to attend the night schools within the penitentiary. He is given to understand that he is an inmate of the prison, and that it is incumbent upon him to obey all the rules and regulations of the institution. Our local prison is modelled along the same lines as San Quentin with the exception of the night schools and trades that are taught prisoners there.

TREATMENT OF PAROLED PRISONERS

I favor more adequate aid for paroled prisoners. A person who has served five or ten years in prison, unless properly trained and prepared while in confinement, is less able to earn a living and make his way in the world than when he entered prison. Sufficient money and clothing should be given the prisoner upon his release from prison to enable him to find his place in society. I favor the addition of at least one or two more parole officers for the Territory. With the five or six hundred paroled prisoners scattered throughout the Territory, it is impossible for the one parole officer to keep in touch with all of them for the purpose of checking up on their occupations, their personal habits, companions, etc.

CONCLUSION

In conclusion, I may state that the various police units throughout the Territory should be encouraged to keep complete, accurate, and uniform statistics on crime so that a more intelligent discussion or study of this subject could be made. Complete identification and records of all prisoners should be kept. This information is often invaluable in the daily routine of police work.

The police departments on the mainland are more fortunately equipped with modern crime combating facilities than the Honolulu Police Department. In order that the local police department may successfully cope with the ever-increasing criminal element, immediate relief along the lines suggested hereinabove should be provided. The problem is before us, and it requires the full co-operation and interest of all citizens who have the welfare of Hawaii Nei at heart to bring about a successful remedy to the existing situation."

—o—

BY TAKIE OKUMURA, MINISTER

"I regret very much that your letter has been misplaced, and my written reply has been delayed so long.

In reply to your request for frank opinion I have written an

editorial in my own periodical, "RAKUYEN JIHO" (The Paradise Times).

Briefly the points which I have raised are as follows:

1. Home is responsible for great bulk of juvenile crime. Hence, parents ought to be held responsible.

Parents must teach their children the ways of distinguishing right and wrong, of shunning the evils and of being downright honest. It is their duty to bring them up to respect God or Buddha, by setting their own example. They ought not to lie, or plant themselves the seed of crime. Before their children they ought not to distill liquor or be drunk. They must clean up their own home and make it a wholesome one.

2. Every religious body or organization in the community ought to wake up and endeavor to see that families affiliated with it would not produce any wrong-doer.

3. School and religious body must provide what home fails to give. When we look into the conditions of Japanese on the different plantations or in the various villages, men who are looked upon as leaders are religious workers or school teachers. Temples, churches and schools must provide those things which home can not give. Mere preaching or instruction would not do. They must set example of right living. Men who violate the Constitution of this land, men who dare to set before youngsters the life of drunkard are great stumbling-blocks. Teachers who are habitual drunkards ought to be discharged by school trustees. Religious workers who violate the Constitution ought not to be allowed to perform marriage ceremony.

4. Traditional observance of Sunday must be respected. Children must be brought up with the habit of church attendance from early childhood. Public Schools close their session on Sundays. Language schools must follow the examples and realize that they are bringing up future American citizens.

5. Among Japanese, things done by Americans are closely watched. "The way of American" is powerful. Americans themselves must also set example of right living to the Orientals."

BY BRIGADIER A. LAYMAN OF SALVATION ARMY

"I know there are many aspects of this important question. It is not necessary for me to emphasize the advisability of the entire separation of the Police Department from political influence.

I am quite confident that there are times when greater respect for the law might be secured by a more rapid and sure apprehension of violators and in some cases a punishment more commensurate with the seriousness of the offense.

I would suggest that Religious training in the schools be

encouraged and extended; that even greater consideration be given to vocational training in the schools; that thought be given to the organizing and development of the industries to provide work for young people; that more educational work be done, particularly along vocational lines in our Penal Institutions.

Considering the period of sentences in the Penitentiary, and the youth of many of the inmates, it seems that something really worthwhile can be done in this direction.

There is, I think a dangerous tendency in criminology, and sociology, and that is to relieve the individual of a sense of responsibility for their own conduct, and I am in favor of calling to our aid every science that has anything to contribute, but I do not think that men and women should be dealt with alone as subjects for research, but rather as human beings with the power of choice."

BY MAUI WOMAN'S CLUB

"Understanding that your Honorable Board invites suggestions on the crime problem from individuals and organizations, the Maui Woman's Club recommends for your consideration changes in the present Territorial Law dealing with suspended sentences in criminal cases.

Our Organization favors empowering Courts to suspend sentence in cases other than those involving life imprisonment or the death penalty for a reasonable period of time—say, five years.

During such suspension persons so paroled to be under the surveillance of parole officers appointed by the Court, to serve with or without compensation."

BY T. J. MARTIN, PRINCIPAL OF LINCOLN SCHOOL, HONOLULU

"May I make the following suggestions: first, have more playgrounds with competent supervision—this will have a tendency to eliminate the parks as rendezvous for gangsters; second, require that all boys and girls between the ages of 14 and 18 be either gainfully employed or in school—possibly a part time

school law in connection with this might help; third, have a separate and carefully organized juvenile department unhampered by politics."

—o—

BY MILES E. CARY, PRINCIPAL
McKINLEY HIGH SCHOOL

"As regards our local conditions I should say that the causes of juvenile delinquency are somewhat as follows:

1. Broken or unstable homes.
2. Slum conditions, i.e. unwholesome neighborhoods.

There are probably other minor causes, such as mental disease, low mentality, the stimulation of wants by clever advertising, unemployment, unwholesome moving pictures, and a few others.

As regards the prevention of juvenile delinquency I hesitate to venture a program. There probably never will be developed a program of absolute prevention. However, it seems to me that conditions might be improved by applying to this problem the same kind of scientific study and methods which are being employed, say, in the production of sugar, or pineapples. Following are some of the elements which such a study might include:

First. A careful and continuous study of the causes of juvenile delinquency.

Second. The employment of every known or experimental remedy which might help boys and girls to live healthy, active, useful lives.

The time is going to come, perhaps, when a progressive community will give its very best thinking and much of its resources to the educating of its children. I am confident that such investments will pay compensatory dividends. In this modern, complex, changing world, our children need a wholesome environment and intelligent leadership if they are to develop into healthy useful men and women. But many homes need the active support of wise community leaders, and the neighborhoods where children live and play need to be made wholesome, if we are to make any real progress in solving the problem of juvenile delinquency.

It is with great reluctance that I send this reply to your circular letter. The problem of juvenile delinquency is one with which communities all over America are struggling today. And the problem of rearing children—of education—is the most subtle of all the arts. It is a problem, however, which we must solve as a community. There is probably no other way."

BY W. H. HUTTON, PAROLE OFFICER,
MAUI COUNTY

"I am not in a position to make any suggestions regarding legislation to handle this subject; but I have one or two strong opinions as to methods which I think will greatly help to reduce the possibilities of the Commission of Crime.

FIRST—JUVENILES

I am positive that we could not find a more able man than Mr. George Wesson, at present in charge of the Boy's Industrial School. He is doing splendid work with the limited means at his disposal. He needs more trained men as instructors and more equipment to do the work properly. He can better tell just what is needed in this respect. (This is written without his knowledge).

I think one of the weakest points in the whole system is that of parole—(I speak from experience).

From the papers I find that a great many boys who were released from the Industrial School are either returned or are sent to the County Jail and Territorial Jail. Here is where changes should be made.

Boys, who have made good under the guidance of Mr. Wesson and his assistants should not be returned to go back to improper home surroundings. They should be placed in homes of people who will look after and help them.

Parole officers should be appointed to keep track of these boys. At least one Parole officer or rather "Big Brother" not to have more than three or four boys in his care. This is an ideal system of course.

One of the most crying needs in Honolulu is a "HOME" for working boys—(kept free of politics) conducted along club lines, supplying good rooms, clean companionship, library and game room—in charge of man and wife. Boys to pay a stated sum for their keep; banking when possible, a small amount each month—to be released from this home on completing parole period.

SECOND—ADULT PAROLE

A number of men appointed on each Island to care or look after from one to three men—no more. Before being paroled, each prisoner's record should be supplied the Parole Officer. He should visit the home and the job possibilities of the man before he is released. Parole Officer to keep a proper supervision so that the paroled should not be allowed to slip back. Report made each month to the Judge, or one in authority in each District."

BY FATHER LOUIS OF HILO

"I beg leave to call your attention to the following items of which you are certainly well aware of. Nothing new to all of us.

1. *Education in our schools*—Two years ago Birth Control was discussed in the High school. I had to ask someone there if the High school had become a medical college. The detailed criminality of degenerates like Hickman, etc., was discussed. This is not elevating.

2. *Vile literature,* secretly circulated in the school. Sample "Wizbang" Freedom of the Press to circulate everything obscene.

3. *Lascivious Movies*—catering to the lower appetites, stunting thereby the finer sensibilities of our young people. They see, and naturally lose all shame.

4. *School parties at night*—ending about at 10 P. M. without being properly chaperoned, the boys and girls do not want their parents there.

5. *Not enough study to occupy the mind,* too much social gatherings and overdone athletics, part of the school time used for these activities.

6. *The schools shoulder* too many things which properly belong to the parents. The home is now only a place to eat, sleep, and change their clothing. While the schools should be the main factors to help the home, they foster too many "Clubs" which draw the child from the Home, fostering thereby disloyalty towards the parents. The chief factor in the crime condition here.

7. Allow me to call your attention to the P.-T.-A. that "Wonderful" Association in the Territory. An association which should be, if well directed, such an immense help for both, parents and teachers, for the solving of problems what confront parents and teachers alike in the proper guidance of the youth of land. It is now come down to a means to raise money for a few school fads things which in themselves are of no value, the purchasing of articles that teachers consider very necessary. Meetings are for a little Social gathering collections of fees, and no mention is made of the pupils."

BY DANIEL H. CASE,
JUDGE CIRCUIT COURT, SECOND CIRCUIT

"Not being free at this time to attend one or more of your meetings and present in person my impressions touching on different phases of the crime problem in so far as it affects

Hawaii, I am availing myself of the privilege tendered of expressing some of my views by letter. To conserve your time I shall refrain from extended comment.

SUSPENSION OF SENTENCES AND PROBATION OF CONVICTED PERSONS

Of the many persons brought before our Criminal Courts who either plead or are found guilty of misdemeanors and crimes, and who are sentenced by the Court and committed to jail or prison a fair percentage might very properly have their sentences suspended either in whole or in part by the trial Court, and be placed in the care and keeping of an efficient probation officer; *provided* we had on our Statute Books an *up to date* suspension law and probation system. The Federal Government has, what seems to me to be, such a law. I favor the Territory of Hawaii enacting such a law modelled somewhat after the Federal Law providing for suspension of the execution of sentence, either in whole or in part as the Court might deem wise; and the power in the trial Court of placing persons, so pleading guilty or convicted, on probation. I believe such a suspension law should cover a period of several years—possibly five. Those over whom were hanging such suspensions, and who were only at large during good behavior, would find it entirely up to themselves as to whether they desired to continue at large or be sent to prison and serve out sentences. Such a law—as a matter of course—should not apply to persons guilty of offenses involving the death penalty or life imprisonment.

PAROLING OF PRISONERS AND DELINQUENTS IN CARE SPECIALLY APPOINTED PAROLE OFFICERS

Would it not be highly advantageous to both prisoners and the public if, following parole, they were placed in the care and keeping of an efficient parole officer; such parole to continue until the maximum period of their sentences—less time for good behavior—had expired, or, until such earlier period as the Governor might feel warranted in granting a pardon?

With such a law a maximum sentence of considerable length might be imposed by Judges—thus reasonably ensuring good behavior of paroled prisoners for a long time to come.

And, in this connection, would it not likewise be equally advantageous to juvenile (delinquents) and the community, that they too, when paroled by the Board of Industrial Schools, be placed in the care and keeping of an efficient parole officer; such juveniles to remain under such parole during their minority?

Perhaps the Circuit Judges of the several Circuit Courts might

be of considerable service in making these paroles effective. In the case of Territorial prisoners the Judges might act as a medium between the Governor and the parole officer; and render a like service to the Board of Industrial Schools in so far as concerns paroled delinquents.

I do not believe there is a much greater proportion of persons in the United States who are criminally inclined than in England. The difference lies in the fact that in England the criminal element is held in check. The man who commits a serious offense is not in the great majority of cases, following the commission of a crime, at large to keep on committing like offenses. In the United States, on the commission of a first offense a man may or he may not be punished. The chances are at least fifty-fifty. If he is punished it is not so very long before he is again at large, amenable to no one, shifting for himself, running with his old associates, leading the same old life, and once again a menace to society.

MATTERS OF FORM AND PROCEDURE SHOULD BE DEEMED DIRECTORY—NOT MANDATORY

In this connection may I call to the attention of your Honorable Commission a statute now in force in several of the States:

"No Judgment shall be set aside, or reversed, or a new trial granted, in any action or proceeding, civil or criminal, on the ground of misdirection of the jury, or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless in the opinion of the Court to which the application is made, after an examination of the entire action or proceeding, it shall appear that the error complained of has injuriously affected the substantial rights of the party or parties seeking to set aside or reverse the Judgment, or secure a new trial."

The American Bar Association has favored the enactment of such a law. Such a law would enable Courts to function in a way to materially lessen the 'Belief abroad that, by invoking technicalities, subterfuge, and delay, the ends of justice may be thwarted by those who can pay the cost.'

—o—

BY JAMES WEBSTER, MANAGER
PEPEEKEO PLANTATION, ISLAND OF HAWAII

"Delinquency, crime and punishment therefor.

The grading is in sequence. Delinquency comes first and almost unnoticed, and, to those who should and do notice, it is considered too often as a mark of smartness or a good joke, and in-

stead of dealing with the delinquent, either by admonition or correction, he is encouraged to repetition. This brings the matter down to the home of the present, but was not the present homemaker made this way by his or her early home training, and just as any plant disease propagates with the propagation of the plant, so it grows more virulent with each generation. So it seems that something radical would have to be adopted to effect a cure where the disease starts. In plants it means the destruction of the infected species. With the human plant this would be too drastic, and, as apparently nothing has been found so far to check the disease, it gets deeper and deeper till we find crime rampant and still nothing being done about it, unless in case of its detection. Attempt to mete to it the punishment due the crime, the criminal is accorded the position of the under dog, and the sympathy and howl that goes with it. Several traits of human nature could contribute to this attitude. Robbie Burns in his generosity says:

> Then lightly scan your brother man,
> Likewise your sister woman,
> Tho' some may gang (go) a'kennin (knowing.. wrang (wrong)
> To step aside is human.

Cases of crime in Robbie's day were few and far between, and his advice was not meant to apply to flagrant crime, but to milder delinquencies, but which with our modern and further advanced ideas may be mistakenly applied to flagrant crime.

A fellow feeling makes one wondrous kind, and with many may it not be that fear that they may fall into the same fix makes them callous to the crime, or leads them to endeavor to shield the criminal.

All men are born equal and start the race through life on equal terms, in a certain sense, but it is not long before inequalities begin to show up. Inequalities in temperament, in ability to do things, ability to think right, to act right, and, when school days come around these inequalities become more pronounced. The bright become brighter, and the dull duller by comparison as time goes on. The bright become brighter in temperament, more buoyant in spirit, while the dullard discovers he is dull, and thinks he has been neglected somewhere, and engenders a grouch within himself, which he vents on those around him who are busy with their own affairs, and have not time or inclination to put him where he belongs. As he thus gets by with his growlings he continues with them and gets expert in the art, and is even able to howl down with his perverted ideas the sound sense of his superiors. Birds of a feather flock together, and by the grouping together of a bunch of such sore heads we have with us the howlers

and the sympathizers of the under-dog or the perpetrators of crime who have been caught.

Since the world began, there have been hewers of wood and drawers of water, and do we not make a mistake in carrying the equality cry too far in our educational institutions. Since the dawn of history all men have been born equal, but always there have been men of outstanding ability, from leaders in all ages and of all races, tapering to men who were loyal followers and assistants of their leaders, and continuing down to the hewers of wood and drawers of water, goat herds and feeders of swine. All the grades were essential to the welfare of the community or nation as a whole, and the various workers were content with their lot, and happy in their service because they recognized that they were not adapted to anything else.

As in the old days, the state today needs its hewers of wood, so why try to educate them away from their heritage, making them unhappy by having to come to a sphere of life at variance with their inclinations.

We are becoming such an educated people that we are able to get along, each his own law maker. In a general way we are pleased to live under the government and laws of the United States, so long as the laws do not conflict with our pleasure or appetite. When they do conflict we just repeal or set them aside in our case, but we do not fail to condemn any such dereliction in the case of our neighbors, especially if by so doing they endanger us in any way.

The Eighteenth Amendment has many crimes laid against it, and carries the blame of leading to disregard for all law. We hear much talk about having the law repealed and stricken out mostly for our own especial benefit. We are all familiar with the flippant remarks, and smart cracks—so called, about prohibition. We talk about it being an interference with our private liberty. We change our tune, however, when some luckless wight of another strata of life has imbibed too freely, and, at the steering wheel of an automobile, collides with our person or machine. Then we are not slow to recognize that prohibition should have been applied to him. We forget that we mostly live on wheels these days, and the dire results that are liable to happen if everyone was charged with "oke," or would it be a blessing in disguise?

We take sides with Cain and disclaim all responsibility as our brother's keeper. Do we not notice what prohibition, with all its shortcomings and failures, has done for the laboring man's wife and family. We hear the suggestion, oft repeated, to let us have the booze, but at such a figure that it would be prohibitive for the working man. On special occasions the working man would make special effort to obtain it, and frailty might lead him on to spending all, and more than he could earn, on the stuff.

Out of all this tangle just where does crime start. We look on crime as theft, and along the gamut to murder. Bootlegging is a crime when caught, but encouraged by every purchaser of his wares, while the purchaser becomes a criminal just as much as the bootlegger, and should be liable to the same punishment.

With regard to the punishment of crime, there is a drifting away from the purpose and intent of law and order. Too much talk of leniency and reforming of criminals. In how many cases has this leniency and laxity in the enforcement of the prescribed punishment led to the escape of desperados, and the death of valuable, law-abiding citizens resulted before the desperado has again been taken and submitted to more of the reformatory medicine, whereas, had he been given the prescribed six foot drop, valuable lives would have been saved and much coin of the realm.

Our Courts seem to be places for the display of talent between *learned counsel*, without regard to law or justice. Our juries fail to convict many times when conviction is due. At the same time the place of the criminal before the bar is not desirable, nor to be envied. Yet, in many instances his being there can be traced back to that little delinquency and his getting by with it. Had the home training been all that it should have been, he would never have been in the unenviable position of the prisoner at the bar.

Trivialities in reports of cases, serving of papers are magnified, technicalities, even in the face of overwhelming proof that guilt has been established, are made the means of retarding justice and delaying the machinery of courts, which means loss to the taxpayer in salaries which keep on running,. loss in having the prisoner to feed and care for, when in extreme cases the rope aforementioned would have saved it all cheaply and effectively.

The best and cheapest way to handle crime is for each individual of the state to sit in court on himself, and if he finds the law good enough to live under let him live up to the law. Laws are made by the people for the people and for the welfare of all the people as a nation.

The Eighteenth Amendment appears to be most in the limelight at the present time. A majority of the people saw where and how it was needed and most of us pretend to be sports and submit to the majority if we happen on the other side, so why all this bickering about interference with personal liberty. Let us submit with good grace to the majority. If it were open season all the year round for killing those one did not agree with, and a law were passed prescribing murder, many would be found saying the law interferred with their personal liberty.

What do the majority of us think about it. When one of an intellect inferior to some of our men of substance hears the man of substance talk sneeringly of prohibition, then he of the inferior

intellect thinks it is all right for him to concoct some sort of rot gut booze to further stupify his brain, and thus for the time being raise himself to the social plane of the man of substance.

It smacks of utopia to suggest such law abidingness, and the nearest approach we can think of getting to this state is to find our judges from the ranks of men whose vision is not obscured by the dollar, and who will have courage enough to hand out the punishment befitting the crime. Lawyers should be drawn from the ranks of men tried and proven by their previous life to be men of probity, and not men chasing the dollar in that white collar line because they are scared to soil their fingers at work for which they are more fitted.

Keep on as we are doing with regard to crime and the administration of justice, and whither shall we drift. Everybody is running around asking his neighbor what we are going to do about it, and nobody does anything unless those pettifogging lawyers who are only throwing dust in the eyes of everybody, their own included, while the nation follows the path of nations once great and glorious till the same cankerworm of crime and rapine and plunder weakened them down, and some other nation, unspoiled and aspiring, trampled them underfoot and founded greatness on their humiliation. No doubt each succeeding nation improved on the last till the legacy befell us, and we, having quickly passed the heyday of national youth, have attained to manhood's status as the greatest nation that has ever held the stage. It is up to us therefore to do and dare the demon of idleness, luxuriousness, and all the licentiousness that accompany this greatness, which sap the life and engender that decay that leads to destruction. It is up to us as individuals to bestir ourselves and prove to futurity that in history, as in everything else, there are exceptions to the rule.

As a nation our period of youth has been well spent, but short. Our manhood gives promise of the same progress and speedy fruition. We have speeded up everything, even life itself. Quick decisive action is the order of the day, so why postpone in tackling the problems so profoundly affecting the well-being and perpetuity of the nation.

We are a nation of immense congregations all huddled together in small spaces, the component personnel, gathered from all the different countries of the world, and the fact cannot be blinked at that many of these countries supply us with the vast majority of perpetrators of our worst crimes.

Is there any reason why drastic measures should not be taken with those offenders, and if we are too chicken hearted to hang them then why not send them back to where they came from with a brand on their foreheads which would be unmistakable and forever bar them from again coming among us as trouble makers. They do not assimilate our ideas of government, and their pres-

ence, effeminately tolerated, leavens our good with their bad to its undoing, and verifies Kipling when he says, "East is east and west is west, and never the twain shall meet."

Let us each as individuals take ourselves to task on our weaknesses, and collectively let us get back of the law and its administration, both in our homes and at business, and back up our administrators in their efforts to perform aright their duties in the onerous position in which they find themselves."

BY C. E. CRAWFORD, PRINCIPAL
CENTRAL JUNIOR HIGH SCHOOL

"First, as a generalization, we may say that the majority of crimes are committed because the people committing them believe that in one way or another, they personally will be better off afterward, provided they get away with it. Their chief concern is "getting away with it" and not what its effect may be on other members of society.

As the underlying cause, then, of the majority of crime we have a wrong attitude. But attitudes themselves are not first causes, but are the results of combinations of experiences.

Inadequate guidance and education produces an individual without the ability to draw on his own resources of interest and creative ability for enjoyment. He turns to a gratification of physical appetites. That takes money. He is without financial resources. He steals. Poverty and ignorance contribute to the situation. He may have heard that "honesty is the best policy," but he thinks he knows that is wrong because he knows wealthy bootleggers, wealthy gamblers, wealthy business men whose transactions will not all bear the light of day, etc. He does not know enough to realize that their condition would not be possible if the majority of people did not continue to follow the "honesty is the best policy" idea. He does not realize the contemptible, "bum sport" light that this places the crook in.

Incompetent parents, refusal of the public to meet squarely social responsibility for anything in education except the three "R's", total lack of control over youth between the ages of 14 and 18 are all contributory factors to inadequate education and guidance.

As preventive measures related to education I suggest:

1. It should be possible to remove children from the custody of incompetent, vicious or corrupt parents and place them under competent care. Provisions in this respect are inadequate at present. Even if you get the child away from the parents you have no certainty of getting competent care for it.

2. Our department for handling juvenile delinquents should contain the most highly qualified personnel that money can buy. Does it?

3. Juveniles between the ages of 14 and 18 should be required by law to be in some form of school work or profitably employed. At present there are hundreds of them sitting around on corners or in parks, day after day, with nothing to do but brew mischief and no social control to make them do anything else.

4. There should be adequate vagrancy laws applicable to all who have passed their 18th birthdays.

5. School personnel should be supplemented to allow for a vocational guidance program and for "visiting teachers." This could be done either by appropriating funds for certain numbers of people to serve in such capacity or by changing the existing law relative to funds for teachers' salaries so that junior high schools are allotted teachers on the basis of one for every 25 pupils and thus allowing each school to organize so as to care for these phases of our work. Since the latter plan is more flexible than the first it is preferable.

6. School funds for equipment should be supplemented to allow for adequate occupational and vocational exposure. Our legislators are prone to refer to such things as frills. They are necessities in our civilization and if hooking them up with the school makes frills of them, then provide for them somewhere else, but above all *provide for them.*

7. Music, Art, Drama, Athletic Games and Physical Education all contribute to self sufficiency in the sense that they enable one to draw on his own resources for enjoyment and increase his sense of well being. At present these things have no other impetus or provision made for them other than that given by interested workers in the schools."

BY RIGHT REVEREND STEPHEN P. ALENCASTRE, BISHOP OF ARABISSUS, VICAR APOSTOLIC OF HAWAII

"I beg to offer the following considerations:

As the causes of crime lie in human nature itself which is the same everywhere, if delinquency is less in one community than in another, it cannot be only because in that particular community greater efforts have been made to prevent and punish crime by an efficient police force and an equitable administration of justice, but above all because the conscience of the citizens have been educated in such a way as to convince them of the wrongfulness of

law-breaking and to inspire them with a wholesome fear of doing so, even where there is no danger of discovery and punishment.

One of the causes of the increase in crime here and elsewhere appears to me to be the erroneous attitude which considers crime merely as a symptom of sickness, and absolves the criminal of responsibility for his transgressions, in consequence of which the delinquent is mollycoddled rather than chastized, and the fear of retribution having been removed, does not act any longer as a deterrent.

I do not wish to deny that there are cases when physical defects lessen and even entirely neutralize a person's moral responsibility, but such cases are exceptional, and should be thoroughly proven and not lightly admitted in the courts of justice.

The normal attitude should consider the criminal as a healthy man who deliberately has chosen to break the law to satisfy some passion, be it hatred, revenge, lewdness, covetousness, or something else.

Swifter and more stringent punishment will be, no doubt, of some help in reducing crime, but will not solve satisfactorily what is admitted to be a national problem of the first magnitude.

Valuable aid in discovering and then allaying the causes of crime, is the examination of the adult criminal.

A survey recently conducted in an Indiana reformatory revealed some of the causes of the appalling number of criminals in this country.

The Indiana examination covered 20,000 cases of men between the ages of 18 and 25 years.

The historical background of these men is thoroughly revealing.

Eighty-five percent (85%) came from broken homes. Only four percent (4%) had ever undergone the influence of religious teaching.

Here we have in my opinion the two greatest causes of crime: the lack of proper home influence, and the lack of religious training.

Divorce is mostly responsible for the one, and our public educational system for the other.

I need not insist on the great evil of divorce and its baneful consequences on the children of the broken couples. These are obvious to all well-thinking people.

Our public school system is entirely wrong in as much as it does not provide for the religious education of the child. The individual conscience of the citizens is the surest guardian of the laws. Religion is the only power to inform conscience. The man must realize that he is responsible for his actions to GOD, whose all-seeing eye and whose sanctions no one can escape.

In our public school system, as it is presently conducted, (it was not conducted thus in the first half of our Republic's existence, and does not need to be so now,) no room is left for religious education.

It is true that in the last legislature, our legislators have condescended to allow the pupils to absent themselves from school for sixty minutes a week to attend some religious instruction. Of these sixty minutes a goodly part is lost in going and coming, and many pupils escape. Even if the entire hour could be utilized, what is so little time for such an important subject?

The very way the thing is conducted causes the pupil to get the impression that religion is unimportant, since it is not to be tolerated on the school premises.

There should be greater cooperation on the part of the Department of Public Instruction with those who are charged with the imparting of religious instruction. The school buildings should be used for religious instruction during school hours, so as to make the children feel that religion is a part of the curriculum, as important and more so than other branches.

To speak frankly, we do not expect much good of this one-hour-a-week religious instruction, although it is better than nothing at all.

It is our honest opinion that the only solution of the problem is the return to the public school system as it was known to the Fathers of our Republic and their children, as we had it in Hawaii under the monarchy, as it exists even now in other countries: to the *denominational* public school.

This system is well feasible, notwithstanding the great number of sects that divide Christendom.

I also consider that the doing away with corporal punishment is a great evil and one of the causes of lax school and home discipline.

"Spare the rod and spoil the child," has not yet been improved on.

When it ruled in education, children were treated like children, and not like little lords. Although the law has not taken away from parents the right to discipline their offspring, many parents are under the impression that it has. We have seen the striking instance of an unruly boy whipped by his father in the Police Station at the request of the Sheriff, for which dutiful action the father was severely criticized in the local press, and even cited before the Court, if I mistake not.

Can we be surprised if boys and girls in their teens get emancipated from parental authority, when, as it happens too often, Juvenile Court officials rather oppose parents than cooperate with them?

We further suggest the following:

That public education be FREE only until the eighth grade inclusively, so as to discourage an overcrowding of our high schools, and a consequent multitude of young men unable to find the white-collar employment they have been prepared for, and who therefore endeavor to make a living by gambling and dishonesty.

The establishment of industrial centers where children after the eighth grade can be employed.

The holding responsible of parents for the delinquency of their children, causing them thereby to be more watchful.

I also declare myself again in favor of corporal punishment to be administered in public, for criminals, especially in punishment of sexual crimes and wife-beating.

For brutal and hardened criminals it has been proved to be an efficient means of reformation, and an effective deterrent to keep others from imitating their crimes.

I advocate an improvement in the administration of justice, consisting in an honest endeavor to prevent lawyers from frustrating its course by cavillings, technicalities and efforts to make criminals appear irresponsible.

Finally convinced of the baneful effects of improper movies on the untutored mind of youth, I suggest that children be not admitted to all theatres and all shows, but that there be special theatres for them where only well-censored and harmless pictures are thrown on the screen, or at least to limit their admittance to special shows for their benefit."

BY HOMER L. ROSS, JUDGE OF CIRCUIT COURT, FOURTH CIRCUIT

"I submit the following as applicable particularly to this Circuit:

(1) Crime in the Fourth Circuit:

From January 1, 1921, to December 31, 1928, there were 576 criminal cases docketed in the Fourth Circuit. Of this number 116 cases were disposed of by "No true bill" found by the Grand Jury, and by appeals withdrawn. The remaining 460 cases were disposed of as follows: 334 tried, resulting in 278 convictions and 56 acquittals, and nolle prosequis were entered in 126 cases. (Where two or more indictments for like offences are returned against a defendant, and such defendant is upon trial convicted on one indictment, very often a nolle prosequi is entered in the

other case or cases. Also in cases where the prosecuting attorney deems the evidence insufficient to secure or warrant a conviction by the trial jury a nolle prosequi is entered.)

The 334 trials resulted as follows:

	Convictions	Acquittals
Homicide	15	6
Offences against chastity	61	4
Offences against the peace	54	11
Offences against property	114	5
Gambling	2	0
Drunkenness	3	0
Liquor violations	10	2
Miscellaneous	19	28
Totals	278	56

The 278 convictions are distributed as follows:

Hawaiian and Part-Hawaiian	25
Spanish	2
Russian	2
Koreans	15
Japanese (7 were U. S. citizens)	37
Chinese	2
Porto Ricans	33
Filipinos	120
White, including Portuguese	42
	278

Of this 278 the records show that 169 were foreign born.

(2) Juvenile Delinquency:

I give below a list of the juvenile delinquency cases handled from January 1, 1923, to December 31, 1928:

Offenses:

Arson	1
Assault	2
Bastardy proceedings	7
Burglary	36
Curfew	7
Common nuisance	27
Disorderly	1
Disobedience	13
Forgery	3
Gambling	9

Immorality	43
Incorrigible	8
Larceny	57
Malicious conversion	1
Malicious injury	1
Reckless driving	1
Truancy	10
Unmanageable	1
Violation traffic ordinance	2
Waywardness	5
Total	235

The almost universal cause of juvenile delinquency in this Circuit is traceable to the home. Poverty, or more correctly, the lack of ability on the part of parents to earn an income sufficient to permit their children to have and enjoy the luxuries of this age, and uncongenial and discordant marriage relations, are two prime factors of delinquency. Improvement in the economic conditions of this class will to a proportionate extent reduce delinquency, and this improvement is now gradually being brought about.

The predominance of males over females among certain Oriental races in Hawaii appears to be responsible for the unusual number of sex crimes. There is no available way to overcome this situation. It is, however, a situation that must be considered in looking at violations of law in general.

I have felt that paroled prisoners should receive more care and attention and I have to suggest the enactment of a law providing that when a prisoner is paroled there should be a sufficient number of parole officers, selected because of their special fitness, who would have personal charge of designated persons during the term of parole. These parole officers being charged with the special duties of finding employment; adjusting family relations; fitting the paroled into society so as to become self-supporting, and creating a state of mind conducive to useful citizenship.

Detection, apprehension and prosecution of criminals in this circuit is efficient and effective. Seldom is a crime committed in this circuit where the offender is not apprehended and brought to trial .

The criminal situation in the Fourth Circuit, keeping in mind the traditions and moral standards of the various races composing our population and the fact of the alien residents' lack of complete knowledge and understanding of our laws, is not bad."

APPENDIX No. 2

REPORT OF DR. S. D. PORTEUS

HON. R. A. VITOUSEK,
Chairman, Crime Commission,
Honolulu, T. H.

In accordance with the work assigned to me as a member of Sub-Committee No. 1, Causes of Crime and Criminal Statistics, I beg to submit the following report.

I. Territorial Prison—Criminal Statistics.

For the purposes of this report 434 records of prisoners at present in the Territorial Prison were transcribed and analyzed. It is recommended that fuller information regarding the previous history of each prisoner should be obtained and entered. This should include particulars of previous convictions, employment and educational experience.

Summary of Analysis by Crimes:

Murder is a common crime in the Territory.

72 committed murder, 10 manslaughter.

19 out of every hundred prisoners were sentenced for homicide—a very large relative percentage.

Murder is not a crime of impulsive youth, but of more mature men. The average age of homicide prisoners was 35.

22 committed murder after they were 40.

Aliens—including Filipinos and Porto Ricans—are responsible for over 80% of this crime.

Filipinos—16% of population—made up 60% of the murderers. Hawaiians came next—their quota being, however, proportionate to their ratio of the population.

Japanese—35% of population—made up 12% of the murderers.

Chinese and Portuguese do not take life readily—only 2 of each race in jail for murder.

Average minimum sentence for murder 20.5 years.

Murder is the most costly crime to this Community.

If only the minimum sentence in each case is served, the actual detention of the prisoners held for this crime would cost this Community $540,000.

In other words, if all murders were to cease at this time that would be the tax payers' present bill for feeding and guarding our

present stock of murderers. (Cost based on Budget Bureau figures jail maintenance for past three years averaging about $1.00 per prisoner per day—exclusive of capital outlay for buildings, etc.) Against this cost must be placed the value of the prisoners' work while under sentence. However, the loss to the community by the withdrawal of these men from gainful industry must also be considered, plus also cost of legal proceedings, etc.

Thirteen of this group of prisoners had been convicted previously—1 for Rape, 3 for other crimes of violence.

Rape:

Thirty-three Rapists are in jail.

Their average age is 28.5 years—somewhat younger than the murderers.

Their average minimum sentence is 4.7 years.

Their average maximum sentence is 20.4 years (reckoning a life sentence at 30 years.)

One-third of crimes of this nature are committed by aliens and one-third by Filipinos. Hawaiians are over-represented in the racial quota; Japanese occupy a distinctly favorable position.

If the minimum sentence only is served the detention of these prisoners will cost the community $57,000.00. If the maximum is served, it will cost $250,000.

NOTE: There seems to be too great a discrepancy between the maximum and minimum sentences allowed by law. One sentence was from 2 years to life. If the crime were worth a life punishment, then 2 years is ridiculously inadequate. If 2 years fits the crime, then the maximum is too gross.

Carnal Abuse of a Child under 12 Years:

Number of prisoners—15.

Average Minimum Sentence 25.4 years (on the average 5 years more than Murder).

Nearly 50% of crimes of this nature committed by Filipinos; Portuguese and Porto Ricans somewhat over-represented—but numbers are small.

80% of crimes of this nature are committed by aliens.

Cost to community—if minimum sentence is served—for these 15 prisoners will be $133,225.

The average age of the prisoners is 34.5 years—the same as the murderers.

NOTE: Attention is directed to the fact that the punishment for this crime is more severe than for murder. This has a bearing on the contention of certain people that sex crimes are insufficiently punished.

Other Sex Crimes:

Includes: Indecent Assault, Intercourse with Female under 16 years.

Sixty-four cases—34 or 53%, by Filipinos; 70% by Aliens: Hawaiians next in number to Filipinos, Porto Ricans next. Japanese excellent showing.

Sentences:

Average minimum sentence, 2.6 years, average maximum 8 years.

Cost if minimum sentence served $60,000. If maximum, $180,310.

Thirteen cases of previous offenders—3 sex offenses, others burglary, etc.

NOTE: For this crime there seems to be a range of minimum-maximum sentence consistent with common sense. Maintenance of all sex offenders in jail for minimum period amounts to quarter of a million dollars.

Assault and Battery:

Thirteen prisoners, average age 32.75 years.

Average minimum sentence 1.83 years. Cost to community $8,030. Maximum average 6.25 years, cost $27,375.

Seven Filipinos—more than 50% of total.

NOTE: The punishment for "assault and battery with a weapon obviously and imminently dangerous to life" is less than that for indecent assault, as regards both maximum and minimum sentences. This seems somewhat anomalous. It implies that to have intercourse with a fifteen-year-old girl with her consent, may be a worse offense than clubbing or stabbing her.

CRIMES AGAINST PROPERTY

Burglary:

One hundred cases of burglary were tabulated.

Average age 24.89 years.

14% of the group were Filipinos, 41% Hawaiians.

This is the distinctively Hawaiian crime. Portuguese came next with 13%. 22% were aliens—a domestic crime.

Average minimum sentence 3.15 years.

Average maximum sentence 18.43 years.

The minimum cost for detention is $115,000. Maximum cost $672,695.

Burglary is a crime frequently repeated. There were 124 other convictions and offenses, averaging more than one charge against each prisoner. These other charges consisted almost entirely of burglary and larceny.

NOTE: There is again a large discrepancy between minimum and maximum sentences. Eighteen of the cases were graduates of the Boys' Industrial School.

Robbery:

Twenty cases. Average age 24.95 years. 45% Hawaiians, 20% Filipinos.

Average minimum sentence 3.7 years. Maximum 24 years.

Minimum cost $27,000. Maximum $175,000.

Larceny and Malicious Conversion:

Thirty-three cases. Average age 21 years—the crime of youth.

45% of number are Hawaiians and/or Part-Hawaiians.

18% are Filipinos, 21% are Portuguese, Japanese 0.

Minimum sentences 1.55 years. Cost $18,615.

Maximum sentence 6 years. Cost $71,000.

Twenty other charges and convictions among this group.

This is the graduating class in crime.

NOTE: Regarding crimes against property the outstanding features are the number of repeated offenses and the youth of the offenders. Among the whole group are 180 instances of parole being granted. Common sense recommendations would be:

1. Increase of minimum sentence.
2. Reduction of number of paroles granted.
3. Vocational training in jail of young offenders.
4. Formation of Prisoner's Aid Society—to obtain jobs when released.

Forgery:

Number of prisoners 20. 40% Hawaiians, 20% Americans.

Average age 32.25 years.

Average minimum sentence 2.8 years. Cost $20,450.

Average maximum sentence 5.85 years. Cost $42,705.

This is the crime in which there is the greatest tendency to repeat the offense.

There had been 15 prior convictions involving 9 offenders.

It is also the crime of the educated. 50% of the forgers had High School or better education.

GENERAL NOTES

The total minimum cost of detention of prisoners now in jail amounts to something over one million dollars. More than 50% of the criminals are aliens. As these diminish in number or become better adjusted to social conditions here the number of crimes of violence and sex should decrease materially.

SPECIFIC RECOMMENDATIONS

Murderers:

1. More extended study of murderers in jail, to gain more knowledge of "the manner of man who kills."
2. See final recommendations.

SEX OFFENDERS

Rape:

1. Increase minimum sentence, decrease maximum.
2. In worst cases, add whippings to sentence.

Indecent Assault:

1. Lighten minimum sentence for intercourse with consent.
2. Increase for vicious assault.

Carnal Abuse:

1. In fixing sentence consider race and social usage of offender. Lessen term of imprisonment, add whipping for brutal offenders.

CASE HISTORIES

Case No. 1, L— K— Haw'n Age 26
Twice convicted of burglary.

This man attended Kaiulani School where he reached the first grade and was then transferred to a school for defectives at Waikiki where he reached the fourth grade. He was committed to the Industrial School at 10 years of age and was later transferred to Waimano Home for the Feeble-Minded. He has one younger brother in the Industrial School. He has escaped from Prison five times and on the last occasion was shot.

The mental examination shows that he is not feebleminded but apparently has distinct psychopathic trends. He states that in 1927 he "lost his mind for some time" and was given quieting

medicine which he thinks was bromide. He says also that his bad conduct is always a result of a sudden impulse which seems uncontrollable and that he realizes afterwards what he has done.

Recommendation: Extended psychiatric examination before release or parole.

Case No. 2. H— P— Haw'n-Samoan Age 22.
Sentenced for highway robbery.
Maximum sentence expires 1970.

H— attended Royal School where he reached the sixth grade. He played truant and stole money and was committed to the Industrial School at about 11 years of age. He had two brothers older than himself at the Reform School at that time. His prison record is one of a series of escapes and violations of parole. He attributes his own bad record to the fact that he has no friends other than men or boys who have been in the reform or prison institutions. He has a bad temper which gets him into trouble in the prison and a good many of his difficulties come through "not minding his own business." He is always getting into somebody else's fight. He has evidently a well developed sense of loyalty to his associates. He has had a job as engine room employee and when released would like to work on a steamer. He states also that he learned his bad habits from association with older boys at the Industrial School.

The mental examination showed that he was not feebleminded but was extremely impulsive.

Diagnosis: Impulsive, hot-tempered, bad habit formations through too early committment to the Industrial School. Could be helped by appeal to sense of loyalty if bad companions were eliminated.

Case No. 3. C— C— Part-Haw'n-Part Indian Age 21

C— C— was born in Honolulu and attended Kalihi-waena, reaching the fourth grade. He was sent to the Salvation Army Boys Home for playing truant then to the Industrial School. He was continually running away from both institutions. He says that he wanted to help his mother. He was sentenced in 1927 and again in 1929 for burglary. Longest time on the outside was seven months. He states that he lived by stealing and playing craps. Complains that he suffers from vertigo and has periods when everything goes dark in front of him. Is addicted to drink and when drunk does not know what he is doing.

Mental examination shows that this boy is very dull and just at the borderline of mental deficiency with a mental age of 9 years 3 months, and in tests of practical ability, of 10 years.

Diagnosis: Bad associations, no friends other than prison inmates, too early association with older delinquents, low order of intelligence.

Case No. 4. D— P— Filipino Age 23

D— came from Hilo when a small child, does not know place of birth. Reached the third grade at Puna-Pahoa School, Hawaii. Sent to the Reform School from Hilo. Ran away several times, finally sent to jail. Longest period outside, 1925, working at Waipahu as an oiler. Has three cumulative sentences, five years on each, for burglary. Made three attempts to escape, all unsuccessful. States sometimes his "head is off." Thinks that his sentence is excessive hence has tried to escape.

Mental examination shows that he is also a borderline defective with a mental age of about 9 years. In tests of practical intelligence, however, he reached the high level of 12 years. Considering his history this mental level is not so bad.

This boy also is a product of Reform School and bad community conditions. He, like H— P—, possibly could be rehabilitated in society if he had some help and guidance on the outside. He is not so bad as his record would indicate.

Case No. 5. G— A— Porto Rican Age 19

G— attended Ewa School, reaching the third grade. He has worked on several plantations as stable man and brakeman and in Honolulu on an ice delivery wagon, earning as much as $60 per month. Went to the mainland with his father for 17 months where he worked picking fruit. He was given a sentence of from 60 days to 10 years by Judge Cristy for having sexual intercourse with a girl under 16 years of age. She was a Porto Rican girl who ran away from her parents and stayed with the prisoner for two days. He states that she was a big girl, as tall as himself, and that she stated her age as being 17 years. He was paroled June 19, 1929 after serving his minimum sentence. On March 5, 1930, 9 months later, he was returned to prison to serve his maximum sentence of 10 years. His statement is that he was reported for staying the night with a prostitute at a Korean hotel.

Apparently this occurrence was at the girl's invitation and she has since been sent to the Girls' Industrial School. On March 31 of this year, he ran away from the Fair Grounds because he had trouble with the guard who pushed him against the building and threatened to have him sent to jail for another six years. He went to his mother's place and she returned him to the police station the same day.

The mental examination showed that this is a definitely defective delinquent with a mental age of 7½ years and practical ability equal to 9 years. This is apparently sufficient to enable him to earn his living outside. He is simple and suggestible and cried several times when telling his story.

In my opinion no useful purpose is being served either from the community's or his own point of view by keeping him 10 years in jail. Under a properly supervised parole system he would be well behaved.

Case No. 6. H— M— Samoan-Haw'n Age 21
Born on Molokai

Harry attended Kaiulani School, reached the second grade and was sent to the Reform School at 9 years of age for playing truant. He ran away six times and was finally sent to the county pail. Sentenced in 1923 for stealing from a dwelling, was released in 1925, re-sentenced in 1926. Has many records against him for attempted escape from prison and trying to slug guard with a blackjack. Has no friends or relatives who have ever visited him and no friends on the outside except criminals. Has had period of solitary confinement and other punishments. He is very nervous and fidgety and rebels against prison discipline because he thinks sentences too long. His minimum sentence has not expired and he is serving time for violating parole. Believes that he had a crazy spell with loss of memory during the period of solitary confinement. Has also a bad temper.

Mental examination showed that he was dull but not defective. The recommendation in his case also is for an extended psychiatric examination before release.

Case No. 7. M— K— Japanese Age 24

M— was born in Japan and was one year of age when brought here. The mother and father are still living. He was educated in Central Grammar School and reached McKinley High School but was dropped when a freshman. There were two charges of burglary against him with three years sentence on each which are concurrent, with a maximum of 20 years. The minimum sentence expires in 1930, April 9th. He states that he became associated with a bad gang and took up bootlegging, was not interested in his lessons and was for some time employed at the Hawaiian Pineapple Cannery. He began stealing, however, when unemployed. He had some kind of seizure in 1926 and another recently. He was hurt in the last fit he took—he does not know what happened. His father is an inmate of the Territorial Hospital for the Insane. The prison record showed that M— had escaped from the Olinda camp

on Maui and was re-arrested at Wailuku. He was returned to Oahu Prison and placed in solitary confinement for four months. He says that he has fits almost daily when he does not know what is happening except that he has uncontrollable impulses toward violence. He tries to control them without success. Has no real friends or associates, has always stayed by himself. Has depressed periods which apparently alternate with the periods of excitement. Does not care how long he remains in jail provided he could be cured of these spells. Is afraid he is going insane.

Mental examination showed that there has been considerable mental deterioration with loss of memory. He suffers from illusions of sound and appears to be getting worse.

Diagnosis: This appears to be a clear case of dementia praecox of the manic-depressive type.

Recommendation: Examination by psychiatrist and committment to the Territorial Hospital for the Insane.

Case No. 8. P— B—

Is a Porto Rican born on Hawaii and convicted there of burglary. His sentence is from 1 to 20 years.

His education was scanty—reached the second grade and left school at 12 years. Claims that he was drunk at the time of the burglary and was found asleep near the office of the sugar mill which had been entered and robbed.

Earned his living at driving steam plow, mule team and worked as cement mixer. Mental tests shows good average practical ability but little educational capacity. In practical intelligence he rates 13½ years, in verbal and scholastic ability about 8 years.

History at jail has been one of a series of escapes of which three were successful. Ordered seven lashes for assisting other prisoners to escape.

Case No. 9. H— P—

Is a Portuguese aged 23 years, sentenced from 1 to 20 years for burglary. Has been paroled once and returned as a parole violator.

This man was an inmate of the feebleminded home for several years. Has been unable to get a job for more than a couple of days at a time and he stole to eat. Father is a watchman.

He has had little schooling—reaching only the first grade. Was kicked on the head by a mule when a child.

This man is feebleminded with a mental level of 7 years

9 months by the Binet, 6 years by the Porteus Maze test which reflects practical intelligence. His responses were scattered—a typical condition indicating possible psychopathic trends.

Case No. 10. D— P—

A Filipino aged 40 years who arrived in the Territory 8 years ago and was implicated in a murder and sentenced to life imprisonment. He earned his living as a musician, is married and has two children.

This man claims that he is entirely innocent of any part in the crime of which he and six others were convicted. He has been up for parole on a number of occasions and at one time was recommended by the Board on condition he left the Territory. The Governor refused. Two other recommendations for commutation of sentence were refused by the Governor.

This man is thoroughly convinced of his innocence but owing to his present mental condition it is impossible to get a connected story.

He is on the borderline of insanity—weeps easily, talks of spirits and his attention is entirely absorbed with the prospects of his release. He is relapsing rapidly into a manic-depressive type in which periods of depression and elation follow each other.

Has good practical intelligence—passing a fifteen year Maze test which is a good record.

Possibly release from prison might save this man's mental balance, but present indications are that he must be permanently cared for. It would have been a good policy to have deported him.

Case No. 11.

D— K— is an Hawaiian now over 40 years of age, convicted of 1st degree burglary on Kauai.

This man has never held a steady job but was supported for a time by a brother on Kapaa. Lived with his father in Kalihi and at that time did considerable petty thieving from stores, etc. He suffered from asthma and says that this was the reason for unemployment. He has also had an operation for hernia.

The mental examination showed that K— is a defective with a mental age of about 8 years. He is very suggestible and in tests of practical intelligence passed at an 8½ year level only. This is the reason for his unemployment. He belongs in an institution for feebleminded.

Case No. 12.

H— P— was born in Germany and is now 51 years of age.

He had a fair education and was for some years in the German Navy. He is an intelligent man and was for some years a contracting foreman earning up to $300 per month.

In 1920 during the flu epidemic he lost his wife and two children within a few days of one another, leaving him with a daughter. He states that about 3 years after this he was seized with a compulsive idea that he should kill his daughter. He states that he resisted the idea until it became so strong that he got his pistol ready to shoot her. He postponed the act and that morning, realizing his condition, attempted suicide, shooting out his right eye, the bullet lodging at the base of the brain. After discharge from hospital he became financially embarrassed and forged a check.

Has been paroled and recently gave himself up after repeating a forgery, in order to obtain the protection of jail.

The examination showed that there was considerable mental deterioration though he retains excellent insight into his own condition. The man is undoubtedly psychotic and needs transfer to the Territorial Hospital.

Case No. 13.

J— F— is a Japanese convicted of murder and given a death sentence, which was commuted to life imprisonment. His case was being considered for parole, the proposal being that he should be deported to Japan.

It was found on interviewing the man to get his previous history that this was not the first murder he had committed. He killed a woman with whom he was living on Kauai about 16 years ago. He was drunk at the time and stated that he had no recollection of the occurrence.

He was arrested and subsequently committed to the Insane Hospital. After 3 years he escaped and was not retaken until after some years. He married and murdered his wife with an axe under the same circumstances as in the previous crime. He was then sentenced to death.

The examination showed that he is psychotic and under the influence of drink seems utterly irresponsible. His history shows that at 16 years of age he suffered a severe fall with head injuries. He became at 27 years of age very solitary in his habits and belongs to what is called the "shut-in" type of personality. Drink has the effect of a sudden loosening of his ordinary repressions and an emotional explosion follows during which he is homicidal. At present he is emotionally obtuse, showing no concern or remorse for the murders he has committed.

Recommendation is permanent committment. If deported to Japan his history should be sent to the proper authorities.

Case No. 14.

M— F— is a Porto Rican, aged 51 years, who has been in the Territory for 29 years. He has been a plantation laborer and has also worked for various contracting firms. He was convicted for 1st degree burglary in Hilo in 1916—the sentence being 3 to 20 years.

He was paroled and returned in April 1922 as a parole violator, the offense being larceny and was again paroled in 1923. In 1926 he was convicted again of burglary on two charges and sentenced to 4 to 20 years.

He has been a heavy drinker since 1905 and has been in very bad health. He was operated on twice recently for stomach trouble and is at present in very poor physical condition.

His intelligence is normal for his racial group and social grade. His Binet test level is about 10 years, his Porteus Maze, which indicates practical intelligence, is 13 years. His criminality is due to early bad associations, drinking and unemployment due to ill-health.

Case No. 15.

S— T— is a Japanese aged 31 years, convicted and sentenced for forgery.

He is of fairly high mental level having graduated from High School. He is somewhat suggestible and takes the line of least resistance. Association with a group who were drinking and gambling and had more money to spend than he had seemed to have been the direct cause of his embezzlement. His future stability will depend very largely on his associations after release. If he can obtain a job where financial responsibility is not involved he will probably do very well. If he returns to his old associations and habits it is extremely likely that he will repeat the crime.

Case No. 16.

J— R— is an American serving a sentence of 3 to 5 years for assault with a deadly weapon on his wife—a Portuguese woman. His statement is that he had frequent quarrels with his wife who would become hysterical. He found that the only way to bring her to reason was to draw a knife and threaten to commit suicide. On one occasion he drew the knife and in her struggle to obtain the weapon her hands were cut.

He had two years of high school and is better than the average intelligence. He is emotionally very tense and is showing signs of mental strain. Apparently the cause of this man's crime was his extremely unfortunate marriage into an excitable and trouble-making family.

The following additional cases are those of prisoners previously examined at the Clinic.

Case No. 17. W— K— Aged 22 years.

Convicted of indecent assault and sentenced to 9 months to 30 years.

This man was a laborer doing stevedoring work and also worked on a dredge.

His mental examination shows that he has an I. Q. of 77 by the Binet with scattering responses. His score for tests of practical intelligence was higher, being 14½ years.

The medical record states that he suffered from an illness about 8 years ago which was diagnosed as sleeping sickness. If this is correct, then his anti-social behavior would be accounted for since a complete change of moral attitudes frequently follows this disease. Success on parole depended very largely on proper social supervision outside.

Case No. 18.

A— H—, 18 years of age, a Chinese-Hawaiian, was examined when an inmate of St. Anthony's on Maui. He was then mentally retarded, his score in a test of mental alertness giving him an intelligence quotient of 75, learning capacity (Binet) of 71, practical intelligence 96.

He reached the fifth grade in Wailuku School, was then sent to the Boys Industrial School and after his release from there was convicted on three charges—two of malicious conversion and one of 1st degree burglary. His criminality was not concerned with lack of education but his lack of education is related to his mental dullness. Probably early bad associations plus mental retardation affecting his ability to earn a living are responsible for his crime.

Case No. 19.

Porto Rican youth aged 18 years, at present serving a sentence of 1 to 5 years on two charges of malicious conversion.

He reached the sixth grade at school and was employed as a machinist in an electrical shop. He was examined at 13 years of age and his mental age was then found to be 9 years 3

months, with an intelligence quotient of 71. In tests of practical intelligence he scored only 8 years with an I. Q. of 66.

This boy was vocationally misplaced as it is certain that with his poor practical intelligence he could not make good as a machinist. Probably his vocational misfit contributed to his social failure.

Summary of Cases Examined:

The examination shows that the causes, both primary and contributory, are very heterogeneous. It is not lack of education, even though the average grade reached in school is low. The fact is that the social grade from which the majority of the prisoners are drawn is of low economic and industrial status. This grade also includes the greatest number of mentally retarded who cannot profit by school opportunities. It also includes the majority of aliens who are not well adapted to local conditions. On the other hand, mental inferiority is not necessarily the most important reason for crime since many criminals of average intelligence for their race and social grade. Crime is therefore due to a complex of causes.

Analysis of Cases Examined:

1. Three definitely feebleminded.
2. Three definitely insane, one of whom had committed two murders at intervals of six years.
3. Three psychopathic, one borderline insanity.
4. Five mentally inferior or borderdine defectives.
5. Three in whom accident or disease had contributed to their condition.
6. Three in whom alcoholism was a major factor.
7. Six of the group were former inmates of the Boys' Industrial School.
8. Eight showed a history of bad habits and associations when young.

NOTE: Since the above examinations took place, two of the insane patients have been transferred to the Territorial Hospital for the Insane.

RECOMMENDATIONS

I. Systematic psychological and psychiatric examination of all inmates.

II. Lessening cost of upkeep by establishing some gainful occupation at Prison. Part of proceeds to be credited to prisoners' accounts, available on parole or release.

III. Initiation of a crime prevention campaign for aliens. Among other devices the posting of crimes and punishments in Filipino dialects. The campaign must be planned and continued over a period in order to be effective.

IV. I concur with the suggestion for an intermediate penal institution. This would make it possible to segregate the mentally affected cases at the present jail.

S. D. PORTEUS,

Director, Psychological Clinic
University of Hawaii.

SDP:c

APPENDIX No. 3

A STUDY OF JUVENILE DELINQUENCY

BY MARGARET BERGEN

The plan pursued in this study was to examine all the available records of the boys and girls who had been committed to the two Industrial Schools during the first half of the year 1929. This particular group was chosen because there have been no changes of administration at the Juvenile Court since that time, and also these boys and girls have been in the institutions long enough so that some information about their adjustment ought to be available from that source. The Court records were read and through the Confidential Exchange contact was made with each social agency who had anything to do with the family. After these records had been gathered, both Industrial Schools were visited in order to get the institution records for each child, and to see what progress had been made in the treatment of these children. The Superintendent, teachers, matrons and various officers of each institution were interviewed in the effort to know more about each child. The report on this work is made in two divisions, the one is chiefly concerned with the treatment of these children by the various social agencies with whom they have come in contact, as shown by the agencies own records; the second part of the report is the joint sociological and psychological study of the individual children, primarily concerned with the causes of individual delinquencies and with recommendations for preventive treatment.

The records were read with these questions in mind; first, what factors are operating to produce delinquency in this particular group of children. Second, what part are the various social agencies playing in the development of character and in preventing delinquency. Third, what is the policy of the Juvenile Court in dealing with these children.

1. Factors operating to produce delinquency in this group of children.

> Not a single record showed why the boy or girl originally failed to make good. Such expressions as these were found in the records of all the agencies: "Hard to manage," "conduct unsatisfactory," "girl was naughty," "home conditions were bad," "broken homes," "parents cannot control." On the basis of these statements, punishment was administered, without attempting to understand the real situation. Remedial work will never be successful as long as treatment is confined to controlling symptoms.
>
> Agencies have failed to make any diagnosis of the failure of whole families of children. One family has had six boys in the

Industrial School (two are there at present); another family has two boys and one girl under the Industrial Schools at the present time. If some attention had been paid to the whole situation when the first child was found to be delinquent, the aggravating cause might have been remedied, so that seven children might have been helped to behave in socially-acceptable ways.

II. Part of social agencies in the development of character and prevention of delinquency.

1. Co-operative effort among the various social agencies in dealing with the problems of delinquency has been extremely limited. Seventy-eight per cent of the boys and girls committed to the Industrial Schools during 1929 were known to at least two agencies other than the Juvenile Court; 70% had been known to these agencies prior to the year 1929.

When another agency finds that a child is under the control of the Juvenile Court, even if the agency has known the family for many years, it withdraws from further activity with the child. The Juvenile Court does not register with the Confidential Exchange nor does it take any account of the other records or plans for correcting faults that may be contributing to delinquency in these homes.

2. A study has been made by the University showing that the majority of juvenile offenses are committed within five zones in the city. No record has been made as to what factors within these zones are creating delinquent children. We dismiss the subject, calling it "Poor or bad neighborhood," which again is only a symptom. Intensive work should be undertaken in these critical zones to bring all possible preventive measures into play; school, home, social agency should all unite in a character-building enterprise, not merely in a "fence-mending" campaign.

3. The largest percentage of children committed to the two schools are of Hawaiian parentage. The most evident cause found in these few studied is due to the habit of parents of giving their children into the care of friends or relatives when they are very small. The parents still retain their love and interest in the children, and sometimes attempt to exercise authority. The end results of this division of responsibility are extremely unfortunate in many cases. A definite policy should be evolved by all the agencies and particularly by the probation officers which would attempt to counteract this widespread tendency.

III. Policy of the Juvenile Court in dealing with children.

1. According to the records, the greatest number of girls were committed to the Industrial School for sex offenses, so-called immorality; the greatest number of boys for stealing.

Records of 21 girls committed from January to June 1929:

Immorality	16
Stealing only	2
Incorrigibility	2
Attempted suicide	1
(Immorality and stealing)	3

The offenses under the group of immorality include these:

Sex offenses committed with men	13
Sex offenses committed with boys	3
Incest	3
Sex offenses with men and boys	3

2. The policies of the probation period of treatment of the girls who have been charged with immorality seems to be as follows:

a. No committment for the first offense, but after repeated offenses. The policy for safe-guarding the girls who have committed the first offense is not found in any of the records.

b. Practically every girl later committed on a charge of immorality was put on probation, removed from her home and put to work in domestic service. These girls were tried in from two to six different homes before committment; every girl was reported as unsatisfactory to their employers. Most of the girls were so unhappy that they ran away from the homes where they were placed, usually at night. The one girl who attempted suicide was tried in six different homes in the space of three months.

A policy of this sort, i.e. putting every girl to work as a domestic servant because she has had sex experiences seems quite unjustified. Many of these girls have had no training; the hours are long, mistresses exacting. Girls are placed at army posts where it is only to be expected that they will be open to serious temptation.

3. Wages. Employment at domestic service is sought for girls on probation at wages from $1 to $12 per month.

These wages are offered because it is supposed that the girls are wholly untrained, but these wages continue a year at a time, which indicates that it is not training the employer is giving, but cheap labor they are getting.

This policy cuts like a two-edged sword—

a. An employer looking for underpaid labor, cannot be the character that a girl needs who has already had no training in work or conduct.

b. The girl who worked a whole year at $1 a month, ended by threatening to "beat up" her employer. There was no encouragement in good conduct or more efficient service.

IV. Recommendations.

We have pointed out that records of the social agencies indicate that when tendencies toward delinquency are being shown by individual children there is no consistent and well planned method of taking care of the situation. The matter is dealt with in a more or less haphazard way by the social agency which comes into contact with the problem. There is no system of co-ordination between the Juvenile Court and the other social agencies interested in child welfare. Possibly an advisory council to work with the judge and probation officers of the Court would bring about this co-ordination; the idea being to pool information and resources in dealing with the first symptoms of delinquency.

APPENDIX No. 4

STUDIES OF THE DETENTION HOME

BY MARGARET BERGEN

Date of visit to the Home—October 9, 1930.
Number of children present that day—20; 18 girls and 2 boys.
Greatest number in the Home at any one time—30.
Capacity of the Home—42.

Number of employees—6; 3 women, 1 day man, 1 night watchman; 1 laundress three days a week.

The building is new and for the most part well arranged for its purpose. The dining room is especially attractive. One wing is occupied by girls for rooms and dormitories and another, entirely separated, for the boys' rooms and dormitories. Each side has "lockers" in which boys or girls are kept when there seems a disposition to run away. They do not have the appearance of "cells" which to all intents and purposes they are. On the boys' side, which is the Ewa side of the building, there is a great lack of ventilation and the occupants must suffer from the lack of air and the heat. An effort is being made to correct this defect. When asked why children need be locked in the cells, when other precautions are taken to detain the children, Mr. Virgo said that they come there very wild and they must be restrained. He showed evidence on the walls where they tried to claw away the sides of the rooms. He said they were mostly Hawaiian children who had been easily dealt with at home and had been always uncontrolled. (This fright and frenzy should be most carefully dealt with from the very beginning).

Each side of the building is equipped with a room for medical dispensary work and the city and county doctor comes on call, while the official examinations are made at Palama. It takes one Probation Officer's full time to take the children to and from Palama and the Psychological Clinics. There is now ample room for both these clinics to be held at the Detention Home and thus save the children and the officers from so much transportation.

A count was taken of the children who were held in the Detention Home the week—September 27 to October 4, 1930.

Total Number enrolled that week.....38
Number discharged that week.....21

The ages of the 38 children ranged from 8 to 19 years. The greatest number was in the 16 year group—9, and the next in the 14 year group—6.

From the record, the charges were as follows:

Detention	23	Forgery	1
Investigation	6	Stealing	1
Larceny	3	Mal. Conversion	3
	Immorality	1	

Length of Residence:

This ranged from 1 day to 3 months. Two girls who were discharged, the week under consideration, had been residents for 25 days. Investigations seemed to be in process during this time. The girl held since June had been discharged from the Girls' Industrial School that date upon the expiration of her committment and the records are not clear as to why she is still in the Detention Home.

Other lengths of residence are—16 days, 9 days, 8 days, etc. Five children were held 6 days and four children were held 5 days, etc.

The 21 discharges are classified as follows:

Sent to the Boys' Industrial School..... 3
Returned to parents..... 7
Released 4
Girls sent out to domestic service..... 3
St. Mary's Mission..... 1
Queen's Hospital 2
Ran away 1

From the records, no evidence was found to indicate the cause of the detention of any of the children. Other records read previously indicated that some are detained for the purpose of punishment.

Further study of these or other children should be made to determine the purposes for which the Probation Officers use the Home. Also to determine whether or not most of the children should not have been left in their homes.

There are obvious reasons why children should not be detained.
1. The assembling of good and bad children in such close

quarters and held in idleness, can have but one result—the contamination of the good child.

2. As a means of punishment, it might more often result in bitterness of the child. (A study of a few such cases would be valuable).

3. The wild frenzy described by Mr. Virgo indicates a mental and nervous shock, the results of which must be most disasterous to our otherwise gentle Hawaiian children.

4. Every effort has been made in the intent of the Juvenile Court law to avoid the "criminal procedure". There are evidences that children are treated more or less as criminals in this detention.

5. Dependent children are housed with the children who have had various experiences; there was one girl of 8 years, one of 10, two of 11 with the other girls who ranged all the way up to 19 years of age.

APPENDIX No. 5

JUVENILE DELINQUENCY IN TWO INDUSTRIAL SCHOOL GROUPS

The following is a report of a combined sociological and psychological investigation of two groups of cases, twenty-two girls and twenty boys, who were committed in 1929 to the Girls' and Boys' Industrial Schools of the Territory. It is based on:

1. Social histories provided by Miss Margaret Bergen from a study of all the available Court and Social Service records of these cases plus the facts obtained by me in personal interviews with the children.

2. Psychological examination of individual cases.

The method employed has been first of all the gathering of all available data followed by a conference on individual cases between the staff of the Psychological Clinic and Miss Bergen as director of the study.

The chief purpose of the Psychological Clinic in examining the boys and girls in this study was to discover what factors were operating to produce delinquency so far as the individual child was concerned. An understanding of the causes would aid materially in preventing delinquency in other children.

Twelve boys and twenty-two girls were given mental examinations. Of this number, 34 children in all, 5 or 15% were within the limits of normal intelligence as measured by tests reflecting learning capacity. 21, or 62%, were of dull, inferior intelligence; while 23%, seven girls and one boy, were borderline feebleminded. None of these were below the limit which has been set as definitely diagnositic of feeblemindedness serious enough to warrant committment to Waimano Home.

When tests of practical judgment and planning capacity were taken into account, the girls particularly were found to have a large proportion of their number with very inferior temperamental qualities. Thirteen girls, over half the number of girls examined, were found to be suggestible, or too impulsive to succeed in a practical situation which should have been easy for any one of them if they had taken pains and used their intelligence to the best advantage. The boys made a much better showing in this respect, none of them fell below what we consider a feebleminded level in this practical task.

The results of the mental examinations suggest that a change in the policy of committment to Waimano Home be made; and

that particularly in the case of girls, more inclusive standards should be maintained with regard to placement in that institution. For some time allowance has been made for the fact that Hawaii is an agricultural community, and that under conditions of plantation life many people can be socially well adjusted though of low intelligence. This situation no longer holds to the same extent as before; Honolulu particularly is taking on the charateristics of a mainland community, a weak suggestible girl of inferior mentality no longer can be protected or helped to be socially well adjusted outside of an institution. Community demands are far more exacting than they were even ten years ago and we must recognize the fact that these borderline defective girls should be protected carefully throughout the adolescent period at least, and longer if it seems advisable. It has been the custom of the Board at Waimano Home to parole the boys and girls from that institution whenever they become sufficiently well adjusted and conditions are satisfactory for them to take up life again in the community. The Board of Industrial Schools is forced to discharge their boys and girls at the age of 20 years, regardless of whether they are capable of getting along by themselves or not. A longer period of care for some of these boys and girls would result in protection for them and for the community as well.

While mental test results are significant a study of these children would be incomplete without an understanding of their home conditions. The child's early life and his own attitude toward his experience must also be considered. Each child was encouraged to talk as much as he would about himself and his home life; the histories gathered by Miss Bergen gave some facts to start upon and an effort was made to have each child tell whatever else he could. Most of them were quite willing to talk about their home life and about their own behavior to a certain extent but there were reticences about their delinquencies, unmistakable attempts to preserve their self-respect which could only be penetrated after a series of interviews which were not within the scope of this study. We do not know the whole story of each boy and girl, we know only some parts, but disjointed as these bits may seem,they have provided us with much material for consideration of our treatment of young people.

The outstanding feature of the lives of these 42 boys and girls is that only 6, three boys and three girls, had always lived at home with their own father and mother. Two of the six were a brother and sister living at home with their father and a paralyzed mother who was also an habitual user of narcotics to deaden her pain. All the other children, 85% of the total number, had parents separated, divorced or one or both parents dead, or lived with foster parents. The matter of broken homes is obviously one about which the community can do nothing; it is

quite possible in some cases that the foster home or step-parent is far superior to the child's own parent; separation and divorce probably bring about a more peaceful home life than there could be if the parents remained together. Yet the fact remains that too large a number of these children come from an abnormal home situation. This fact should be called to the attention of the community as a whole so that this phase of the problem should at least be recognized.

In the past we have spoken of broken homes as a cause of delinquency, without looking further into the factors that are causing divorce, separation and desertion. Our records about the parents of these children are meagre; but in the 23 of the 27 cases in which we have any record at all about the parents we find reports of serious character defects; 85% of these parents about whom we have any information were daily demonstrating their inability to govern their own conduct. Is it remarkable that the children grow up to be socially mal-adjusted?

The gist of the reports about the men standing in the relation of father to these children show bad temper and a quarrelsome disposition in 5 men; 2 were incestuous, one so mentally distressed that he made three attempts at suicide before he finally succeeded. There are more records about the mothers, perhaps because we still have not learned to pay enough attention to the father's role in effective home-making. Four mothers were openly adulterous, others were variously characterized as unreliable, excitable, of inferior mentality, eccentric even to the point of suicidal, bad tempered and quarrelsome.

Half of these boys and girls were victims of lax home supervision. The parents neither knew nor cared about how they were spending their time. We know that some of these children had been engaged in habits of petty theft or other delinquencies anywhere from one to two years before parents became aware of it. The parents of these children for the most part did nothing even after they did know about the delinquencies until the child's behavior became so flagrant that it could not longer be overlooked. By that time the delinquent habits were in most cases very thoroughly established. Probably the parents did not know where to turn for help, but it is just as possible that they could not have made very good use of any advice about managing their children when things had gone so far.

Family discord is next in frequency after lax home supervision. Fifteen children (36% of the number) came from homes where we know there was practically constant, often violent, disagreement between the father and mother. A child's allegiance is strained to the breaking point in situations of this sort, he may become wholly antagonistic to one parent, but obey the other, or he may disregard both and conduct himself according to the

desire of the moment. The time comes eventually when he will admit responsibility to no one for his conduct.

People in Hawaii have grown so used to inter-racial marriage that it is taken very much as a matter of course and accepted without comment. As time goes on there will undoubtedly be a sufficiently large group of mixed nationality to establish its own social mores; at present the child of Spanish-Korean parentage belongs in neither the Spanish nor the Korean group; the same is true of the Portuguese-Polish child, the Portuguese-Mexican, the Spanish-Portuguese-Hawaiian, the Porto Rican-Hawaiian. Racial mixtures were found in 33% of the children under investigation; whether mixtures of this sort are good or bad is not our problem. The point is that the sociologist is quite right in saying that behavior problems among children are fewest where habitual and customary patterns of life are unquestioned and absolute for the racial group. The child of mixed nationality marriage belongs in no group and does not feel the same social pressure to maintain the group standards.

Family disintegration has played a fairly important part in determining the character of these children; seven boys and six girls—31% of the whole number—were not living with their own family but were placed out in some other home away from their own parents or brothers and sisters. Most of these parents gave up the responsibility for their children, in some instances court action was secured to help in the disposition of the children, but not always. The records of these boys and girls bring home directly the necessity of having a thorough investigation by qualified social service workers before a decision is made as to the disposal of children in cases of separation or divorce. Mistakes in judgment are frequent enough when care is taken to make a fair decision; how much more likely are they to be made in a time of special stress such as is involved in a divorce case when all parties are at odds, each making extravagant demands in the hope of obtaining a satisfactory settlement.

Eight children, 19% of the group, spent at least one year in institutions; five were boys, three girls; on none of these children was it possible to get a detailed report about their behavior in the institution. If the community delivers a child into the care and custody of an institution it seems that it has a right to demand a careful study and a detailed report on that child. If the institution authorities know that the child is not going to be able to get along in the community after he is released from their care, some plan for after care should be made for the child. Even a mediocre home is usually better for a child than a first class institution; for the institution in most cases bends its efforts to fitting the child to the institutional scheme, instead

of preparing the child to meet the everyday situations of life outside of the institution.

There are a few very important cases in which the delinquency of the child may be traced directly to the alien attitude of the persons involved toward our standards of living and morality. Four girls are in the Industrial School because the Filipino and Porto Rican ideas of morality in the field of sex are different from ours. One Porto Rican girl was taught early by her mother that it was better not to marry a man, because if you did you were never free from him; live with him if you like, but don't marry. This girl took her mother's advice but in her inexperience picked a man whose interest in her was to induct her into a life of prostitution.

One of the best cases for illustrating moral attitudes in immigrant groups that are entirely alien to good American standards was the case of a Porto Rican woman who was separated from her husband, a steady plantation worker, to whom was given the custody of her four children. In disregard of the court order the mother took the children to another island and assumed their support. There she lived with another Porto Rican by whom she had a child. The oldest daughter six months previously had borne a child to this man and he was also responsible for the introduction of the younger girls to sex practices. The oldest girl went to the Industrial School. The woman then married another Porto Rican who was found to be tubercular. The family returned to Honolulu and the woman came under the protection of another Porto Rican who was a bootlegger and who went through a mock form of marriage with Josephine, the second daughter, then aged 15 years. The man wished to make the girl into a prostitute but these arrangements were broken up by a police raid. Josephine was made a ward of the Court and placed at service in an army post but in a very short time was sent to the Industrial School on a charge of immorality. The mother was sent to jail and after her release lived with a Portuguese and finally turned to prostitution for a living. The older girl was released from the Industrial School and the Portuguese man who had previously lived with the mother took up the daughter who has borne him twins and is expecting another baby. This girl was examined by the Clinic five years ago and it was then recommended that before releasing her from the Industrial School she should be considered for admission to Waimano Home but this recommendation was disregarded.

The mounting toll of illegitimacy, crime, prostitution and social wastage which this one history records is surely an indication that better co-operation of welfare agencies is entirely necessary. It is quite probable that examination of the mother

would have shown her incapable of self-management and much of the subsequent cost to society would have been saved.

Youthful ardor found expression in the lives of a Filipino boy and girl; the girl's father interfered because the boy did not speak the same Filipino dialect. The Court did what it could to let the young people be married as they wished; but the father was adamant, and the girl under age. Finally the young people disappeared, and were found several weeks later living in a tent in Nuuanu valley. The girl was sent to the Industrial School at the father's insistence, but there should have been some other way to handle this situation.

We know that many conditions exist about which we can do nothing, and that delinquency is the inevitable outcome of certain situations. But we also know that delinquency may be prevented by changes in the situation if the early signs of maladjustment are recognized and proper treatment is instituted. We have had warning again and again; in practically every case the premonitory symptoms have been there, but they have been ignored or misunderstood. Every boy about whom we have definite information, with one exception, had made an inferior adjustment in early childhood. The one exception, when he was about 16 years of age decided that he had seen enough of his mother and step-father's quarreling; he left home, went to live with his sister, got a job and paid his board as any self respecting lad would do. As soon as his mother found out where he was and what he was earning, she complained to the Court that her minor son was incorrigible would not come home, and would not give her his wages. An effort was made to have the boy remain with the sister, and pay his mother part of his wage for her support but the mother refused to accept an adjustment of this sort. The outcome of the whole affair for the boy was placement at the Industrial School for the period of a year.

The younger boys usually start their delinquent careers with stealing; 12 of the 20, 60%, have a record of this form of delinquency at an early age. About the same number were on record as going about with undesirable associates; they were members of a gang of boys who engaged in various enterprises, most of which provided a thrill, but were usually not socially acceptable ways of behaving. Truancy is one of the earliest signs of rebellion against social regulation; 40% of the group having truancy records. How many more boys played truant and were not reported to the Court we do not know. Staying out late at night, running away from home and minor sex delinquencies were report in about 25% of the cases. One boy was not actively delinquent but he was known to be queer five years before he went to the Industrial School. If we would attend to the earliest tendencies towards delinquency the great majority of boys and

girls now in our Industrial Schools would have had remedial treatment when they were most able to profit by it, long before their delinquent habits were well established.

The record of the girls is very similiar to the boys except that stealing is not quite so prevalent; 8 girls, that is 36% of the number, were found to be stealing at an early age. One of the interesting things with regard to these early delinquent habits is that truancy which is commonly believed to be confined to boys, was found to be occurring among the girls in an equal proportion. Running away from home and staynig out late at night is not quite so common among girls as boys, but sex delinquencies were reported much more frequently. Nine of the girls, that is 41% of the number, indulged in sex practices at an early age. In connection with this fact, the number of girls who were seduced by an older man should be noted; one-third of the group had been introduced into sex practices by men considerably older than themselves. It is difficult to make any recommendation which might alleviate this situation in any way; but certainly better education for our young people in the field of sex should be made possible. More widespread facilities for supervised recreation also should be helpful. Judicious sex instruction would probably heighten the resistance of young children to sex advances, but this instruction should only be given by persons properly qualified, not only as regards knowledge of the psychology of sex but also of the psychology of children.

One of the interesting things about this study is that girls are not reported as running about in gangs as boys are; apparently group activities among girls are less likely to result in mischief and might well be encouraged. The girl who is solitary seems to be the one who needs more careful watching than the one who is always with a crowd of others.

In conclusion we may say that the results of this study indicate first that these delinquent children are not primarily feebleminded children but many of them are of very inferior mentality. Most of them have not had the benefit of practical education which might have directed their energy into socially acceptable channels. Most of them came from homes which provided few opportunities for recreation under supervision and in which the parents themselves were of a temperamentally unstable type unable to meet the demands of everyday life. None of the children who have been definitely delinquent failed to give warning of approaching trouble by early misdemeanors; practically every one of these delinquent careers could have been predicted had there been sufficient study of these children in the early stages. Some of them could have been prevented if the proper agencies had been able to work with them. The agencies having to do with these children have paid too much

attention to the specific behavior of the child in difficulty and not enough to the underlying drives behind this behavior. And most of these children have been far more sinned against then sinning.

It has been the experience of other communities that one of the best ways to prevent social maladjustment is to build up a trained staff of so-called visiting teachers or school social workers whose chief concern is the adjustment of the individual child; the scope of these workers is not limited to any special variety of maladjustment. It is their work to recognize the first signs of distress and to make the contact between the child and whatever agency can best serve his need. The work of the visiting teacher is primarily for children who exhibit danger signals in the field of conduct. This is a vital part of the program necessary for the prevention of delinquency but at the same time every impetus should be given to the definite character building work in the schools.

Prevention of juvenile delinquency can be increased by the community making provision for an extension of the Juvenile Court's work as an important agency for the diversion of youth from criminal careers. This would mean considerable addition to the staff of probation workers which would give the Chief Probation Officer more time for training his staff and would give the existing staff more time to spend on each case in follow-up work.

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MEB:c

APPENDIX No. 6

JUVENILE DELINQUENCY IN HONOLULU

ROMANZO ADAMS

The problem under consideration in this paper relates to the amount of juvenile delinquency and to its trend. Are there more juvenile delinquents, or more in proportion to population, in these recent years than there were ten or fifteen years ago? Is the behavior of the boys and girls becoming on the while better or is it becoming worse? Before attempting to present any data relative to this question there are certain preliminary matters to be considered.

First—the City of Honolulu is a much larger City than it was when the Juvenile Court was inaugurated in 1913. Commonly, the rate of juvenile delinquency becomes larger as the city becomes larger—that is, the increase of delinquency is more than proportionate to the size of the city. A city of 200,000 people would be expected to have more than twice as many delinquents as a city of 100,000 people, other factors being the same. This happens for various reasons but largely because the population is more congested the larger the city. There is less space for families to occupy, less play space proportionate to number for boys and girls, and this is largely because rentals are higher.

In the second place, Honolulu has been growing with unusual rapidity during the last ten years. The city is sixty-five per cent larger than it was in 1920 and it has multiplied its population by about two and one-half in the period under consideration in this paper—namely, the period from 1913 to 1929. This rapid growth of population has a significance a little different from that of mere size. It means that relatively large numbers of people have been coming into the city from the country. These people ordinarily have been unfamiliar with city life and in many cases they have not been able to adjust themselves to the requirements of city life promptly and in this period of unadjustment there is a likelihood of increased delinquency not only by juveniles but by adults also.

If we consider these two factors of the situation alone—namely, the larger size of the city and the coming of large numbers from the rural districts, we would be led to expect a considerable increase in the rate of juvenile delinquency.

There is another set of factors, however, which counts in the opposite direction. Considering that part of the population

of the city that had already established itself in Honolulu before 1913, we should expect that it would gradually work out its own adjustments. Many of these people were fairly recent arrivals in the city at this earlier date and would suffer from lack of adjustment to urban conditions, and it is to be presumed that gradually through the years they would improve their adjustment, that parents, for example, would learn how to manage their children better under the conditions that exist in the city, that they would improve their home conditions, probably that they would improve their incomes and gradually bring about a better state of affairs.

In the second place, there are various social agencies designed to give boys and girls better opportunities. The most important of these is the public school system. We know that the ratio of attendance has been improving in the last ten years—that is, relative to the total number of children there are fewer boys and girls outside of school, and this increased attendance in school may be expected to affect the conduct of the young people favorably.

There is another factor somewhat related to this. Just what are the young people doing who are not in school? If they are employed regularly that will in itself favor good conduct, but if increasingly large numbers of those who are not in school are also unemployed the tendency will be toward increased delinquency so far as this particular group is concerned.

Aside from the school which is maintained by the government of the Territory, there are various volunteer social agencies which more or less contribute to the care of the young people. I have in mind such institutions as the Palama Settlement, the Boy Scouts, the Young Men's Christian Association boys clubs, the Playground Association and other organizations of similar character. Doubtless the sum total effect of the work of these organizations is to reduce the amount of delinquency. It perhaps should be noted in passing that very large numbers of the boys and girls who stand most in need of some helpful agencies outside of their homes are not touched by these private organizations.

With some factors of the situation counting toward an increasing rate of juvenile delinquency and other factors favorable to a reduced rate, we are not able to reach any conclusion as to what the actual tendency has been from a mere consideration of these causal factors. We don't know which group of factors has been the most influential and the question still remains to be considered—has delinquency been on the increase, has it been constant or is it decreasing?

We may pass next to a consideration of the statistical data furnished by the Juvenile Court and the Court of Domestic

Relations, which handles juvenile cases at present. Before presenting any of the data from these courts it is necessary to admit that such data do not furnish anything adequate in the way of evidence as to the behavior of the boys and girls of Honolulu. The statistics of the cases of delinquency as furnished by this court indicate two altogether different things, First, they probably have some relation to the actual amount of delinquency that is taking place in the city but on the other hand the figures from year to year represent to a considerable extent a changing of court policy, a drifting of court practice, a shifting in public interest which may be reflected in the activity of the police force and possible of the probation officers of the Juvenile Court. Because of these factors affecting the number of cases of juveniles found delinquent we are not able to treat the figures as indicating at all accurately the actual trends in delinquency.

This may be illustrated by a consideration of certain facts; for example, in the year 1913 there were 94 cases before the court, of boys, for the violation of the Curfew Ordinance, only one case in 1914 and 101 cases in 1915. In most recent years there have been very few cases. This seems to indicate variation in the practice of the court or of the officers who bring cases before the court rather than a change in the behavior of the young people.

We might present the gambling cases in the same way. In 1922 there were 30 cases of gambling, in 1923 there were 4 cases.

Truancy cases show an irregularity. Apparently in some of the earlier years it was the custom to bring all of the Truancy cases before the judge and now, or in recent years, only a few of the cases that are most difficult.

Since these figures for violation of the Curfew Ordinance for Gambling, for Truancy and Vagrancy enter into the totals it is evident that, if we consider the total number of cases of delinquency as found by the court from year to year, this total does not so much reflect a changing behavior of the boys of the city as it represents a changing policy or a drift in practice of the public officers who deal with young people concerned.

There is, however, one particular type of offense for which the data has seemed to be more to be depended on as an evidence of the behavior of the boys. I refer to the cases of larceny. Where there is larceny there is always someone who suffers from the conduct of the thief and such a person is likely to make a complaint, maybe to a police officer and maybe directly to a probation officer. In any case, if the injured party becomes aware as to the identity of the person concerned, there is likely to be a complaint and the delinquent will be brought before the court. Of course, we are not to suppose that all such cases are

actually brought before the court. The court has, at some times at least, given the chief probation officer instructions as to the treatment of what might be considered the easier cases from the standpoint of adjustment. That is, the court has instructed the chief probation officer to deal informally and unofficially with offenders where it seems that such treatment is likely to lead to satisfactory results and where the course of action is reasonably clear, and to bring only the more serious or more difficult cases before the judge. Where this policy is followed the tendency is to reduce the number of cases found delinquent since these cases treated informally never get into the statistical record.

There have been certain times in the history of the court when it appears probable that this procedure was used more largely than at other times and this has depended partly on the personal views of the judge, partly on his confidence in his chief probation officer, and partly on the circumstances under which he performed his duties. Ordinarily the judge who has had charge of juvenile cases has been designated for the performance of that specific work and it has been definitely his function to take charge of juvenile cases, but at certain times there has been a temporary vacancy in this position due to the death or resignation of a judge. At such times one of the other judges has undertaken this work, probably carrying other responsibilities at the same time. He has, therefore, sought to reduce the juvenile work as much as it might be with safety and has placed a greater responsibility upon the chief probation officer. For this reason we find that the statistics of juvenile delinquency for the years 1919 and 1920 show an extremely marked decrease.

For example, the number of cases of larceny in 1918 was 135; in 1919, 46; in 1920, 72; in 1921, 139. Probably the two very low years do not indicate any particular change in the conduct of youth but rather in the conduct of the court. Another year in which there is a very marked fall in the number of cases of larceny is 1926. This was a year or so before the resignation of Judge Desha and I am not able at present to account for the figures but apparently they are not representative of the actual conditions of juvenile behavior. Aside from these three years—1919, 1920 and 1926, the statistics of larceny are fairly consistent from year to year and it may be that these figures are fairly representative of the actual behavior of youth during the period.

Of course, one may have doubts even about this. Probably there is another factor that in a measurable degree affects the statistical situation from year to year. I refer to the changing public interest. Occasionally there is some crime committed by a gang of boys that is notorious. It receives a good deal of attention in the newspapers, people talk about it, a considerable

amount of public sentiment is developed. This probably reacts on the various officers who are charged with responsibility in connection with crime. Possibly the police become more active, maybe the probation officer also, the individual citizens here and there over the city who know of various delinquencies perhaps will be more likely to take the trouble to report them, and so there will be a period of particular activity in relation to the particular variety of crime that excited the public interest and for a year the number of cases before the court will be notably increased and this increase perhaps does not so much represent an increase in the number of offenses actually committed in the city as it does an increase in the activity of officers and of private individuals.

It seems, then, that if we take the year by year figures of larceny the results are likely to reflect the state of public intrest more than the behavior of the youth.

As a means of overcoming this difficulty I have thought that it might be best to combine five years into a single average, and another five years into a single average, and to compare the two five-year periods. The idea is that in each five-year period there would be some times of active public interest and other periods in which public interest subsided, so that the two five-year periods would more accurately indicate the general trend of conduct than would the years given separately.

I take it that our interest is not so much in the total number of cases of delinqunecy from year to year as it is in the proportion of such cases to population and particularly to the population of the age group from which juvenile delinquents mainly come. In Hawaii the delinquencies of youth under eighteen years of age are commonly taken before the Juvenile Court. There are comparatively few cases among the children who are less than ten years old, and so we are reasonably near the truth if we say that youth ten to seventeen years of age furnish the cases of juvenile delinquency.

I have, therefore, on the basis of census statistics and school statistics estimated the number of boys and the number of girls who have lived in the city of Honolulu each year from 1910 to 1930, and on the basis of these estimates have computed a ratio of juvenile delinquency, finding the number of delinquents for boys and for girls to each 10,000 children who live in the city. It may be noted that this procedure is not quite a perfect statistical procedure and for this reason: The Juvenile Court in Honolulu deals with all cases coming up from all parts of the county and the population figures I have used are for the city of Honolulu only. It would have been possible to have used the population figures of the entire county but this would have been illegitimate also and for this reason: While there

are a few children from outlying parts of the county who come before the court, their number is extremely small. We might say that the number of rural boys and girls who appear before the court is so small as to be nearly negligible. The actual cases that apear before the court are almost entirely from Honolulu. There appears to be less difficulty involved in assuming that all the cases are from Honolulu City than there would be in the other assumption that the rural districts contribute proportionately to the delinquency.

In the Appendix, Table 5, will be found a statement of the number of cases of larceny, the estimated number of boys ten to seventeen years of age and the number of delinquents to each 10,000 boys in this age group, and the figures are given separately for the Japanese and for all others.

Considering the year 1917, 1918, 1921, 1922 and 1923, the average number of cases of non-Japanese boys found delinquent on account of larceny was 264 per 10,000 boys ten to seventeen years of age resident in Honolulu, and similarly the ratio for 1924, 1925, 1927, 1928 and 1929 was 228. In the case of the Japanese the corresponding ratios were 86 and 46. If these figures may be assumed to represent truly the changing behavior of youth, we would have to say that the behavior is improving; improving notably in the case of the Japanese and improving a little in the case of all others considered as one group.

In the case of the girls a somewhat different procedure appears to be better. There are very few cases of delinquency on account of larceny in the case of girls and to use the larceny figures would not be of such importance as indicating trends in their behavior. Certain types of delinquency, as found by the Court, such as violation of the Curfew Ordinance, gambling and truancy, are principally confined to the boys. These were the types of delinquency that seemed to be most irregular corresponding to the changes of court policy, and such changes then do not effect the statistics for the girls so much.

In the second place, there has been in the history of the court statistics some considerable change in the names of the offenses of which girls are found guilty. At an early period when they were found delinquent at all it was usually put down in the book as "Idleness" or "Truancy." At another time they were largely put down as cases of "Disobedience" or "Incorrigibility". At a certain date the term "Immorality" was introduced and then the number of offenses for other causes diminished.

It does not appear to be possible to seize upon any of the titles under which the statistics are placed and to make use of them throughout the whole period because of the variations of

court practice in naming the offense. Probably there was not very much difference in the actual offenses; it was just a difference in the policy of the court in naming the offense.

It has seemed best, therefore, to use the totals in computing the ratio of delinquencies for girls. In the Appendix, Table 6, will be found data as to the total number of girls found delinquent and the number of girls living in the city; also the number of delinquents to each 10,000 girls ten to seventeen years of age. If computations for five-year periods are made similar to those that were given above for the boys, the results are as follows:

In the case of all girls, excepting the Japanese, the rate for the five years, 1917, 1918, 1921, 1922 and 1923, was 132; and the rate for the five years, 1924, 1925, 1927, 1928 and 1929, was 154. For the Japanese girls the corresponding rate was, for the first period, 32; and for the second period, 22. These figures, so far as they may be taken as indicating the behavior of Honolulu girls, would show an increasing delinquency for girls in general and a decrease in the case of the Japanese, whose rate was low even in the beginning.

Increase in the number of cases of delinquency on the part of girls is likewise capable of at least two interpretations. It may be that there has been in recent years an increase in the number of delinquents. On the other hand, it may be that there is an increasing disposition on the part of their parents, neighbors and others to report the cases of bad conduct.

I am not concerned here to go into the causes of the rather marked difference in the behavior of Japanese youth and of the youth in general of the city. There is the suggestion here, however, that if we would understand the causal factors that are contributing to the delinquency of our youth we would do well to study the experience of each group by itself. We would have on the one hand such groups as the Hawaiian and part-Hawaiian, where the rate is very high; and we would have the Portuguese, where the rate is somewhat high but improving; and we would have the Chinese, with a moderately low rate; and we would have a few small groups like the Korean and the Porto Rican with exceptionally high rates; while the Japanese rate would be exceptionally low. The rate for the Haoles is also exceptionally low.

A consideration of these different rates for the various groups will be of some assistance in discovering the social factors that influence the rate of delinquency. That is not, however, the purpose of this paper.

There still remains the question—Do the records of the Juvenile Court permit of any judgment whatever as to the trend

of delinquency in Honolulu? On the basis of questions I have asked of a good many people in the city I would say that the general public opinion is that delinquency has been increasing in recent years and has been increasing in a rather important degree. This seems to be the common opinion about the matter. The records of the Court, for the reasons previously mentioned, are not of such character as to warrant our saying conclusively that this public opinion is in error. Conceivably, this rather general impression of the public may be nearer right than any conclusion based on the statistical material. There are, however, certain reasons for doubting the value of the general impression. They are as follows:

The amount of attention that people generally give to such matters as juvenile delinquency and perhaps to crime in general is dependent on the degree to which their interest is absorbed in other matters. Their information about it is largely based on what appears in the newspapers and what the newspapers publish is to a considerable extent based on what other interesting things there may be to publish.

For example, in the latter part of March, 1918, just after the German drive toward Paris was inaugurated, it would have been pretty hard for any ordinary sort of a misdemeanor of youth to get into the newspaper at all, and quite certainly it would not have gotten headlines on the front page. The public was not in the mood to be interested in a little affair of petty thievery or even of burglary when the war was on. Our public interest was so largely absorbed in the war activities and activities subsidiary to the war that we did not have much time to think of other things, and so the newspaper would naturally reflect the state of public interest and would publish the things the readers were interested in reading, and most people would have been relatively ignorant of such things as juvenile delinquency.

On the other hand, when we are in a period of peace, when there is not very much of a tragic character to occupy the minds of people, when there is no great conflict on, the newspaper columns are bound to be filled with matters of less compelling interest. Items that would have been neglected in 1918 may get headlines in 1928 and stories that the ordinary reader would have passed by in 1918 he would stop and read in 1928.

Now it happens that nearly all the earlier history of our city experience after the city passed the 60,000 mark was in a period in which there were certain dominant conflict interests which more or less absorbed the attention of people. In the first place there was the war and then there was the period immediately after the war in which war issues were dominant. In 1920 there was a plantation strike in Hawaii. In the years following there was considerable controversy that grew out of the legislation

relative to foreign language schools. In 1924 there was another plantation strike. In the more recent years things have been pretty quiet and so, naturally, the public mind would turn more to the matters of less compelling interest and among these would be all matters related to public policy in the Territory. The public schools have received more attention, the question of taxation, the public improvements, the question of delinquency both adult and juvenile.

This, of course, is a good thing. These matters need attention. But the point that we are making here is this—if after a considerable period of negligence of these matters we begin to turn our attention to such things as crime and juvenile delinquency, if our newspapers publish more information about them and give more headlines and first page notice to them if public speakers begin to talk about them more, the natural result is that most people think that there is more delinquency even if there is not.

On the whole my belief is that the records of the Juvenile Court, if used carefully, afford a better basis for an opinion as to the behavior trends than does any impressionistic view of the situation. I would incline, therefore, to the view that the factors working for the improvement of juvenile behavior have been a little bit more important than the factors that have been working on the other side. But whether the rate has been rising or falling it has been high all the time. This is the outstanding fact.

Looking into the future one might make this forecast: Probably the city will grow less rapidly from 1930 to 1940 than it has grown from 1920 to 1930. This would mean a small movement from the country districts to the city. It would mean, as a consequence, a smaller number of boys and girls who would suffer from the particular type of unadjustment that comes from newness to city life. We ought to expect that the people who are already in the city will gradually work out an adjustment and that such adjustment will tend to reduce the rate of juvenile delinquency and of adult crime as well. If there is an increasing amount of unemployment and a lower rate of school attendance at the same time this will operate to produce an opposite result.

If we understand the whole situation better we would probably be able to take some definite steps of a character to facilitate improvement. My own belief is that we still know too little about the underlying causal factors to enable us to proceed with confidence. I could wish that some provision were made for a continuous study of our general situation in relation to crime and juvenile delinquency and that the general plan of such study should be worked out with the assistance of some man who is

particularly well qualified to render such assistance. I think, following Honolulu's common way of procedure, that we might do well to invite the most expert student of crime and juvenile delinquency in the country to come here for a few months to make a further study of our situation and to lay out plans through which we would carry on a continuous study for several years.

Tables Relating to Juvenile Delinquency in Honolulu and the Territory of Hawaii

TABLE 1.

Cases of Juveniles Charged with Delinquency Before the Court in Honolulu, 1919-1917.

(Some were not actually found delinquent.)

	1913		1914		1915		1916		1917	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
All Cases—										
All	420	91	306	50	551	103	400	99	421	78
Jap.	49	3	56	3	56	2	29	4	41	6
Larceny—										
All	95	6	124	3	129	3	118	7	110	4
Jap.	12	0	7	0	12	0	7	1	8	0
Idleness—										
All	42	21	18	15	41	22	70	16	6	5
Jap.	6	1	1	0	1	1	0	0	0	1
Disobedience—										
All	20	17	26	14	25	22	16	13	19	14
Jap.	0	0	0	0	1	0	3	0	2	3
Truancy—										
All	48	33	39	9	157	43	108	44	110	12
Jap.	7	2	5	2	15	0	7	3	18	0
Gambling—										
All	50	0	30	0	28	0	17	0	48	0
Jap.	7	0	0	0	5	0	0	0	2	0
Curfew—										
All	94	1	1	0	101	1	36	0	7	3
Jap.	13	0	0	0	18	0	7	0	1	0
Assault—										
All	30	3	30	0	27	0	12	1	41	2
Jap.	1	0	0	0	1	0	3	0	0	0
Others—										
All	41	10	38	9	43	12	23	18	80	38
Jap.	3	0	3	1	3	1	1	0	10	2

TABLE 2.

Number of cases of Juveniles found Delinquent by the Juvenile Court in Honolulu, 1917-1928

	1917		1918		1919		1920		1921		1922	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
All Cases—												
All	315	62	365	68	161	50	116	37	247	65	428	84
Jap.	41	6	41	7	21	5	11	3	30	1	71	9
Larceny—												
All	91	3	135	9	46	6	72	4	139	6	165	5
Jap.	8	0	12	0	8	1	5	0	18	0	24	0
Idleness—												
All	5	4	3	0	4	1	....	....	....	....	....	....
Jap.	0	1	0	0	0	0	....	....	....	....	....	....
Disobedience—												
All	18	14	35	22	16	21	20	12	....	....	15	1
Jap.	2	3	5	2	3	2	3	2	....	....	0	0
Truancy—												
All	91	9	104	11	46	6	13	1	53	4	57	3
Jap.	18	0	14	2	5	0	0	0	8	0	5	1
Gambling—												
All	32	0	13	1	18	0	4	0	8	0	30	0
Jap.	2	0	0	0	2	0	0	0	0	0	7	0
Curfew—												
All	1	2	1	1	0	0	0	1	....	....	58	0
Jap.	1	0	0	0	....	....	0	0	....	....	16	0
Assault—												
All	16	2	16	3	9	0	3	0	10	0	15	0
Jap.	0	0	3	0	0	0	2	0	1	0	0	0
Immorality—												
All	....	....	....	....	....	....	0	14	1	28	0	33
Jap.	....	....	....	....	....	....	0	1	0	1	0	4
Incorrigible—												
All	....	....	....	....	....	....	....	....	25	27	31	13
Jap.	....	....	....	....	....	....	....	....	2	0	6	0
Vagrancy—												
All	....	....	....	....	....	....	....	....	....	....	13	19
Jap.	....	....	....	....	....	....	....	....	....	....	1	3
Traffic—												
All	....	....	....	....	....	....	....	....	....	....	11	0
Jap.	....	....	....	....	....	....	....	....	....	....	4	0
Others—												
All	61	28	58	21	22	16	8	5	11	0	30	10
Jap.	10	2	7	3	3	2	1	0	1	0	8	1

TABLE 2 (Continued).

	1923		1924		1925		1926		1927		1928	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
All Cases—												
All	290	57	275	82	280	99	177	93	253	97	282	92
Jap.	30	4	26	7	30	9	17	7	25	7	26	3
Larceny—												
All	131	8	120	6	154	5	62	5	150	5	175	7
Jap.	13	1	8	0	15	0	3	0	17	0	13	0
Disobedience—												
All	0	11	3	6	2	2	0	2	3	5	4	3
Jap.	0	0	0	1	0	0	0	1	0	0	0	0
Truancy—												
All	37	1	18	0	19	2	5	0	7	1	10	0
Jap.	3	0	3	0	3	0	0	0	0	0	1	0
Gambling—												
All	4	0	14	0	11	0	7	0	3	0	16	0
Jap.	1	0	2	0	4	0	0	0	1	0	6	0
Curfew—												
All	5	0	1	0	12	0	21	0	3	1	4	0
Jap.	2	0	0	0	1	0	5	0	0	0	0	0
Assault—												
All	8	0	15	0	4	0	9	0	7	0	4	0
Jap.	0	0	2	0	1	0	1	0	1	0	0	0
Immorality—												
All	3	20	0	44	0	33	4	38	3	38	9	33
Jap.	0	0	0	3	0	6	0	3	1	4	0	2
Incorrigible—												
All	10	6	18	11	23	23	24	20	24	29	24	27
Jap.	0	1	0	1	0	1	0	2	0	1	2	0
Vagrancy—												
All	24	10	20	13	23	35	17	26	20	8	15	16
Jap.	2	2	2	1	3	2	4	1	1	1	2	1
Traffic—												
All	11	0	12	0	11	0	9	1	4	0	3	0
Jap.	3	0	4	0	2	0	0	0	1	0	0	0
Others—												
All	57	1	54	2	21	1	19	1	29	10	18	6
Jap.	5	0	5	1	1	0	4	0	3	1	2	0

TABLE 3

Number of Boys and Girls Committed to the Industrial Schools by all Courts in the Territory for Biennial Periods 1917-28. (Calendar Years)

	1917-18	1919-20	1921-22	1923-24	1925-26	1927-28
Boys—						
Non-Japanese	275	156	170	219	99	144
Japanese	.....	23	.....	.....	6	15
Girls—						
Non-Japanese	123	78	79	86	77	85
Japanese	1	3	2	6	2	4

TABLE 4

Number of Juveniles Declared Delinquent in All Five Judicial Circuits of Hawaii.*

	1913		1914		1915		1916		1917	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
First Circuit	420	92	306	50	550	103	400	99	315	62
Second Circuit	12	1	6	1	4	1	8	5	3	4
Third Circuit	5	0	1	2	1	0	3	1	4	1
Fourth Circuit	13	4	19	2	10	3	47	30	72	44
Fifth Circuit	0	1	0	0	4	8	6	2	13	6
Total	450	105	332	55	570	115	464	137	407	117

*Before 1917 the figures are for all cases before the courts.

TABLE 4 (Continued).

	1918		1919		1920		1921		1922	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
First Circuit* Honolulu Co.	365	68	161	50	116	37	247	65	428	84
Second Circuit* Maui Co.	2	4	6	1	1	2	12	5	6	4
Third Circuit* W. Hawaii	4	3	3	0	2	0	0	3	4	1
Fourth Circuit* E. Hawaii	42	15	47	18	18	12	24	2	35	13
Fifth Circuit* Kauai Co.	12	1	4	3	12	1	16	9	10	6
Total	425	91	176	72	149	52	299	94	483	108

TABLE 4 (Continued).

	1923		1924		1925		1926		1927		1928		Total	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
First Circuit	290	57	275	99	280	99	177	93	253	97	282	92	4866	1229
Second Circuit ..	5	5	17	3	17	2	14	5	21	5	9	1	143	57
Third Circuit	3	10	1	1	23	3	1	5	15	2	0	0	70	22
Fourth Circuit ..	28	12	16	9	22	9	13	8	33	10	24	4	463	195
Fifth Circuit	23	7	27	9	39	14	55	13	74	5	103	18	398	103
Total	359	81	336	104	381	127	260	124	396	119	418	115	5940	1606

TABLE 5.

Larceny: Number of Cases and Rates—Boys only—Honolulu.

	All except Japanese			Japanese		
Year	*Boys Delinquent	Number of Boys, 10 to 17 years of age in City of Honolulu	Ratio of Delinquents to 10,000 Boys	*Boys Delinquent	Number of Boys, 10 to 17 years of age in City of Honolulu	Ratio of Delinquents to 10,000 Boys
1913	83	3,209	255	12	876	137
1914	117	3,368	347	7	962	73
1915	117	3,523	332	12	1,047	115
1916	111	3,688	301	7	1,132	62
1917	102	3,847	265	8	1,218	66
1917	83	3,847	216	8	1,218	66
1918	123	4,007	307	12	1,303	92
1919	38	4,167	91	8	1,388	58
1920	67	4,326	155	5	1,474	34
1921	121	4,583	264	18	1,757	102
1922	141	4,841	291	24	2,039	118
1923	118	5,908	231	13	2,322	56
1924	112	5,356	209	8	2,604	31
1925	139	5,613	248	15	2,887	52
1926	59	5,870	101	3	3,170	9
1927	133	6,128	217	17	3,452	49
1928	162	6,385	254	13	3,735	35
1929	143	6,642	215	35	4,018	62

*The figures for the period 1913 to 1917 are for all those cases brought before the court. For later years ony those found delinquent are given.

TABLE 6.

*The Number and the Rates of Girls Declared Delinquent in Honolulu County

Year	All except Japanese: Girls Delinquent	All except Japanese: Number of Girls, 10 to 17 years of age in City of Honolulu	All except Japanese: Ratio of Delinquents to 10,000 Girls	Japanese: Girls Delinquent	Japanese: Number of Girls, 10 to 17 years of age in City of Honolulu	Japanese: Ratio of Delinquents to 10,000 Girls
1913	88	3,075	286	3	826	36
1914	47	3,223	146	3	908	33
1915	101	3,372	300	2	990	20
1916	95	3,521	270	4	1,072	37
1917	72	3,669	196	6	1,154	52
1917	56	3,669	152	6	1,154	52
1918	61	3,819	162	7	1,235	57
1919	45	3,966	113	5	1,318	38
1920	34	4,115	83	3	1,400	21
1921	64	4,364	147	1	1,680	6
1922	75	4,612	163	9	1,960	46
1923	53	4,861	109	4	2,240	18
1924	75	5,109	147	7	2,520	28
1925	90	5,358	168	9	2,800	32
1926	86	5,606	153	7	3,080	23
1927	90	5,855	154	7	3,360	21
1928	89	6,103	146	3	3,640	8
1929	101	6,352	159	11	3,920	28

*The figures are for all cases before court up to 1917 and for those found delinquent after 1917.

TABLE 7.

*Number of Boys Delinquent in Honolulu and the Rates.

Year	All except Japanese: Boys Delinquent	All except Japanese: Number of Boys, 10 to 17 years of age in City of Honolulu	All except Japanese: Ratio of Delinquents to 10,000 Boys	Japanese: Boys Delinquent	Japanese: Number of Boys, 10 to 17 years of age in City of Honolulu	Japanese: Ratio of Delinquents to 10,000 Boys
1913	371	3,209	1,156	49	876	559
1914	286	3,368	849	20	962	208
1915	395	3,523	1,121	56	1,047	535
1916	371	3,688	1,006	29	1,132	256
1917	380	3,847	988	41	1,218	337
1917	274	3,847	712	41	1,218	337
1918	324	4,007	809	41	1,303	315
1919	140	4,167	336	21	1,388	151
1920	105	4,326	243	11	1,474	75
1921	217	4,583	473	30	1,757	171
1922	357	4,841	737	71	2,039	348
1923	260	5,098	510	30	2,322	129
1924	249	5,356	465	26	2,604	100
1925	250	5,613	445	30	2,887	104
1926	160	5,870	273	17	3,170	53
1927	228	6,128	372	25	3,452	72
1928	256	6,385	401	26	3,735	70

*The figures 1913-17 are for all cases before court and later only for cases found delinquent.

APPENDIX No. 7

BEING

(a) LETTER FROM MISS MARGARET BERGEN CONCERNING EDUCATION AT INDUSTRIAL SCHOOLS

(b) LETTER FROM WILL C. CRAWFORD CONCERNING SAME MATTER

November 15, 1930.

HON. R. A. VITOUSEK,
Chairman, Crime Commission,
Honolulu.

Dear Mr. Vitousek:

In the study of individual children who are in the Industrial Schools, I discovered a condition that troubles me greatly. I am passing the information on to you as Chairman of the Commission to include it in the report if you desire, and I am passing it on to you as a member of the coming Legislature.

Until about fifteen years ago the educational work of the Industrial Schools was under the guidance and control of the Department of Public Instruction. At that date this work of the Department "was removed by Legislature amid great condemnation charges." These words I quote from a member of the Board of Public Instruction. I have not followed the history in the Journals of the Legislature.

Now for the results of fifteen years of experience.

There are 400 boys and girls in the Industrial Schools this year, who are without opportunities for standardized education. They have always been "underprivileged"—are the victims of neglect of home and community, and during their confinement in the Industrial Schools they have not had the advantages which the Territory affords the children of the community. They are, therefore, more "underprivileged" than ever before. The principle that governs Juvenile Court laws is that of *treatment* and not *punishment*, while the practice indicates that by sending the boy or girl to our Industrial Schools the Judge is inflicting the worst kind of punishment by depriving the boy or girl of freedom, of education and good social influences.

The Girls' School:

On June 30, 1930, there were enrolled at the Girls' School, a total of 140. 93 were in the academic department, ranging in age from seven to eighteen. Two uncertificated teachers were responsible for teaching these 93. The girls were divided into

eight grades and a course in typewriting was given. These teachers were on duty twenty-four hours a day—going from the school room to certain sections of the cottages for supervision of the girls during the afternoon and evening, and as there is no nightwatch, have the responsibility of the section at night. These two teachers are fine young women, but they are unable, for lack of preparation and of time, to keep their teaching methods up to the standards developed by the Department of Public Instruction.

The conditions of the Vocational teachers are the same. With the high standards of vocational teaching developed by the Department thru its Smith-Hughes advantages these underprivileged children should have the very best the Territory affords if they are to be returned to society better equipped for life than when they went in.

The Boys' School:

On June 30, 1930, there were 213 boys enrolled, with 78 in the academic department. All boys 14 years of age and under are compelled to attend school and those over 14 may attend if they wish. Sixty-six were under 14, and twelve were over, who were found in the academics department. The grades taught were from the first to the sixth, and only two hours a day are given to each grade. Here also, there are two teachers, but no other work is required of them except during week ends. These teachers are also "uncertificated." The Superintendent states that "Our vocational departments are well taken care of by very competent teachers", but, confidentially, a member of his Board said she thought the work in that department is very poor. Only a study of what happened to the boys after leaving the School would reveal the worth of the work of the department.

It seems highly desirable that the Board of Industrial Schools turn over to the Department of Public Instruction its academic and vocational work, which shall supply a sufficient number of successful teachers to place the Industrial Schools on a par with the best educational work in the Territory.

The age limit of children claiming free education in the United States and granted by the law of the States is as follows:

33 states grants free education to children until 21 years
8 states grants free education to children until 20 years
6 states grants free education to children until 18 years

Am I right in thinking that Hawaii has no age limit for free aducation?

The burden of the responsibility of the information now rests with you.

Very truly yours,
MARGARET BERGEN.

A STUDY OF JUVENILE DELINQUENCY

Educational Features of the Industrial Schools:

From reports submitted by the Superintendents as of June 30, 1930:

Total enrollment	boys	213	353
	girls	140	
Academic classes	boys	78	171
	girls	93	

Boys' Report:

"All boys 14 years of age and under are compelled to attend school. Boys above 14 may attend if they desire."

Number of boys 14 and under attending—66

Number of boys over 15 attending—22

"The grades taught are—1st to 6th. Two hours a day is given for each grade."

VOCATIONAL

"The number in vocational training *fluctuates* each week."

Construction	9	Tailoring	7
Pineapple	15	Farm work	15
Dormitory	16	Canefield	5
Cooking	9	Painters	5
Waiters	10	Taro patches	36
Laundry	6	Stone work	14
Mechanics	16	Yard work	9
Gardeners	15	Weeders, cutters	25

Girls' Report:

Reasons why all are not in academic classes:

a. Over school age
b. Mentally unfit
c. Diseased
d. Vocational work

Number of girls 14 and under attending—33

Number of girls 15 to 18 attending—60

The grades taught are 1st to 8th and Commercial.

VOCATIONAL

Lauhala	50	Housework	58
Sewing	50	Dairy	2
Gardens	99	Laundry	52
Cooking	33	Looms	4

November 29, 1930.

HONORABLE ROY A. VITOUSEK,
Chairman, Governor's Advisory Crime Commission,
Honolulu, T. H.

Dear Mr. Vitousek:

This will acknowledge receipt of your communication of November 26th, relative to the advisability of placing the educational work of the Industrial Schools under the guidance and control of the Department of Public Instruction.

As you know, of course, many years ago the Industrial Schools were under the administration of this Department. A separate board of control was finally organized by the Legislature because, as I understand it, the general feeling was that the problems of these schools were so different from the regular schools that a separate board could make a more careful study of, and administer, these special needs.

This Department has therefore had no connection with the Industrial Schools for a good many years and I really know very little about their educational program. If it is felt that this program can be better carried on by this Department, we shall, of course, be very glad to co-operate to the fullest extent. I do not believe that very much legislation would be necessary to effect this change. Naturally, some appropriation would have to be provided, which could easily include any necessary enabling act. This suggestion on my part is, of course, only a preliminary one and if it is the desire of the Commission, I shall be glad to go into the matter with the Board of Industrial Schools and find out definitely just what legislation would be necessary.

Before doing so, however, I should like to express my own personal opinion as to the proposed change. We have found through past experience both here and elsewhere that, generally speaking, educational classes carried on in organizations not controlled by the Department of Public Instruction are quite difficult to administer. This is true for several reasons.

In the first place, in the proposed organization the teachers would be under a considerable handicap on account of divided authority. They would be responsible to this Department, as far as their educational program is concerned, and yet to a

large extent they would also be responsible to the Industrial Schools on account of such items as hours of instruction, equipment, discipline problems, etc.

In the second place, the matter of equipment and school organization would be somewhat difficult under divided responsibility between this Department and the Industrial Schools.

In the third place, it is quite likely that a large percentage of the inmates of the Industrial Schools are sub-normal to a certain extent, so that a special type of teacher would be necessary. This would likely mean that we would have to go outside of our own ranks to get competent instructors. It is also likely that special courses of instruction would be advisable, which would necessitate the drawing up of special courses of study not used in the regular public schools. If the above assumptions are true, it is quite possible that the Industrial Schools would be in as good or better position to provide suitable teachers and courses of instruction.

In the fourth place, on account of the fact that the Industrial School pupils are continuous boarding pupils, it is quite possible that difficulty might arise over the living accommodations for the teachers and over the question as to how much, if any, responsibilities the teachers should take in the regular activties of the institution outside of the classroom.

I mention these difficulties not as excuses for not wishing to take over the responsibility of the educational program in the Industrial Schools but simply as a matter of information and better understanding of the situation. As stated at the outset of this letter, if it is decided that this Department can more efficiently administer the educational program of the Industrial Schools, we should be very glad indeed to co-operate to the fullest extent.

Yours very sincerely,

WILL C. CRAWFORD,
Superintendent.

WCC/ED

APPENDIX No. 8

SOME MEASURABLE FACTORS IN JUVENILE DELINQUENCY IN HAWAII

By ANDREW W. LIND

INTRODUCTION

The more complicated the social problem, the greater is the disposition of most people to find for it a simple and unitary explanation. The sheer chaos in our treatment of crime, arising out of the multiplicity of factors which interact to cause it, has led many intelligent persons to explain away the entire problem by some simple formula, such as feeblemindedness, glandular deficiencies, lack of education or the lack of religious training. If there is one fact which our past and present bungling methods of dealing with crime has clearly revealed, it is the futility of treating it on the basis of a unitary causal factor. The delinquent, as well as the normal individual, is responding to a multitude of dynamic factors, no one of which, taken in isolation, provides an adequate explanation of his behavior.

It is supremely important, therefore, to be able to distinguish some of the factors which enter into delinquent behavior and, if possible, to measure their potency under varying conditions. The following article is designed to point out a set of factors which, together with numerous others, play an important role in the entire picture of delinquency, and particularly juvenile delinquency, in Hawaii. It is assumed that probation officers, social workers, educators, and others interested in the behavior problems of children would need to take these factors into account when dealing with delinquency or setting up programs for its prevention.

It may be somewhat illuminating if not comforting to those who are grappling with problems of delinquency in Hawaii to realize that other communities, particularly those on the mainland of the United States, are faced with difficulties even more extensive and perplexing than those with which we are forced to contend. A recent volume on *The Child in America* is prefaced by one of the country's foremost sociologists with the following pessimistic statement: "At present . . . it is widely felt that the demoralization of the young persons, the prevalence of delinquency, crime and profound mental disturbances are very serious problems, and that the situation is growing worse instead of

better." The entire civilized world is experiencing a moral and social upheaval which is being reflected in vagrant behavior on the part of youth and high delinquency rates. Thus far the Territory of Hawaii has been spared from the worst manifestations of this process, but we have no reason to expect a permanent immunity from the social consequences in delinquent behavior of the undermining of the conventional codes by modern civilization.[1]

The Study of Types and Trends of Delinquency in Hawaii conducted by a committee of the conference of Social Workers of Hawaii a little over a year ago offered no evidence of a crime wave in Hawaii, but it did reveal a very perceptible increase in the rates of the more serious types of juvenile crime in the ten year period following 1919. We must await the results of the 1930 Census to check the accuracy of the findings, but it seems fairly evident that there has been a considerably greater incidence of Juvenile Court cases involving sex delinquencies and behavior problems in the later periods. Noticeable also was the shifting of adult delinquency into the younger age groups. This trend in crime parallels that of mainland communities and is closely correlated with the growth of the city population and its attendant indivilualization of behavior.

LOCATION

Of the specific factors involved in delinquent behavior, the one perhaps most readily isolated and measured is that of geographical location. It is well known that residence in the city is more conducive to delinquent behavior than residence in the rural districts. Not only are the law enforcement agencies more active, but the temptations and opportunities for law violation are much more frequent in Honolulu than anywhere else in the Territory. A segregation of the juvenile court cases in the Territory according to the place of residence of the delinquent reveals a very marked concentration in the city.

[1]Cf. Thomas, **The Unadjusted Girl.**

[1]**Table 1. Ratios of Juvenile Court Cases in Honolulu and the remainder of the Territory of Hawaii, 1924-1928.**

(Per 10,000 of public school population in the respective areas, 1926 and 1928.)

	City & County of Honolulu		Rural Hawaii	
	No. Cases	Ratio	No. Cases	Ratio
Larceny	656	101.9	168	32.4
[2]Behavior Problems	410	63.7	118	22.8
Sex Delinquencies	172	26.5	56	10.8

The chances, therefore, of a child running afoul of the law on any one of the three general types of delinquency indicated were about three times as great in Honolulu as in the rural sections of the Territory. The rapid growth of Honolulu bears its heavy social and financial costs in the disorganization of youth, particularly those who have but recently arrived. (Cf. Adams, *Peoples of Hawaii,* pp. 40-41.)

The spatial factor in juvenile delinquency is even more evident within the urban environment. The ratios of delinquency in the various geographical areas of Honolulu cover a range of from one-tenth to over three times the average rate for the entire city. By increasing the number of districts, the range in the ratios is correspondingly enlarged. Possibly because of the greater diligence of the minions of the law or perhaps because of the actual greater incidence of crime, but probably due to both, certain sections of the city develop a reputation for disorderly conduct while other areas are known as lawabiding. Honolulu, like every other western city, has its areas of personal and social disorganization, where gambling, suicide, drunkenness, and juvenile delinquency abound, just as it boasts of other sections which are relatively free from these pathological manifestations. Tin Can Alley, Buckle Lane, and Hell's Half Acre are as much a part of the city as Manoa or Nuuanu Valleys, and one's outlook and attitude towards life, including its conventional standards of behavior, are likely to be both colored and measured by one's residence in the one or the other of these two extreme types of areas.

A check of all the cases brought before the Juvenile court of the City and County of Honolulu during the four years 1926 to 1929 inclusive reveals a certain regularity in the distributions according to residence in the city, types of offenses, and racial ancestry. Spot maps on file at the sociological laboratory of the University of Hawaii provide the basis for most of the generalizations which follow.

[1]Based upon Reports of the Chief Justice of the Supreme Court, 1927 and 1929.

[2]A collective term covering a multitude of offenses of varying gravity, such as "disobedience", "waywardness", "incorrigibility."

[1]**Table II. Rates of Juvenile Court Cases in City of Honolulu, 1926-1929 According to Area of Residence of Delinquents and Type of Offense Charged.**

(Rates per 10,000 public school population.)

Residential Area	[3]Composite Rank	Offenses Charged							
		Larceny		Sex Delinquency		Behavior Problems		Gambling	
		No. Cases	Rate	No. Cases	Rate	No. Cases	Rate	No. Cases	Rate
Waialae & Kaimuki	10	40	86	9	19	7	15	3	6
Palolo	13	6	55	1	9	3	3	....	....
Waikiki	17	3	15	....	....	2	11	2	11
Moiliili	16	11	36	5	16	4	13	1	3
Manoa	18	4	36	1	9	4	36	....	....
McCully	15	5	21	2	4	4	17	3	13
Makiki	14	8	22	12	33	2	6	....	....
Punchbowl	11	6	60	2	20	5	9	2	20
Kakaako	1	46	139	11	33	17	51	7	21
Central	6	30	91	7	21	16	49	1	3
Pauoa	8	11	63	5	32	6	38	2	13
Upper Nuuanu	9	3	27	8	71	5	45	....	....
Central Nuuanu & Kunawai	7	39	92	13	31	14	33	2	8
Kauluwela	2	36	87	18	44	15	36	4	10
Palama	5	22	75	13	14	8	27	1	3
Iwilei & Aala	3	40	65	21	35	23	37	10	16
Kalihi-uka	12	4	55	1	14	1	14	....	....
Kalihi-waena & Kalihi-kai	4	48	78	38	62	35	57	4	7
[2]Totals		363	69	167	32	173	33	41	8

Judging from the experience of the four years under consideration, the chances of being brought into the juvenile court for some type of delinquency were roughly four times as great for the children living in Kakaako, Iwilei and lower Palama, Kauluwela, and Kalihi as for those living in Manoa or Waikiki. Other more favored areas were Moiliili, Waialae, Makiki, and the valley and heights reigions of the city, while the areas in the central and adjacent portions, and particularly those ewa of the business district had a uniformly higher rate of juvenile delinquency. It is in the area of poor housing, low rents and low residential land values, and high turnover of population that one naturally expects to find disorganization.

When the total delinquency rate is broken up into the component parts, certain significant variations from the general

[1]Data for 1927 omitted, due to inappropriate classification.

[2]The totals include some cases for which residential location could not be ascertained.

[3]Based upon rates of all types of delinquency.

pattern appear. A few areas, such as Kauluwela, Kakaako, and Kalihi exceed the average in all the more frequent and serious offenses, suggesting a fairly extensive disorganization within these districts.[1] Certain adjacent areas, such as Palama, Iwilei, Central and Pauoa, present a picture which is only slightly better, being above the average in only two of the three major delinquency types listed. Abnormal rates for larceny appear particularly in the central and sub-central sections of the city—the areas of low economic levels; while behavior problems, involving sex delinquencies among others, appear with abnormal frequency over a wider range of the city. Particularly noteworthy are the high rates of sex delinquencies in the upper Nuuanu and Makiki sections and the excessive rates of "waywardness," etc., in the Punchbowl and Manoa regions.

These are deviations from the general spatial patterns of delinquency in the city and constitute a special challenge to the community conscience of these areas.

It may be of some value at this point to indicate that the mere fact of location in the city is not to be taken as a "cause" of the delinquency. Rather it serves as an index or measure of a social milieu conducive to delinquent behavior. The description of this environment and the mode in which the juvenile functions within it is beyond the scope of this study. A series of case studies of individuals and communities far more intensive than anything yet attempted in Honolulu would be essential for such an analysis. It is obvious that the majority of children within even the most disorganized areas never have occasion to appear before the juvenile court, and it would be quite inaccurate to speak of the neighborhood as causing the delinquency in any specific case. Yet it is equally obvious that, knowing the neighborhood in which children live and move, we may predict with some degree of accuracy the percentage who are likely to become charges of the court. Additional knowledge, sociological and psychological, will be necessary to indicate *why* this is so.

RACIAL ANCESTRY

The statements just made with regard to the factor of location in delinquency apply perhaps with equal force to our discussion of racial ancestry. There is, so far as we know, no mysterious potency or urge in the Porto Rican which compels him to steal, and yet we know that the rate of juvenile larceny among this group in Honolulu is about four times that of all the groups combined. It is as true that the majority of the

[1]The findings of a previous study of vice and crime in Honolulu tend to substantiate this assertion. Cf. **American Journal of Sociology, September, 1930.**

Porto Rican children of Honolulu do not become delinquents as it is of the children of such districts as Kauluwela or Kakaako. We find, nevertheless, in the date of racial ancestry of juvenile delinquents, a factor of outstanding significance in the diagnosis and prognosis of crime in the community .

Table III. Rates of Juvenile Court Cases in City of Honolulu, 1926-1929[1] According to Racial Ancestry of Delinquents and Type of Offense Charged.

(Rates per ten thousand public and private school children)

		Larceny		Sex Delinquency		Behavior[3] Problems		Gambling		Vagrancy & Truancy	
	Composite Rank[2]	No. Cases	Rate	No. Cases	Rate	No. Cases	Rate	No. Cases	Rate	No. Cases	Rate
Hawaiian and Part-Hawaiian	2	137	139	78	79	97	98	15	15	13	13
Portuguese	5	76	148	26	51	31	60	4	8	4	8
Porto Rican	1	18	319	17	302	11	195	3	53	1	18
Other Caucasian	8	12	30	3	5	4	7	1	2	4	7
Chinese	6	54	62	15	17	10	11	6	7	2	2
Japanese	7	38	20	13	7	6	3	7	4	2	1
Korean	4	15	126	3	25	2	17	3	25	2	17
Filipino	3	8	89	9	101	7	68	1	11	1	11
Average		358	69	164	32	168	33	40	8	29	6

[1]Data for 1927 not included within this table, due to the lack of classification by type of offense.
[2]Based upon all types of offenses.
[3]Covers "incorrigibility," "waywardness" and "disobedience."

Many of the same general patterns which were found to apply to adult delinquency[1] in the various racial groups in Hawaii appear in the case of the juveniles, and probably many of the same factors enter into the problem. The abnormally high rates of the Porto Ricans in all types of offenses, but particularly in sex and behavior problems, immediately attracts attention. The fact that their ratio of sex delinquencies is almost ten times that of the average for the entire city, if it does not tell us anything as to the causation, surely indicates a valuable lead for further intensive case studies. Likewise the oft-observed disproportion of violations of the sex and property taboos among the Hawaiian and Part-Hawaiian group is confirmed in the present study and provides an important index of the location of the problem. The high ratios among the Filipino group are probably in large part functions of the length of their residence in the community and the degree of their assimilation of American life. We may reasonably expect a diminution of these ratios as time goes on. The high rate of delinquency among the Portuguese, particularly of crimes against property, calls for additional investigation.

[1]Cf. **Preparatory Studies, Annual Conference of Social Workers of Hawaii, 1929.** Data Bearing on Crime and Delinquency in Hawaii. p.p. 8-12.

RACIAL AND SPATIAL PATTERNS OF DELINQUENCY

One of the discoveries of recent years in the field of social research has been that the mere fact of the residential location of the delinquents offers an important clue as to the state of social health of the various sections of the community. In Hawaii we have found a combination of the spatial and racial factors of considerable assistance in the analysis of crime. Not only did we find a concentration of delinquency in certain areas of the city, but we also discovered a characteristic grouping of the delinquents according to racial ancestry within the city and city neighborhoods.

Briefly stated, our maps have revealed a rather striking paucity of cases of juvenile delinquency in areas where the concentration of population of a single racial group is high. Even within areas of general disorganization, such as the tenement and lodging house district, delinquency is not evenly distributed, and in fact is entirely absent from specialized sections within these larger areas. These blank sections within the zone of disorganization on our delinquency maps were found to correspond to the location of the small racial colonies—particularly the Japanese and Chinese camps.

A particularly striking illustration of this general tendency is observable in a portion of the Kauluwela district. To be specific, in the area A, located just off North Vineyard Street, our map showed a very high and almost exclusive concentration of Japanese population and likewise a complete absence of juvenile delinquency. Just across Vineyard Street, our maps indicated a rather non-descript neighborhood, B, where a few Japanese youngsters and a few children of every other racial and cultural group represented in the Islands—Hawaiian, part-Hawaiian, Portuguese, Porto Rican, Korean, Chinese, Filipino and others—were thrown together. Of fifteen Japanese school children in Section B, three were brought before the Juvenile Court during one year. A house-to-house canvass of these two sections revealed in Neighborhood A, a concentrated Japanese population of 342 or 89 per cent, as against 46 of all other races. In section B, our canvass indicated 140 Japanese, or 30 per cent of the total, mixed indiscriminately among 58 Koreans, 187 Chinese, 30 Filipinos, 28 Hawaiians, and 20 Porto Ricans.

In brief, we have two small areas located side by side within an area of disorganization, with much the same economic status, housing, and recreational facilities, but differing most markedly in the segregation and concentration of population. Neighborhood A shows a complete absence of cases of juvenile delin-

quency, Area B represents a high rate of delinquency not only of the Japanese but of other groups as well.

Is it true, however, that there is any consistent and uniform relationship between racial segregation or dispersion and social disorganization? Does juvenile delinquency generally occur less frequently in the racial colony than in the polyglot community? Investigation tends to give an affirmative answer to this question. For the city as a whole we find a rough inverse correlation between social disorganization, measured in terms of juvenile delinquency and dependency, and the degree of segregation and concentration of the immigrant colony. This correlation is particularly noticeable in the case of the Japanese community which because of its size has permitted the establishment of well defined and integrated neighborhood groups, but the same principle is illustrated in the Hawaiian, Portuguese, Chinese and "Other Caucasian" communities.

Rates of juvenile delinquency among the Japanese during the four year period investigated were markedly low in the Moiliili, upper Manoa, Waialae, Palolo, Kalihi-uka, and Kalihi-kai Japanese colonies. The highest rates for the Japanese are found in the Kalihi-waena, Palama, Kakaako and Kauluwela districts, where a considerable portion of the Japanese population live outside the racial colonies.

Isolated camps are less frequent among the other nationalities and the smaller number of the total population preclude the possibility of such large areas of solid settlement. A varying degree of residential segregation and concentration has occurred among all racial groups in the Territory and these areas of high concentration generally reflect a higher degree of social stability and health of the group thus segregated than would be true of the same population elements when widely diffused among other groups. The rather few cases of juvenile delinquency among "other Caucasians" are drawn almost exclusively from areas where the *haole* population is a minority group and there is an almost complete absence of "other Caucasian" court cases in such White strongholds as Manoa, Upper Nuuanu, Kaimuki, Waikiki, and Makiki. The Chinese population illustrates the same principle and even the Hawaiians, who provide such a high rate of delinquency for the city, appear to much better advantage in areas where they are most highly concentrated. The Hawaiian rates of 325 and 470 in Kalihi-kai and Kalihi-waena respectively, both noticeably below the city-wide Hawaiian rate of 499, are indicative of the meliorating influence of numbers of one's own cultural group upon juvenile delinquency.

It is extremely significant in this connection that the Hawaiians show the least tendency of any of the cultural groups

to maintain segregated areas of residence. They, more than any others, are indifferent to the racial complexion of their neighbors, and one is likely to find Hawaiians mixed indiscriminately among other population groups of the city.

SUMMARY

It is not the task of the research student to formulate a practical social policy on the basis of his findings, but he may be permitted and eventually he must offer some tenable interpretation of his data. As yet our investigations have proceeded far enough to partially illumine certain portions of the problem, and the brief generalizations which have been incorporated in the report should be understood as conforming to the limitations indicated.

Space does not permit, nor is it necessary to elaborate the principles by which delinquency is distributed spatially within the community. This problem has been adequately treated elsewhere,[1] and Hawaii's experience varies but slightly from that of mainland regions. Neither is it possible at present to adequately interpret the differential delinquency ratios of the various racial groups in Hawaii. Dr. Adams has suggested some of the salient facts which must be reckoned with in the analysis of racial crime ratios and he has indicated the extreme caution which must be exercised in drawing conclusions from them. The principal value of such ratios at present consists in the indices they provide of the location and extent of the problem.

It is significant that when these two measures of delinquency are combined, a more intelligible basis of interpretation is found. One of the most important functions of the racial colony in any city is that of providing, during the trying period of readjustment to a new culture and civilization, a haven where the habitual and customary patterns of life are unquestioned and absolute. Within the non-descript and disorganizing slum area of the city, where economic necessity usually compels the immigrant to settle, the racial colony or ghetto serves to conserve and foster the only cultural standards which the immigrant can understand. So too, for the second generation, caught midway in the assimilative process, the little Tokyo, Chinatown or little Portugal provides a milieu of stability and accepted values and codes. Unlike the amorphous slum, where all types and varieties of people, with as many diverse traditions and moral codes, are thrown together in a hopeless welter, the segregated racial colony does preserve one standard of behavior relatively unchallenged.

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[1]Shaw, C. et al, **Delinquency Areas,** 1929. The University of Chicago Press.

At least, the pains of readjustment to the new cultural standards are not nearly so acute as in areas where great diversity of tradition is encountered.

Buckle Lane and Hell's Half Acre are characterized not so much by the absence of moral codes and restraints, as by the conflict of a number of distinctly different cultures and values, none of which is taken very seriously by the second generation. Americanization, in the sense of the break-down of the traditional, moral controls proceeds at an unusually rapid pace in such areas. One sees in the flesh colored silk stockings hanging out to dry in front of the family shrine evidence of a rapid assimilation of certain aspects of American civilization, but one seldom finds in such sections any evidence of a vital substitute for the type of social control which is thus openly flaunted.