REPORT

OF THE

Minnesota Crime Commission

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State of Minnesota

JANUARY, 1923

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Hon. Calvin L. Brown, Chief Justice of the Supreme Court, State of Minnesota.

My dear Judge Brown: You have very kindly indicated your willingness to accept the chairmanship of a Minnesota Crime Commission to be appointed by myself. Such a commission, it would seem, can give study to the causes of crime and what methods should be adopted for the prevention of crime.

1. The delay in bringing criminals to justice should be corrected.

2. More effective methods in the apprehension of criminals should be considered.

3. The ease with which criminals can commit their depredations in farming communities and country towns and over good roads in fast automobiles make their escape to their places of concealment in the cities should be particularly looked into with the view of determining whether further facilities for policing our state are necessary than those we have in the peace offices now established.

4. The advisability of having a central bureau for records of criminals should be determined.

5. Already we have in this state a statute imposing greater penalty where crimes have been committed and where the person charged has been equipped with firearms. It might be considered whether the use of firearms and an automobile in the commission of a crime should also add to the severity of the penalty.

6. Straw bondmen should be eliminated.

7. Section 7 of article 1 of the Constitution of the state of Minnesota provides that: "All persons shall before conviction be bailable by sufficient sureties." The practice in the state is, however, that a person after conviction is almost invariably given his liberty upon bail. Limitations should be placed thereon.

8. The carrying of firearms has been abolished in several states and should be considered by the commission.

These and many other questions relating to the prevention of crime and making Minnesota a safer and better state to live in and enforcing statutes upon our books and the passing of other laws relating thereto, if given thought and study by the commission will, I believe, improve conditions in this state.

I shall appoint the following on the commission:

MEMBERS OF THE MINNESOTA CRIME COMMISSION

Hennepin County

Hon. Calvin L. Brown
Mrs. Robbins Gilman
Mrs. David F. Simpson
Mrs. W. W. Remington
Miss Caroline Crosby
Judge W. E. Hale
Judge W. A. Lancaster
Sheriff Earle Brown
Rev. Roy L. Smith
W. A. Frisbie
Geo. H. Richards

Ramsey County

Hon. Thomas D. O'Brien
Judge J. C. Michael
Mrs. H. A. Tomlinson
Mrs. W. J. O'Toole
Mrs. Louis M. Benepe
Miss Bertha Wolff
Rev. H. C. Swearingen

Anoka County—Judge A. H. Giddings

Blue Earth County—Judge Lorin Cray
Mrs. J. R. Brandrup

Beltrami County—Judge Charles W. Stanton

Carlton County—Sheriff H. W. McKinnon

Crow Wing County—Sam Alderman

Jackson County—E. H. Nicholas

Marshall County—Judge Andrew Grindeland

Olmsted County—Hon. Burt W. Eaton

Otter Tail County—Sheriff J. S. Billings
Hon. Clifford L. Hilton

Martin County—Sheriff W. S. Carver

St. Louis County—Judge W. A. Cant
Warren E. Greene, County Attorney

Scott County—Hon. Julius A. Coller

Washington County—F. A. Whittier

Very truly yours,

J. A. O. PREUS.

REMARKS OF GOVERNOR J. A. O. PREUS AT THE OPENING MEETING OF THE MINNESOTA CRIME COMMISSION, JUNE 3, 1922

The purpose of your commission should be to make punishment of criminals swift and certain in Minnesota. When criminals find out that in this state when a crime is committed the culprit will be apprehended with almost absolute certainty, then quickly tried and committed and rarely and only in extreme cases as at the present time, extended clemency, then and only then, will our people be safe.

Good roads and high powered cars have made the escape of criminals far more easy than was the case before the advent of good roads and automobiles. In a half or three-quarters of an hour a person can pass into and out of the jurisdiction of almost any sheriff in Minnesota by crossing his county. When a criminal adopts this method of escape, you should determine whether the present system is adequate to change conditions. There is no reflection upon sheriffs that their tasks have been made more difficult and at times almost impossible, for they are not equipped with funds or methods of operation suited to modern means of locomotion. In fact, whatever you may recommend, I sincerely hope will be thoroughly approved by the sheriffs of the state. They need in no way be disturbed in their activities or interfered with.

You may all, or many of you, have an opposite view from myself, but I am of the opinion that if criminals are to be apprehended quickly and with certainty we must have some central bureau of identification as well as a state police system. While we have constables, municipal police, sheriffs, etc. nevertheless we have game wardens protecting game and fish of the state. No opposition is made thereto by local officials and if the game and the fish are worth protecting so are the people both in person and in property. We have a state fire marshal's office, the duty of his deputies being largely that of detective work to apprehend incendiaries. If it is important to reduce the loss ratio by fires, which it is, and a state office is necessary for that purpose, it is equally necessary to do away with the lawlessness in this state so far as other crimes are concerned. Comparative statistics are

unnecessary though they militate against law enforcement in European countries as well as in Canada. In a well organized community our ambition should be to substantially do away with the commission of crimes.

It is a reflection upon the efficiency in government of a community that it cannot properly eliminate all crimes committed out of desire for gain. The objection will be raised that it will cost too much money and add to the taxes of the public. I believe a great part of the expenditures necessary for such a system, if not all of it, can be collected in connection with taxes, fines and penalties for violating the automobile tax law. We all know that criminals when they use automobiles frequently exchange tags in order to delude police officials. Well trained state policemen would upon suspicion compare the engine numbers with the tags in order to identify cars. Insurance companies writing theft insurance upon automobiles could well afford to pay a tax for the maintenance of such police officers if thefts thereby could be substantially reduced.

When our constitution was amended two years ago providing for a state hard surfaced road system of seven thousand miles, it would not have been unwise had it been provided that out of the taxes upon automobiles the patroling of these roads might be provided for. The amount required would have been trivial upon each car.

Unless traffic laws passed in this state as regards the weight of trucks and truck loads our roads are going to be destroyed. Such a law will be violated unless there are people charged directly with the duty of checking up violations of traffic laws. I hope that you will consider the advisability of such a state police system and consider methods of financing one if you believe it advisable.

In bringing criminals to justice, consider limitations upon granting of bail to prisioners after conviction. The advisability of prohibiting firearms except where specific authority is given to do so should be considered. Straw bonds should be eliminated nor would I endeavor to limit the scope of your investigations and conclusions by these remarks but merely ask you to ascertain the needs of the state for better methods of bringing criminals to justice. I wish to thank you all for accepting the duties placed upon you as members of this commission.

REMARKS BY CHIEF JUSTICE BROWN AT THE OPENING SESSION OF THE MINNESOTA CRIME COMMISSION NAMED BY GOVERNOR J. A. O. PREUS

Members of the Commission:

However earnestly and faithfully we may proceed in the matters to come before us, and in furtherance of the objects sought to be accomplished by the Governor in the appointment of the Commission, we neither hope nor expect to stem the tidal wave of crime now sweeping over the state—over the United States—and the world over. Our presence here, engaged in the work of devising ways and means to bring outlaw to speedy trial and conviction, followed by prompt sentence to prison, will not be felt by that element, and none thereof will run to cover because we are thus engaged. The lawlessness of the present day is unprecedented and with a boldness never before experienced in the state. The old professional robber and bandit has been joined by the younger element, mere boys, who in boldness have outdistanced the old offender in recklessly, if not wantonly, shooting and killing their victims even though unnecessary to effect their own safety and escape. Many of these have been apprehended, convicted and sent to prison, while perhaps the greater number have succeeded in escaping detection, and go about the streets with heads erect, on the lookout for some new venture. We do not expect to check this, and it must go on until the wave runs it course.

But it is believed that the Commission may do much in suggesting improvements in our present criminal procedure, by eliminating requirements of no material value either to the state or to accured; many of which substantially handicap the state in the prosecution and enable the accused person to prolong the proceedings through the courts upon technical grounds and thus delay the day of final judgment, in the meantime being permitted to go at large on bail. Many technical requirements of the law of procedure are available for this purpose which lawfully may be dispensed with by proper legislation; the courts cannot ignore them, except to a certain extent after trial and a verdict of guilty returned; in that situation the courts in this state, as well as many other states, look to the evidence to test the verity of the verdict,

and if it be found clearly supported by the proof, errors and omissions during the trial which do not deny or essentially impair a constitutional or substantial right of the accused are brushed aside as without prejudice to him. Of course no right given by the constitution can be taken from a defendant, or materially impaired by statute; but ordinary methods of procedure are within legislative control, and may be changed from time to time as that body may deem expedient and proper.

We have at present an abundance of statutory law on the subject, and there is no occasion to do more than to remove by amendment some of the worn out requirements—those not suited to present conditions, and tend only to prolong unnecessarily the due administration of the criminal laws. And in suggesting changes and modifications we should move cautiously and with due deliberation.

Some matters of substantive law, in respect to the suppression of crime and the punishment of offenders have been brought to your attention by Governor Preus—a brief reference to which may be made. They are as follows:

1. The delay in bringing criminals to justice.

2. More effective methods in the apprehension of criminals should be provided.

3. The establishment of a state constabulary as a counter move to repel lawlessness upon the public highways, and to facilitate the capture of that class of criminals who can afford an automobile in furtherance of their ends.

4. The propriety of increasing the penalty for a crime where an automobile is used in its commission.

5. Restricting the right of bail after conviction, and

6. Whether carrying firearms should be prohibited.

These points suggest important matters, and should receive due and proper attention. The first relates to the delay in bringing criminals to justice. That there is a delay, in many instances an unusual delay, must be and is admitted, it exists and is not disputed. One factor causing the delay is the necessary compliance with the forms of procedure required by the constitution and the laws of the state, an observance of which in all criminal prosecutions cannot be dispensed with. But forms of pro-

cedure and their observance, not technically but substantially, are just as important in the administration of criminal law as the law itself. If not followed and applied, chaos would follow and mob violence result, as often occurs in some parts of the country, even in Minnesota.

STATE CONSTABULARY

The proposed state constabulary is an important subject and has been well explained by Governor Preus. There may be some difficulties in the way of this proposal which unless carefully guarded against, may result disastrously to that as a plan in aiding in the capture of outlaws in the outlying districts of the state. There can be no friction, or feeling antagonistic to the plan from within, or between the officers of the counties outside the large cities and the state forces; any plan which will create possible conflict as to superior authority between the state constabulary and the local officers will work a serious obstacle to favorable results. A conflict of authority between officers of the law is a far greater menace to contemplate than the occasional escape of a thief.

RECORD OF CRIMINALS

The matter of a bureau for the record of known criminals no doubt has its value in the detection and apprehension of criminals. It will receive proper attention.

INCREASE OF PENALTIES

The matter of increasing the penalty of all crime where an automobile is made an agency in the commission thereof is worthy of special thought. But it may be remarked that it is not so much the penalty or the term thereof which deters the criminal. That does not disturb him. What will throw terror into him and his kind is the fear of an unrelenting pursuit by the officers of the law, his capture and speedy trial and conviction; the question uppermost with him is, to use the street expression, "Can I get away with it?"

BAIL AFTER CONVICTION

The matter of bail after arrest and pending the trial is fixed by the constitution and cannot be denied. Whether it shall be

allowed after trial and conviction rests with the legislature. It has been provided for in this state, and an application has generally been granted in bailable cases. Under our present statutes either the trial judge of justice of the supreme court may admit to bail pending an appeal. Whether the right to so grant bail after conviction should be taken away must rest with the legislature. But there is one thing that can with propriety be done, and that is to limit the authority to grant bail on appeal to the trial judge; the matter should not be vested in a member of the supreme court at all. They know nothing of the case when the appeal is taken, and are in no position to judge of the propriety or impropriety of granting an appeal for bail. The record in the case does not reach the supreme court until about the time the appeal is called for argument, and the act of a member of that court in granting bail is perfunctory and an arbitrary exercise of statutory authority, without knowledge of the facts which should be known to enable intelligent action in the matter. So that the right to grant bail pending an appeal should be left exclusively, in my judgment, with the trial judge, who is familiar with the facts of the case and in better position to act.

This in a general way covers the matters suggested by the Governor. But closely related thereto are some other subjects to which I beg the privilege of making brief mention. The first has reference to our criminal procedure, and the delay in precaution.

CRITICISM OF COURTS

The courts of the state are not open to criticism for this delay, whatever it may be. The trial judges of the state are entitled to credit for the part taken by them in the administration of the criminal laws. Their work as a rule is promptly and expeditiously dispatched and the criminal calendars in all save the more populous counties are cleared from term to term.

The crime centers are found in the large cities of the state, where opportunities for lawlessness and facilities for escape are plentiful. There congregate that element in large numbers, forming bands of three or four who work in conjunction, one serving as a lookout to warn of approaching danger. I believe the great majority of those committing crimes in those centers are apprehended and made to suffer the penalty prescribed for the offense committed. But there is delay in securing convictions, not owing

to any dereliction on the part of the courts or public officials, but because of the large volume of crime and the consequent congested conditions of the criminal calendars; facilities for the speedy and prompt trial of indictments are at times inadequate; the courts are in session all the time, save during the summer vacation, busily engaged in the work presented to them, while the criminals are also constantly at work furnishing additional material which accumulates faster than the courts can put it through the hopper in the due course of procedure.

There are at this time over 300 criminal cases awaiting trial in Hennepin County; the number is much smaller in Ramsey as well as in St. Louis County. In most of the cases the defendants are out on bail, and, of course, in no hurry for trial. And it is very probable that before many of them are reached in their order on the calendar the witnesses will have scattered and gone beyond the reach of a subpoena, resulting no doubt in the failure of the prosecution, a result attributable to the lack of court facilities and not to any failure of duty on the part of the prosecuting officers. In the situation thus presented, and there will be no substantial change in the near future, it is likely that the legislature will soon be called upon to create an additional court for the large centers with jurisdiction co-extensive with that of the district courts, but limited to criminal matters only.

THE RULE OF REASONABLE DOUBT

In a recent address at St. Paul the president of the American Bar Association, Hon. C. A. Severance, discussed to some extent the matter of reforms in criminal procedure, in the course of which he suggested certain specific changes which he thought might well be brought about.

1. That the rule requiring the state to establish the guilt of the accused by evidence beyond a reasonable doubt be abolished, and the preponderance of the evidence, the rule applicable to civil actions, adopted in its place; 2, that the state be given the closing address to the jury; and 3, that the law be so amended as to permit the states to call the accused for cross-examination, as in civil actions. Coming from such high authority the matters suggested are worthy of special attention by the Commission.

The rule of reasonable doubt is created by statute. G. S. 1913, section 8508. It is applied in all criminal prosecutions in this and

other states. It requires a greater weight of evidence than in civil actions, where the preponderance rule prevails. The rule may be changed by an amendment of the statute if deemed expedient and advisable.

ARGUMENTS TO JURY

The right to the closing argument in a criminal prosecution is given the defendant by the statute. In most of the states it is given to the prosecution. Repeated efforts have been made to bring about a change in this state, but without success; the legislature has declined to make it. Whether another effort will meet the same fate cannot be foretold.

CROSS-EXAMINATION OF DEFENDANT

The state can be given the right to call defendant on the trial for cross-examination only by an amendment to the constitution, wherein by section 6 of article 1, it is declared that no person accused of crime shall be compelled to be a witness against himself. The protection thus given an accused person is fundamental and was intended to guard against a return of abuses practiced in olden times under former standards of criminal procedure. It is doubtful whether a change could be brought about. There was a time in this state when the accused was not permitted to be a witness at all, in his own behalf or otherwise. Such was the old rule in other states. The theory of it was that a person accused of crime could not be expected to tell the truth, and rather than permit him to go on the witness stand and perjure himself to effect his acquittal, thus to heap sin upon sin, he was by law commanded and compelled to remain silent. That was a rather harsh rule. It was changed in this state by statute in 1868, and since then an accused person may become a witness in his own behalf, or remain silent, as he shall elect. He cannot be compelled to take the stand; and if he elects not to do so, no comment on his failure to testify by court or opposing counsel is permitted. The restriction might well enough be removed, provided, that when defendant takes the stand his cross-examination be by statute limited to the subject-matter of the particular case, and not extended over his life history.

IMPANELING JURIES

It is just as important that we have men and women of character and fitness to serve upon the trial jury, as that we have

men of character and fitness on the bench. The general policy of the officers charged with the duty of selecting the list of available persons for jury service has been to name those thus qualified. But when it comes to impaneling a jury for the trial of a particular action, the tendency has been to select those thought by the attorneys to be favorable to their side of the case. Jurors called are subjected to the most searching inquiry by the attorneys, particularly in criminal causes, and often offended by the class of questions put to them. It has frequently taken days, and weeks to select a jury in a criminal case, much to the annoyance and great inconvenience of the jurors sleected to serve; for those chosen early in the proceedings are required to remain in the jury box for days listening to the humdum questioning of those subsequently called. This situation has driven many men of character and active business life to shun jury service, and whenever possible to secure a release from the trial judge. The same situation will soon be presented when women become more frequently called for that service; they too will seek to avoid it and in the main for the same reasons. The right to interrogate the jurors as to their qualifications, has always been extended to the attorneys in this state; this by a practice grown up in the trial courts, and not by statute. It has been claimed by those who have given the matter serious attention, that the practice has outgrown itself, and become the cause of long delay in the trial of criminal cases, as well as to have driven high class citizens from jury service. The criticism has merit, and a departure from the practice in this respect may well be made. A change has been advocated by a committee of the American Bar Association lately at work on the subject of law reform at Chicago. But no concrete remedy has been offered.

THE REMEDY

I believe there is a remedy, and will ask the privilege of the commission to present it for consideration in the form of a proposed amendment to our statute on the subject of challenging jurors. In a word the change to be proposed will be to take from the attorneys altogether the right to interrogate jurors as to their bias, prejudice, or fitness for service, and impose the duty exclusively upon the trial judge, under such statutory directions as will insure a full and complete examination of each juror called and challenged.

Such is the procedure in Massachusetts, New Hampshire and other eastern states, and my information is that it works well in practice. It can be established in this state by an appropriate amendment of our statute. With the examination in the hands of the court the selection of a jury will proceed without the long delay now often experienced and with the sole object of getting a fair minded set of men and women in every case; rather than one believed to be partial to one side or the other.

THE WRIT OF HABEAS CORPUS

The writ of habeas corpus is one of the most ancient of our common law prerogative writs, available to the citizen in defense of his personal liberty. It comes to us from centuries of use in England and is protected by the constitution of the several states, including Minnesota, wherein it is declared that the privlege of the writ shall never be suspended save in the time of rebellion or insurrection.

It is curious to note that originally and for two hundred years or more prior to the sixteenth century, the writ was employed exclusively as a judicial method of getting people into jail ann prison; the function now served by the commitment issued by the courts of today for that purpose. But in the evolution of judicial procedure during the later centuries the writ became firmly established as one of liberty, and to get people out of prison when unlawfully detained therein. The change is said to have had its origin during the reign of King Charles II, and to release from prison some members of the English parliament who were confined therein on the order of the king.

In this country the writ with that limited scope has frequently been misused and the privilege abused. It is often applied by those convicted or accused of crime with the view and purpose of postponing the day of trial and punishment and circumventing the authorities in their efforts to secure a speedy and expenditious hearing. Men ordered by the Governor of the state in extradition proceedings to be returned to a state demanding them on a charge of crime committed therein have been able by the use of the writ to hold the matter in abeyance and frustrate a return of the accused to his home state for trial for months at a time. About two years ago a man was indicted in Minneapolis on the charge of conspiracy to violate the prohibition law. When arrested and

taken into court he pleaded guilty and was sentenced to a term of two years in the Federal Prison at Leavenworth, Kansas. He did not take the sentence kindly, and by means of the writ of habeas corpus and dilatory appeals succeeded in keeping the officers at bay for over two years. He was finally taken to Kansas and placed in prison and at last accounts was working the writ in that state in further and final efforts to circumvent the law.

It seems hardly necessary to say that a judicial process that can be so employed to escape jail for two years by a convicted person, after having pleaded guilty to the charge against him contains some defect which ought to be removed. A remedy thought to have merit will be brought to your attention.

TREATMENT AND PUNISHMENT OF JUVENILE OFFENDERS BETWEEN THE AGES OF SIXTEEN AND TWENTY YEARS

For ages prior to recent times the policy of the lawmaking authority in all countries, in respect to the criminal law, has been a studied effort to make the punishment fit the crime; and the efforts have been quite generally successful. Murder is divided into three degrees and a punishment imposed commensurate with the enormity of the act causing death. Manslaughter, a crime of the same class, is also divided into degrees and the punishment graduated to meet the character of the act or acts constituting the offense. Robbery has three degrees, and the punishment fixed to correspond to the element of wickedness ascribed to each degree. Larceny is likewise graded. A theft of twenty-five dollars under certain circumstances constitutes petit larceny, punishable by a jail sentence. The theft of over twenty-five dollars under the same circumstances constitutes larceny in the second degree, and is punishable by a term in prison. Many other crimes are also graded with punishment to fit the the circumstances of each grade. Further reference to them is not necessary. That has been the policy of the law for centuries, and has perhaps for its support the predominant element of vengeance. But there has come in recent years a change; there has risen a tendency, in may states, which has found expression in statutory enactments, to change the law and to make the punishment fit the individual, rather than to fit the crime of which he was convicted. This

change is found in our indeterminate sentence law, the probation, the suspended sentence and the parole system for dealing with and treating the young offender.

The probation and suspended sentence laws, as well as the parole system have been challenged in some quarters, and a demand made that we return to the system which took no special account of the mentality of the offender when not reaching the point of insanity. The Commission may well speak upon this subject, and express itself in the final report to be made. The great merit in the suspended sentence law, and the parole system. is found in the effort thus put forth to save the young man or young woman from a life of crime, and by considerate and helpful treatment place them in a condition mentally to lead a proper life in the future. The propriety of abandoning those efforts may be seriously doubted. The vengeance of the law may well be tempered with the humane efforts connected with and the basis of the parole system.

CALVIN L. BROWN.

June 3, 1922, at Saint Paul, Minnesota.

REPORT OF COMMITTEE ON BUREAU OF CRIMINAL RECORDS

Your Committee on Bureau of Criminal Records asks leave to report as follows:

We find that this state has no statistics of crimes committed, nor is there any data from which such statistics would be made. It is true that the state institutions can furnish figures as to convictions, and the attorney general reports the results of trials held, but there are large numbers who commit crime that are not apprehended, and therefore under present conditions, there seems to be no real record of crimes committed nor do we find any system by which those charged with the administration of criminal law may take advantage of such information even if it is to be available. Realizing the importance of this information and the assistance it would be in the apprehension and treatment of criminals, your committee would recommend the establishment of a Bureau of Criminal Records and Criminal Investigation, such a bureau to be operated under the direction of the State Board of Control, who shall appoint a director and have general supervision of the work of the same; the director to be authorized to employ such assistance as may be necessary.

We recommend that legislation be enacted making it mandatory that all peace officers shall report promptly to such a bureau all felonies committed within their jurisdiction, and such additional information from time to time that has a bearing on the case. We recommend that the director of the bureau be authorized to employ or appoint such special investigators as may be deemed necessary to aid in the apprehension and conviction of criminals, such special investigators to be available where the local authorities are in need of such special assistance. We recommend that the records of this bureau be at all times available to the peace officers and prosecuting attorneys of the state.

We further recommend that this bureau should work in harmony and co-operate with similar bureaus of other states. We further recommend that a sufficient appropriation be made to the end that the work of the bureau may be effective and worth while.

(Signed) F. A. WHITTIER,
Chairman.

To Chief Justice Brown:

Your Committee on Punishment and Parole beg to submit the following report:

Soon after our appointment it was suggested to your honor by the Rev. Roy Smith and the chairman of this committee that another committee on the causes of crime be added to those already named by you. After due consideration you declined to name a new committee, but did ask this committee to report on the origin of crimes as well as upon punishment and parole.

Rev. Roy Smith was made chairman under the Committee on Punishment and Parole of a subcommittee for this part of our work. On investigation this committee decided that nothing of value could be accomplished without an executive secretary and ample stenographic help. No funds being available and none of the state departments being able to spare any men from their force for the work, the committee was able to make only a cursory investigation into the causes of crime. In this work they called to their aid a citizen's committee composed of those who had come closely in contact with offenders against the law, with our youth, and with the mentally defective. The members were: Judge Edward Waite, Judge of the Juvenile Court of Hennepin County; William Hodson, head of the State Children's Bureau; Dr. Arthur S. Hamilton, Professor of Mental and Nervous Diseases at the University of Minnesota; Dr. Dealy-DeVreak, Assistant Professor of Educational Psychology; Dr. George B. Safford, Superintendent of the Minnesota Anti-Saloon League; Dr. Max Sehan, head of Children's Mental Clinic, State University; Dr. F. Kuhlman, Director of the Minnesota Bureau of Research; Charles E. Vasaly, Superintendent of the St. Cloud Reformatory; Mr. Cheney Jones, head of the Children's Protective Society; A. F. Benson, Superintendent of the Jordan Junior High School; Miss Florence Monahan, Superintendent of the Women's Reformatory, and Mr. Earle Brown, Sheriff of Hennepin County. Mr. Vasaly, Mr. Brown and Dr. Kuhlman were unable to attend these conferences.

Many of these recommendations which follow are a result of conferences with this citizen's committee.

Both committees are unanimous in recommending that an interim commission, properly manned and financed, be established for the study of the causes of crime and such material for

this study is on hand in this state, but needs to be collected and classified. We believe such study would prove of great value to the state in exposing conditions which invite to crime and pointing the way to its prevention.

Governor Preus sent a message to our committee recommending that a course in the fundamentals of government and the responsibilities, duties and privileges of citizenship be provided and made compulsory in our public schools.

On investigation your committee found that such a course had been formulated by the State Board of Education in 1920, and put in practice in 1921. This course covers all the grades, from the first through high school. In the future no diploma will be granted from the grade or high school unless the student has passed a satisfactory examination in citizenship. We believe that this course cannot fail to leave the impression on our youth, and that it will contribute greatly to reverence for and observance of the law. We recommend that all private and parochial schools adopt this course.

In the matter of capital punishment we have a majority and minority report to submit as follows:

REPORT OF MAJORITY OF COMMITTEE ON CAPITAL PUNISHMENT

We, the undersigned members of the Committee on Punishment and Parole believe that capital punishment should not be restored in Minnesota:

1. Because leading penologists in all countries are unanimous in their belief in the effectiveness of the punishment and of its brutalizing effect upon society.

2. Because it has never been shown that capital punishment is a crime deterrent. In the course of history this form of punishment has been used in more than fifty crimes, and in none of them has it been followed by a decrease in the particular crime for which it was inflicted.

At the present time the states which use it are conspicuous in many instances for the number of murders within their borders, notably New York, Georgia, and Illinois. There are at all times in Cook County jail in Illinois from ten to twenty prisoners waiting execution.

3. Because under prison sentences in our own state murder has steadily decreased, the murders for 1919-1920 being about one-half of those committed in 1911-1912.

4. Because executions have a brutalizing effect upon communities. The state gives practical demonstration of this by making them as private as possible. Did they convey any lesson they would be made as public as possible. Wardens in many prisons are ready to testify to the demoralizing effect of executions within the prison upon the prisoners.

5. Because capital punishment is out of harmony with the faith and practice of a Christian nation.

6. Because not the kind of punishment but certain and swift apprehension, followed by the speedy administration of justice is now known to be the great crime deterrent.

Signed: MRS. GILMAN,
MRS. O'TOOLE,
MRS. REMINGTON,
MRS. SIMPSON,
DR. SMITH,
DR. SWEARINGEN,
MR. WHITTIER.

MINORITY REPORT OF COMMITTEE ON CAPITAL PUNISHMENT

We, the undersigned, believe that capital punishment should be restored in the state of Minnesota, in cases of murder in the first degree, committed in attempts at rape or robbery and other aggravated cases, where proof is convincing; the trial judge to have power to certify to exceptional circumstances, and reduce the punishment to life imprisonment and the jury by recommending clemency to so reduce also.

We cannot subscribe to the conclusion of the majority of the committee.

While it may not have been proved mathematically that capital punishment reduces crime, neither has the contrary been proved.

We have only the opinion of students of crime to go by, and we think that the better opinion is that such punishment does restrain criminals.

Letters received from the attorneys general of all of the States strongly confirm us in our opinion. Where opinions have been expressed by them, they are largely in the affirmative.

True it is said by the majority that in states where capital punishment prevails large numbers of murders are committed and the same may well be said of the other states, a conspicuous example of which is our own state. If there are large numbers in jail in Illinois awaiting execution, there should be also in Minnesota.

We cannot concur with the majority in what they say about the brutalizing effect of witnessing executions. We think that the truth is that such punishment terrifies would-be murderers, who as a rule are arrant cowards.

Let us not so far forget our duty to society as to devote our time and talent to making life easy for evil doers, to such an extent that we neglect our duty to protect the law abiding.

Signed:

MRS. J. R. BRANDRUP,
JULIUS A. COLLER,
LORIN CRAY.

We recommend the present system of parole for prisoners and the principle of the indeterminate sentence.

1. We recommend that the personnel of the Board of Parole be changed to include the oldest member in continuous service on the State Board of Control and two citizens appointed by the Governor, the heads of prisons and reformatories being retained in an advisory capacity only.

We believe a Board so constituted would be able to take an impersonal view of the prisoner's qualifications for parole; that they would naturally place more emphasis upon the prisoner's conduct previous to imprisonment, his mental condition, his home environment and his attitude toward his offense, toward work and toward law, and less upon his conduct while in prison; that they would be able to estimate more accurately the effect of his release upon society, and would keep that effect more prominently in mind than would a Board as at present constituted.

2. We recommend that the law giving judges the right to fix the maximum sentence be repealed.

This law has resulted in great inequalities in punishment for the same offense, and has naturally created in the minds, not only of

offenders, but of others as well, the idea of the law as something unjust and capricious.

3. Actual findings of studies made in this state and many states and cities have established the fact that serious mental, moral and physical defects are the result of permitting first offenders of juvenile age to associate with more mature offenders in detention places. It is therefore recommended:

a. That legislation be enacted and necessary appropriation be granted to make provisions for the segregation of all first offenders of juvenile age from more hardened offenders.

b. That such legislation should apply to every part of the state, an appropriation being made available for small towns and communities for boarding juvenile delinquents in private homes or hotels under the surveillance of an officer.

4. We recommend also that first offenders of adult age be segregated whenever possible from hardened offenders.

5. We recommend that women attendants be required to be on duty at all hours in jails where women and children are detained.

6. The social and criminal investigations have shown conclusively that pool and billiard halls are rendezvous for the criminal element of the city. It is under the seclusion of these institutions, legalized by the community, that a school in crime is consciously conducted. It is recommended that appropriate legislation and compulsory enabling acts be proposed to control such places. The following points are recommended for consideration in drafting state legislation.

a. A law requiring all pool and billiard halls to be licensed.

b. Requiring that all such halls be at least 1,000 feet removed from any public, private or parochial school.

c. We call attention to the New York billiard-pool room law enacted in 1922 session of the New York legislature and signed by Governor Miller in 1922, as worthy to be considered in drafting the Minnesota law.

7. Public dance halls, barn, platform or street dances have contributed as much as any one condition to immorality and the allied problems of youth. Because of this the following measures are recommended:

a. No public dance place, barn, platform or street dance shall be

conducted in the state without a license. One woman supervisor to every fifty couples or hundred people admitted to the place in which the dance is conducted, shall be provided.

b. The persons or person applying for license shall give complete history over affidavit of his or her employment for a period of five years immediately just preceding his or her registration for application for license.

c. Application may be refused if the character of social history of the applicant is questionable, and may be revoked if mis-information in reference to previous employment or court record is given.

d. No person shall be admitted to public dance halls or employed in them who is under twenty-one years of age.

e. The music in such public dance halls shall be according to the standards adopted by the National Association of Dancing Masters.

8. The traveling carnival show or exhibition of monstrosities and defectives, gambling concessions and panderers have universally caused such sorrow and ill health that few will need further proof to convince them that for the public welfare carnivals should be abolished from the state. It is therefore recommended that the itinerant carnival show or exhibition commonly called carnival be prohibited from the state of Minnesota.

9. It is not an infrequent proceeding in the Juvenile Court to find that a boy or girl is committed to a detention institution of the county or state because an offense has been committed against them. It is left with judicial discretion whether the adult involved in the delinquence or incorrigibility of the juvenile is reported to the county attorney with the request to take proper action. Therefore it is recommended:

That the judge in charge of the juvenile calendar shall personally or through proper agencies ascertain in all cases the names of adults or groups of adults responsible for the delinquency or personally involved in contributing to the delinquency of the juvenile. The names of such adult or adults with other information concerning the case shall be transferred within a reasonable time to the county attorney with a request to bring proper action against the person named in the case.

10. As 90 per cent of all murders are committed by the use of firearms and they are frequently used in all robberies, we recommend that an act be passed with the following provisions:

a. That all persons who desire to carry firearms capable of being concealed upon the person, or ammunition, therefore, be required to obtain a permit from the proper officer, police magistrate, justice of the peace, or county clerk, as may be designated, such permit to contain a description of the firearm and the signature of the applicant.

b. That such person shall be required to show such permit to any officer of the law if such permit is demanded.

c. That it be made a serious offense to be found with a gun on one's person without such permit.

d. That police or other officers of the law, for cause, to revoke the issuance of permits.

e. That persons selling such firearms shall be licensed and required to make and preserve a record showing the person to whom such sale was made and the magistrate issuing the license and shall, if required to do so by any municipal ordinance report such sale in accordance with such ordinance.

f. Permits to carry arms to be good only in the county in which issued unless made transferrable by the State Adjutant.

11. The illegitmate trafficer in narcotic drugs is the one most despicable of all criminals, and his victims most deserving of protection. The tragic instances of the results of this traffic have been brought to the notice of this committee. The results of the selling of moonshine liquor are almost equally destructive, and we therefore recommend that any person who shall contrary to the statutes of Minnesota or the laws of the United States sell or give to any person drugs or alcoholic liquors shall be deemed and held to be an accessory to any crime or misdemeanor committed by the person to whom such narcotic drugs or liquors were unlawfully sold or given while under the influence of such narcotic drugs or liquors; and shall upon conviction be punished as an accessory to such crime or misdeameanor.

12. The use of alcoholic beverages has long been recognized as a prolific source of crime. This alone should be sufficient reason for the strict enforcement of our prohibition laws; when added to this is the fact that the lax observance of these laws result in the holding of all lightly. We urge the adoption of any measures which will insure a more strict observance of our prohibition laws.

We especially recommend a law making the purchaser of liquor equally guilty with the seller.

It has been roughly estimated that one-third of all prisoners confined in our jails, prisons and workhouses are mental defectives. In view of this fact we recommend that a Psychopathic Hospital for the care and study of those afflicted with mental diseases be established at our State University. Such an institution could not fail to aid in the prevention of crime and in a more just imposing of penalties.

As hasty and ill assorted marriages are responsible in great measure for some of our most noticeable crimes, we recommend that the amendments to our marriage laws proposed by the Child Welfare Commission in 1917 be adopted.

In conclusion we wish to state that recent statistics seem to show crime is not on the increase. The United States Census Bureau shows that convicts in state prisons have increased only three per cent (3%) since 1917.

Mr. Roy Haynes' report shows that in 59 cities of over 30,000 population, including St. Paul and Minneapolis, there has been a decrease in arrests for all causes of over 100,000 in the last three years. The Chicago police figures show total criminal complaints in 1919 numbered 16,656, in 1920, 14,097; in 1921, 11,666 or a decrease of 5,000 in two years.

The daring of recent crimes combined with the spectacular and cruel features, and the consequent wide newspaper advertising, we believe to be the reason for the popular impression of an extensive crime wave.

We wish to acknowledge our special obligations to Mrs. Gilman of this committee who prepared a bibliography on the physical, mental and social causes of crime, and to the public libraries of St. Paul and Minneapolis and the State University library in procuring books, and reserving them for the use of this committee.

We append the report of our subcommittee on laxity of administration of the law, and leniency toward convicts.

(Dr. Swearingen, being a member of the Board of Parole, deems it improper for him to express any opinion on the section of this report relating to the constitution of the parole board. His signature therefore does not apply to this part of the report.

REPORT OF THE SUBCOMMITTEE, PAROLE AND PUNISHMENT

As your subcommittee to whom was referred the question of whether or not the present prevalence of crime is due to the laxity of administration of the laws or liency shown convicted persons I have to report as follows:

My investigation has consisted of interviewing administrative officers, such as police, sheriffs, county attorneys, citizens and convicted persons confined in the state prison.

I have also written a letter to the 47 district judges of this state and have received answers from only nine. I regret very much that the judges have not more generally replied to the letters sent out and their attitude may explain, in a measure at least, why this general crime problem is so much of a problem as it is. I think the lack of reply on the part of the judges indicates quite clearly the general attitude of the public. That is that they are quite willing that the crime problem should be solved, if solved at all, by others than themselves.

In a general way the officers and judges seem to be inclined to deny the existence of a so-called crime wave. Some have said that the only difference now and in the past is that the character of the crime has changed and that the matter is brought to more prominence by the fact that crime in general is of a more serious nature than heretofore. It is also said by some that the general impression that crime is more prevalent and serious has induced the newspapers to give it more prominence and more time and effort is spent on their part in investigating and reporting on the crimes committed.

Quite a few that I have seen are of the opinion that crime is steadily increasing and that the world in general is going to the dogs. Some of these who have expressed this opinion are either the victims of crime or in some way interested. There seems to be a general claim among the police of the three large cities that the whole matter is largely one of petty politics, some going so far as to claim that the opposing political faction than their own is responsible for and even promoting criminal acts to put them in disrepute. Generally speaking I find that the judges and administrative officers do not admit there is any increase of crime by reason of laxity of administration of law.

The citizens that I have seen of the two large cities are quite emphatic in their claim that a lack of co-operation of the police depart-

ments in the two cities is largely to blame for the situation many being free to claim that the criminals are protected in one city and allowed to work in the other. I find too there is a general feeling especially in southern Minnesota that crooks and criminals operating in their section are in some way protected by the police of the large cities. They even cite cases to prove this. Personally I feel that their estimates of this evil are overdrawn. There perhaps has been in the past a policy of allowing known criminals to live in a community provided their activities were curbed in that particular community without any question of what they might be doing in other or nearby communities.

I shall take the privilege of reading to you the replies received from the judges.

Their general conclusion seems to be that the causes of crime are more fundamental and deeper seated than the laxity of administration of laws or leniency shown convicted persons. Nearly all, citizens and officers, with whom I have talked agree that the world war and the civil conditions following it have had much to do with the question. They seem to think that the war had the effect of cheapening human life and this is no doubt true. In practice they say that the young men became accustomed to the carrying of arms and the evil of "gun toting" so-called has no doubt materially increased because of the war and this in itself is a serious problem and one upon which I think our committee should take a decided stand with a view of curbing this if possible.

I am quite of the opinion that about the best authority on crime is the criminal and the more intelligent of those with whom I have talked lay their downfall originally in a vast majority of cases, to home conditions. While they do not say this in exactly so many words and few of them going so far as to condemn in any way their parents, yet upon investigation we find that in many, many cases they come from broken homes. These may come from death, desertion, separation or divorce, the last cause seeming to be more prolific in the production of a criminal. Many of these men tell me that the origin of their criminal activities was what they term "the gang" which is only another name for their organization. The youthful gang of course has no real organization except that of unsupervised congregation of its members. They start in criminal lines in a small way usually through some youthful mischief. This is progressive and misdemeanors and crime follows. Nearly all admit that the pool hall and the old time saloon furnish the easy and ready meeting place where their activities were discussed and

planned. The saloon has been done away with but the pool hall with its added evils is still with us. The older criminals will some of them at least, admit an almost perfect organization that will go so far as to have bail money ready in case of apprehension and some of them admit that they have attorneys selected or possibly retained in advance, the more perfect organization even admitting that they are operating under the advice of attorneys. They seem to realize that in their criminal activities they are taking a gambler's chance of apprehension. They admit too that the capture and punishment of an entire gang is seldom accomplished. Some few members of their organization may be apprehended but there are enough that escape so as to keep their organization recruited and those that escape all the more active in crime itself and in aiding those apprehended to escape conviction. It seems to me that the police in many cases seem entirely satisfied when one or two convictions are secured for some particular crime although they may know perfectly well of many others who are implicated. This lack of apprehension of an entire gang is to me deplorable and should if possible be corrected.

An evil that prosecuting officers and courts complain of is the difficulty of conviction. The general opinion seems to be that there should be a somewhat radical change in court procedure and court practice. The constitutional safeguards thrown about the prisoner are so difficult to overcome that evidence bearing upon the case is excluded in many cases on mere technical ground and the guilty escape by such and other practices. It would seem that the lawyers and courts themselves should get together and correct this great evil. We, as prison officers or those dealing with the criminal after conviction, find that prosecuting officers in many cases fearing their inability to convict or for other reasons, are quite apt to allow defendants in criminal actions plead to a lesser crime than they have committed, in many cases intimating so strongly that it amounts to a promise that short sentences will be secured if the defendants will so plead. Under this practice we get men that are guilty of robbery which carries a maximum penalty of forty years sentenced for the crime of larceny which carries a maximum penalty of five years and even this short maximum may be in some cases lessened by the presiding judge. We get men guilty of rape convicted of merely assault and even men guilty of the crime of murder committed for manslaughter in one of the lesser degrees. The worst feature of this practice seems to be the prevailing opinion among criminals that bargains are possible even with prosecutors and the courts themselves.

In a discussion of the subject of crime with almost anyone the matter of prohibition and the enforcement of prohibition laws is talked about. Some have gone so far as to say the prohibition law never will be or can be enforced. Others claim that it can be and must be and in the latter position I agree. The general impression seems to be that a lack of enforcement of the prohibition laws is very detrimental to the enforcement of other laws and especially builds up in the minds of the weak or those criminally inclined the idea that a law readily does not mean what it says and cultivates a general contempt of the laws in general and of administrative and executive officers in particular. I realize, however, that administrative officers in trying to enforce the prohibition or any other law must have the backing of a healthy public opinion and so long as so many of our so-called good citizens are opposed to enforcement of this law that convictions are going to be difficult or in some cases impossible. An education of the general public along the line of all law enforcement seems to be imperative. As a remedy also it has occured to me that instruction in the fundamental law and enforcement thereof should be given in our public schools. We must, however, recognize the fact that at least fifty per cent of our so-called criminals never advance beyond the fifth grade in school. It has seemed to me that some scheme of instruction along this line as well as along the line of instruction as to the duties of parentage might well be incorporated in our educational system.

As a general conclusion the opinion seems to be that crime is caused not so much by the "laxity of administration of law or leniency shown convicted persons" as from a laxity of the administrative officers apprehending those guilty of crime. The public and especially the criminal, realizes that the percentage of convictions is altogether out of proportion to the percentage of crimes committed and I would suggest that our report indicate a general recommendation for a more rigid enforcement of all existing law and personally I am strongly of the opinion that in the surety of conviction for criminal acts lies the remedy.

F. A. WHITTIER.

To the Chairman and Members of the Minnesota Crime Commission:

Your Subcommittee on State Police respectfully reports that in view of the fact that differences of opinion exist among the members of the subcommittee in reference to the matter assigned to them for consideration, no recommendation in favor of a state constabulary

is made. In view of the changed methods and the new agencies employed in the commission of crime and in avoiding arrest as a result thereof, the subcommittee is of the opinion that without question more modern and up-to-date methods must be employed in checking the commission of such crimes, and in the apprehension and punishment of the offenders.

The subcommittee has had three separate meetings and as a result thereof submits for your consideration a proposed bill which, with such amendments as the general commission may propose thereto, it recommends shall be presented to the legislature of the State for consideration and passage by that body, if the same meets with its approval.

Respectfully submitted,

W. A. Lancaster,
Andrew Grindeland,
Caroline M. Crosby,
W. A. Frisbie,
J. C. Michael,
J. S. Billings,
W. S. Carver,
William A. Cant, Chairman.
Subcommittee State Police.

December 26, 1922.

A BILL

FOR AN ACT TO PROVIDE FOR THE BETTER PREVENTION OF CRIME AND FOR THE BETTER IDENTIFICATION AND APPREHENSION OF PERSONS WHO MAY BE SUSPECTED OR ACCUSED THEREOF.

Be It Enacted By the Legislature of the State of Minnesota:

Section 1. There is hereby established at the capital of this state, a bureau for the identification of persons suspected or accused of crime, in which shall be collected, tabulated and maintained in most convenient form for effective use, all available data concerning and for use in the identification and apprehension of all persons suspected or accused of crime.

Section 2. Such bureau shall be in charge of a superintendent who shall be appointed by the governor of this state by and with the

advice and consent of the senate, and who shall hold his office for the term of six years unless sooner removed by the governor of the state for cause. Such superintendent shall have the qualifications necessary to the proper discharge of his duties with respect to said bureau of identification and with respect also to the performance of such other duties as shall devolve upon him under the provisions of this act. He shall receive a salary of ..... dollars ($.....) per annum.

Section 3. For the better patrolling of the main and high speed roadways of this state and for the more effective apprehension thereon of persons suspected or accused of crime, and for the better prevention of crime in this state, said Superintendent, from time to time, may select, employ, train, equip and assign men to the various counties of this state for such service therein. Such men shall be specially equipped for the purpose above specified and when assigned to any county shall serve under the direction of the sheriff therein and shall report to him as he shall direct; but such service, in the main, shall be of the character only which is specially contemplated by this act. Such men shall report also to said Superintendent from time to time as he shall direct, and any such person so assigned may be withdrawn from any county and assigned to another county by said Superintendent at any time. From the time of their assignment to any county, such men shall have all the power and authority of deputy sheriffs and may act as such and may pursue and arrest persons suspected or accused of crime anywhere throughout the said state and shall hold their office during good behavior. At the time of their original assignment to any county such officers shall take, subscribe and file with said Superintendent, an oath of office similar to that required to be taken by deputy sheriffs in this state.

Section 4. Such officers shall receive such compensation as may be specified in advance by said Superintendent not exceeding one hundred fifty dollars ($150.00) per month. In the first instance the number so assigned shall not exceed one for each or any county in said state and the cost of equipment and the compensation of all such officers as shall be assigned to the various counties without formal request therefor from such counties as hereinafter provided, shall be paid and borne by the state of Minnesota. Upon formal request from the board of county commissioners of any county that additional men be trained and assigned to such county, said Superintendent, from time to time, shall employ, train, equip and assign such additional men

as may be necessary to comply with such requests. The compensation of officers so assigned to any county pursuant to request from the board of county commissioners thereof shall be paid and borne equally by said county and the state of Minnesota.

Section 5. Any peace officer of this state who at any time shall be engaged in the detection, pursuit, apprehension or detention of any person suspected or accused of crime, shall have the right to the prompt assistance of all other such officers throughout the state so far as the same may be necessary. Under such circumstances, the Superintendent hereinbefore provided shall have authority at any time to direct such co-operation as to any such officers or sets of officers within this state in such manner as he shall indicate, and thereupon it shall be the duty of all such forces to which such direction shall be given to promptly and actively co-operate as so required.

Section 6. The sum of ..... dollars ($.....) or so much thereof that may be necessary is hereby appropriated to carry out the provisions of this act.

FINAL REPORT OF MINNESOTA CRIME COMMISSION, JANUARY, 1923

Honorable J. A. O. Preus, Governor of Minnesota.

Sir: The members of the Crime Commission appointed by you in May, 1922, to inquire into causes of the law's delay in criminal procedure in this state, if any, and to report thereon; and to suggest such remedies as might be found and deemed appropriate within constitutional limitations, to aid in checking the onward march of lawlessness then and still a menace to the lives and property of the citizens of the state, beg leave to report the result of their deliberations.

The commission convened at an appointed date in June with all members present, with one or two exceptions, whose official engagements prevented their attendance. The matter of the present crime situation was discussed by the members of the Commission in a general way, as preparatory to further definite action at later dates. To simplify the work the Commission was divided into groups or subcommittees, with definite subjects assigned to each, namely:

1. State Police, of which Judge William A. Cant, of Duluth, was chairman.

2. Bureau of Criminal Records, with F. A. Whittier, State Parole Agent, chairman.

3. The Law's Delays and Remedies, Judge A. H. Giddings, chairman.

4. Punishments and the Parole System, of which Mrs. David F. Simpson was chairman.

These separate committees entered into the work assigned to them with earnestness and their separate reports, quite full and complete, will be presented with this general review for such attention as may be found within the time at your disposal.

PAROLE AND PUNISHMENT

Of the several recommendations made by the committee on parole and punishment, two were disapproved at the final meet-

ing of the Commission, all others being approved and are submitted for your consideration. Those disapproved are, first, the recommendation that the present statute by which the trial judge is authorized to fix the maximum term of imprisonment in special cases be repealed, and the maximum left in all cases as now prescribed by statute; and second, that the personnel of the Board of Parole be changed by the appointment of some person to take the place of the warden of the prison and the superintendent of the two reformatories, who are to be retained as members thereof, if the change be made, in an advisory capacity only. It was the view of the Commission, a majority of the members thereof, that the authority given the trial judge to fix a maximum penalty should not be disturbed as it serves a wise and useful purpose; at least that the Commission should not recommend a change of the law on the subject. The members of the Parole Board sought to be displaced are, in the opinion of the majority of the Commission valuable members of that body and should be retained. As officials of the penal institutions they come almost daily in contact with the prisoners and become familiar with their personalities, their respect or lack of respect for law and order and disposition to conform in the future with the standards fixed by the law of the land. From that vantage ground they are no doubt better qualified to cast the deciding vote in the matter of granting or withholding paroles than members of the Board who come into personal relation and contact with the prisoners only in a casual way, and at a time when an application for parole is under consideration; a time when the prisoner puts forward his best showing of a disposition to reform and become a law-abiding member of society.

CAPITAL PUNISHMENT

The committee had under consideration to some extent the question of a return to capital punishment for wilful and premeditated murder, and gave the matter careful consideration. They were divided in opinion upon the propriety or wisdom of the proposal and their report thereon found the Commission likewise divided. Such has always been and no doubt always will be the result when that question is submitted to a collection of men or women clothed with the authority and duty to act in a matter of such grave importance and concern. A discussion of the question in this report would add nothing to the volume of

literature on the subject and the matter is therefore submitted without specific recommendation one way or the other.

THE CREATION OF AN INTERIM COMMISSION TO STUDY CAUSES OF CRIME

The further recommendation of the same committee that an interim commission be enacted or appointed to sit from time to time in the study and investigation of the cause of crime is entitled to attention, and is submitted for your consideration; although it is perhaps a subject more particularly appropriate for legislative action.

BUREAU OF CRIMINAL RECORDS

The most effective deterrent of crime is found in the unrelenting pursuit, capture and conviction of the offenders. The officers of the law are faithful enough but are greatly hindered in the performance of their duties by the lack of accurate and timely information of crimes committed; they are often compelled to cope in the darkness and without effective results. To relieve that situation it is proposed by the committee on the Bureau of Criminal Records, jointly with the committee on State Police, that a central bureau of information, including a record of known criminals be established at the State Capitol in charge of an officer experienced in that particular line. The suggestions of the committee in this respect and entitled to special attention for it is believed that with such a bureau in St. Paul to which the commission of crimes at any point in the state may be communicated immediately, the central bureau being equipped with facilities for prompt communication of the facts to officers surrounding the place of a particular crime; will greatly aid in the detection and apprehension of those connected therewith. Thus preventing escapes now so frequent; in fact, the rule when it should be the exception. The recommendations of both committees will accompany this report with the full approval of the Commission. It deals also with the proposed state constabulary or state police.

LAW DELAYS AND REMEDIES

The committee having in hand the subject of the law's delays and remedies, present some very important recommendations in respect to our procedure. Each and all thereof have the full appro-

val of the Commission as a whole. If adopted by the legislature, a number of existing forms of law, frequently used in dilatory tactics, will be removed from the statutes and be a distinct step forward in the interest of prompt, yet full and complete trial of persons accused of crime. To some of the matters dealt with brief mention may be made.

HABEAS CORPUS

1. Certain amendments of the habeas corpus statute are recommended which will, if adopted, prevent future abuse and misuse of the writ. Under the present statutes of this state a person is entitled to as many writs in the same clause as he may find an officer within the county wherein he is detained willing to grant. In this respect the writ is often deliberately made an instrument of delay. The constitution does not entitle the citizen the writ for that use, and no reason exists for allowing him a multiple in the same cause. The right should be limited to one writ and the proposed change in the statute will have that effect; and that, without in the least invading or impairing in any essential respect the constitutional rights of the applicant.

EMERGENCY TERMS OF THE DISTRICT COURT

2. The committee also recommends an amendment of section 161, G. S. 1913, relative to the terms of court to be held in the several judicial districts of the state. By the proposal made the district courts of the state will, as a matter of law, be deemed open for the exercise of their jurisdiction at all times with the right and authority of the judge thereof to declare it in open session for the trial of actions, both civil and criminal, whenever in his judgment public interests will justify such actions, by the simple expedient of filing an order to that effect with the clerk. And when so called, the court may proceed with the transaction of business precisely as at a general term. This will have particular operation and effect in the counties outside the large cities where the courts are almost continually in session the year round. But in the outlying counties occasion is often presented rendering a term of court necessary for the trial of some emergency cause, civil or criminal, during the vacation period, and a term of court for the purpose cannot be convened except by a compliance with certain statutory forms of procedure, which are of no special value

and are dispensed with by the proposed amendment. If an important criminal cause should arise in any such county, which ought to be heard and disposed of with promptness and without delay, the trial judge will be authorized to convene the court in session by formal act of filing an order for that purpose with the clerk. It is believed that the change in the statute would serve a beneficial public purpose and in that view the commission recommends it.

PROCEDURE AFTER CONVICTION

3. The committee also proposes an entire new procedure in criminal prosecutions following a verdict of guilty. The embodiment of which is promptness in seeking relief from the conviction by way of a motion for a new trial and a review of an order denying the same in the supreme court. The present procedure by appeal is abolished, and there is substituted in its place a certified case sent up by the trial court on the request of the defendant. The remedy is entirely new and simple but the rights of the defendant are in all things protected and, if adopted by the legislature, will remove one of the principal causes of delay following a conviction.

MISCELLANEOUS SUBJECTS

4. The committee further recommended certain other changes in the statutes which are submitted in the form of bills for presentation to some appropriate legislative committee, should your Excellency deem them of sufficient merit to entitle the proposals to that consideration. One relates to bail pending the review of a criminal cause by the Supreme Court. The commission reached the conclusion that bail should not be denied in such case as a matter of law, but that the matter should rest in the discretion of the trial court, with the right to apply to the Supreme Court only after denial of bail by that court. Another change relates to the trial of persons jointly indicted; the change being that all be tried together, unless the trial court shall order separate trials.

RECKLESS AUTOMOBILE DRIVING

5. Another recommendation of the committee in a matter of substantive law is an important subject for attention. It relates to the reckless operation of motor vehicles upon our streets and public roads. Under the present statute the death of a person

caused by culpable negligence in the operation of an automobile or other motor vehicle constitutes manslaughter in the second degree. But if the same reckless operation of the car falls short of causing death and inflicts only personal injuries, though permanent, there is no offense at all. The proposed change would make the injury of a person by a reckless operation of a motor vehicle an assault in the second degree. There would seem no sufficient reason why the change should not be made and it is recommended.

COMPETENCY OF HUSBAND AND WIFE AS WITNESSES AGAINST EACH OTHER IN CERTAIN CASES

6. The committee also recommend a change in the statutes relative to the competence of the husband and wife as a witness against each other. Our present statutes provide, in a word, that neither husband nor wife can be examined as a witness against the other, without his or her consent, exxcept in civil actions between them or in the prosecution of a crime committed by one against the other. It is proposed to amend the law by extending the exception so as to permit either to become, or made a witness against the other, in any prosecution for adultery, bigamy or homicide.

Upon the propriety of this change in the law of evidence the commission was divided in opinion; the majority holding to the view that it should be made while the minority was opposed. The basis of the majority view was that in instances, even in homicide cases, the evidence of the husband or wife of the one accused constitutes the only tangible proof of guilt and under the present statute it is not admissible. The same applies to bigamy and adultery prosecutions. But the minority say and urge that we have suffered no substantial detriment in the past by the present statute which has been in force for over fifty years; that the effect of the change will be the breaking up and disruption of the family home, arraying husband against wife and wife against husband; or act as an invitation for perjury in an effort to shield the one charged. The relation is too sacred to be thus broken by extraneous causes; it is far more sacred than the relation between attorney and client; between physician and patient, and of equal sacredness with that between a minister of the gospel and the members of his congregation; where no inquiry can be made or

disclosures compelled as to matters passing between those holding that relation to each other. The question should not be further discussed in this report. The reasons for and against the change proposed are persuasive and too obvious to escape attention by the legislature should the matter be taken up there.

7. Still other changes are suggested in the reports of the different committees and have reference to details in criminal procedure and need no special mention other than as found in the separate reports. These include a recommendation by the commission that the county attorney in criminal prosecutions be given the right to reply to the argument of counsel for the defendant with the qualification that the reply be limited to an answer to the defendant's argument and the further change giving an equal number of peremptory challenges to both the state and defendant.

CONCLUSION

In conclusion the members of the commission beg to express their appreciation of the honor conferred upon them by their selection for the important tasks involved, and assure your Excellency that they entered upon and concluded their labors in the premises in an endeavor to further your effort to bring about, so far as may be, such corrections in our statutes of criminal procedure as will facilitate the prompt administration of the law, thereby promoting the general public good, and in a measure suppressing lawlessness, by removing from our statutes certain forms of procedure useful only in support of efforts of those charged with crime to delay the day of atonement for their wrongdoings. We make no attempt to add to the volume of literature upon the general subject of the law's delay, the causes of crime and remedies, which have been sent forth from many sources during the past few years, but content ourselves with the presentation of such practical suggestions in concrete form as will meet the situation without the necessity of superfluous discussion or extended explanation.

All of which is respectfully submitted.

CALVIN L. BROWN,
Chairman.

BERTHA WOLFF,
Secretary.

Dated January 15, 1923.

Hennepin County—
Hon. Calvin L. Brown
Mrs. Robbins Gilman
Mrs. David F. Simpson
Mrs. W. W. Remington
Miss Caroline Crosby
Judge W. A. Lancaster
Sheriff Earle Brown
Rev. Roy L. Smith
W. A. Frisbie,
Geo. H. Richards

Ramsey County—
Hon. Thomas D. O'Brien
Judge J. C. Michael
Mrs. H. A. Tomlinson
Mrs. W. J. O'Toole
Mrs. Louis Benepe
Miss Bertha Wolff
Rev. H. C. Swearingen

Anoka County—Judge A. H. Giddings

Blue Earth County—Judge Lorin Cray
Mrs. J. R. Brandrup

Beltrami County—Judge Charles W. Stanton

Carlton County—Sheriff H. W. McKinnon

Crow Wing County—Sam Alderman

Jackson County—E. H. Nicholas

Marshall County—Judge Andrew Grindeland

Olmsted County—Burt W. Eaton

Otter Tail County—Sheriff J. S. Billings
Hon. Clifford L. Hilton

Martin County—Sheriff W. S. Carver

St. Louis County—Judge W. A. Cant
Warren E. Greene, County Attorney

Scott County—Hon. Julius A. Coller

Washington County—F. A. Whittier