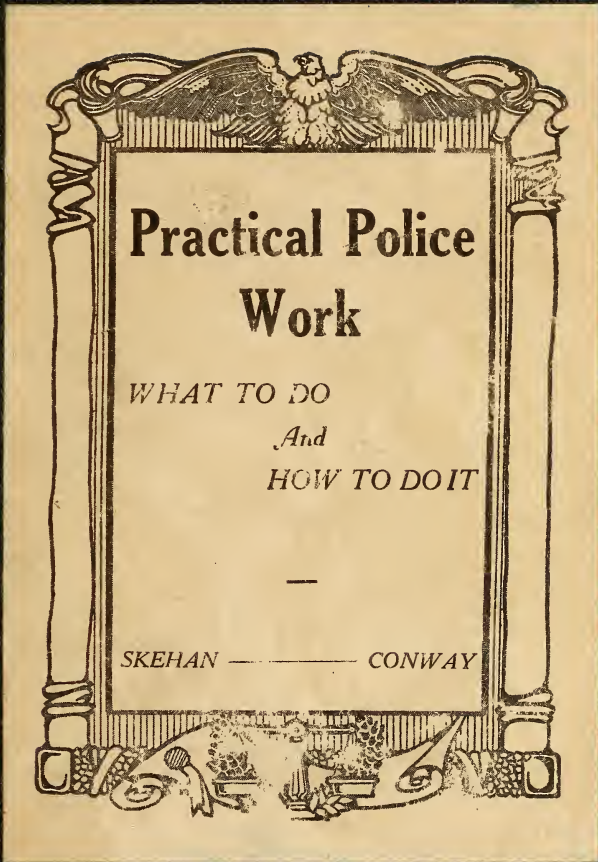


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# Practical Police Work

WHAT TO DO  
*And*  
HOW TO DO IT

—  
SKEHAN ————— CONWAY



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# PRACTICAL POLICE WORK

What To Do and How To Do It

BY

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and

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1919

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## INTRODUCTION

The aim of this volume is four-fold—to collect within the covers of a single book the vast and varied amount of miscellaneous matter, having any degree of permanency, which constitute the sum total of essential police knowledge; to instruct policeman on how to use and apply their acquired knowledge; to present facts simply and clearly and give the law without the use of legal language which clouds the meaning.

The authors have had large experience in teaching and examining policemen and are familiar with their defects and perfections. One of these defects is a disposition to look for minor errors and to draw fine technical distinctions.

Of far more importance is the assembling and classification of information, the memorizing of facts and the drawing of correct conclusions. In these matters the book will be of more help to policemen than any other work available; that it contains more useful police knowledge than is otherwise obtainable handily, we expect the reader to discover for himself. It is issued solely on account of the information it contains.

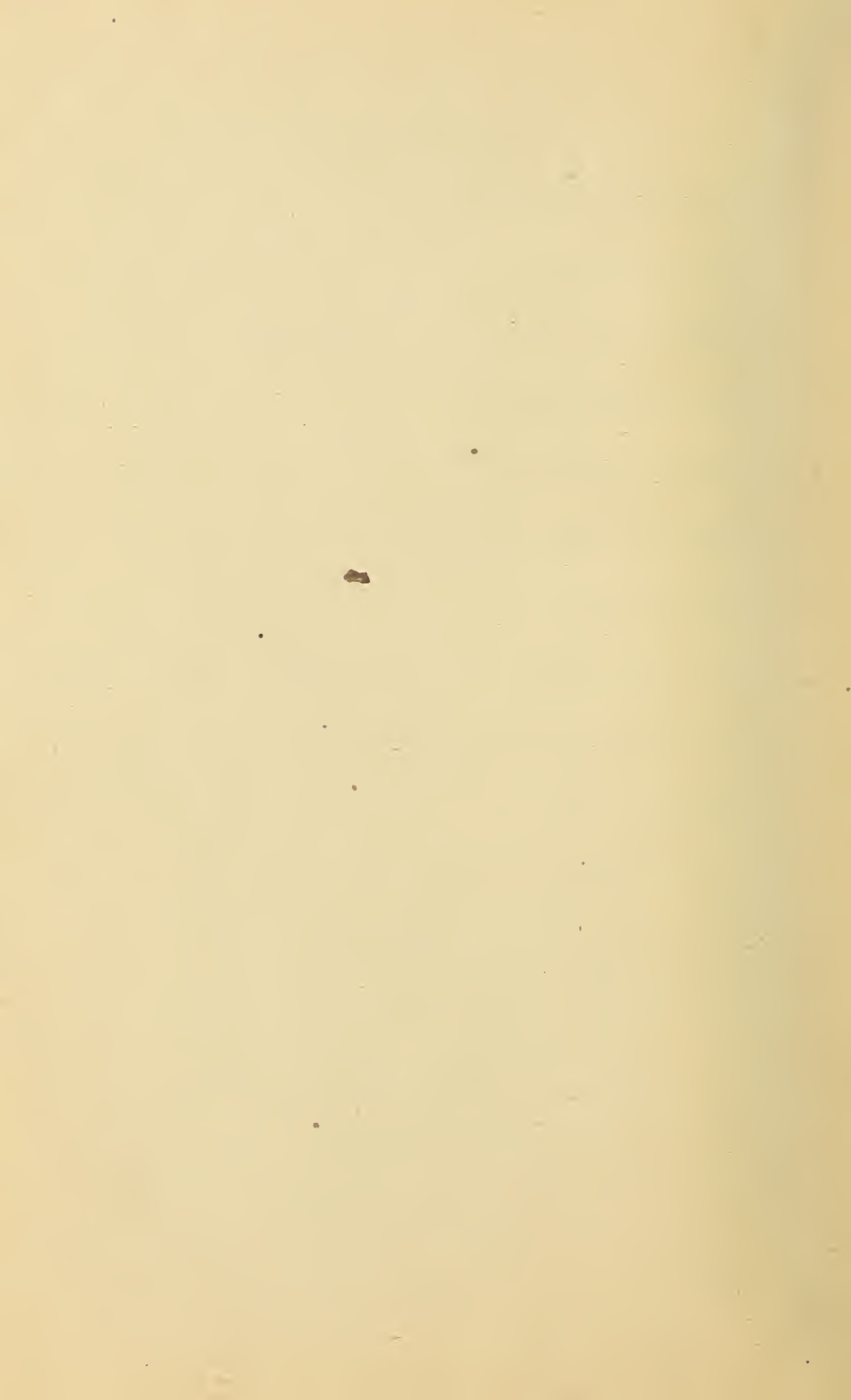
JAMES J. SKEHAN,  
JAMES P. CONWAY.





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## FOREWORD

### EXAMINATIONS

The art of passing a good examination in writing has to be acquired by practice. Persons who fail to do as well as their fellows frequently complain that they knew more but could not convey the knowledge. This happens sometimes but the best informed man as a general rule makes the best showing provided he has acquired the habit of analyzing things and the art of expressing himself in writing.

Analyzing the meaning of questions is sometimes difficult especially when the questions are ambiguous, tautological or vague and they are sometimes all three. To men with only a common school education the unusual words often employed by college men in putting questions are not understandable. This introduces a puzzling element hard to overcome.

Analyzing a question calls for the exercise of thought in getting at its meaning and in seeing all its sides and angles. It is hopeless to expect to make a good answer without first getting at the exact meaning of the question.

When there is no doubt as to the question's meaning a direct answer should be given and one that is as exact as possible. Giving the question other and unwarranted meanings indicates a lack of intelligence in the person answering, and as intelligence is one of the qualities being tested in a candidate, lack of it under the circumstances will call for a low rating. Should there be some doubt as to the meaning of a question it is a good plan to begin the answer by setting forth the meaning as the candidate understands it. This will entail loss of time but not as much as if the question is to be answered in the alternative. Answering in the alternative has to be resorted to sometimes when the question is too general and incomplete and when several sets of conditions might be set forth in the answer. Under these circumstances the candidate is justified in saying "If such and such were the case, so and so should be done but if so and so were the case such and such should be done."

Generally speaking, however, there is too great a disposition to use "ifs" in examinations. They are used when the mean-

ing of the question is perfectly clear and they are made use of when the candidate should have seen that there was no excuse for them. They betray lack of self-confidence when they do not betray lack of intelligence and the unrestrained practice of answering in that fashion means loss of time in the examination room which could generally be used with advantage in giving pertinent and material facts.

To pass a good examination then, three things are necessary: Ability to understand and analyze the question, knowledge of the facts to go into the answer and the art of giving expression to such knowledge in writing. Training and reasoning are necessary to beget proper thinking, memory must be called into action for calling up information stored in the brain and continuous practice is needed in all three departments.

Let it be understood then that thinking, memory and practice are the three most important essentials to the passing of a good examination. They are all that is necessary but they are vitally necessary. Let no man deceive himself into believing that he can succeed without the use of all three.

### Thinking and Memorizing

Concentrated thinking is difficult. Let him who does not believe so try the effort of following everything another man says for two minutes without allowing some other thought to enter his mind. While that seems easy, yet to many persons it is impossible. Memorizing is very essential but memorizing should be done properly to make it useful. Generally speaking it is a bad plan to try to memorize the words in a text. The memorizing of commonplace words, especially by a man untrained and past thirty is one of the most difficult tasks imaginable, but the memorizing of facts or the substance of the matter can be accomplished by intelligent effort and application.

The value of an intelligent system in memorizing is generally recognized. The man who would try to remember the names of the twenty children in the families of Smith, Brown and Jones would come across a difficulty that could be simplified by remembering first the names of the Smith children, next the names of the Brown children and lastly the names of those owing to a Jones paternity. This is simply classification and grouping or arranging of subjects into classes which will be of the first assistance as an aid to the memory. The memory can also be helped out by the old method of visualizing and association of

ideas, that is connecting something in the mind's eye with some other thing that one wishes to recall. If a policeman or fireman should be asked to name the things that must not be done in quarters he naturally would be able to call to mind easily one demoralizing practice such as drinking; this would by association call up smoking, entertaining women and a long line of conduct prejudicial to good order and discipline. The memory can also be assisted by the use of reason. In case a man has forgotten what certain rules or laws require he can ask himself the question what ought to be there and by working out of his own intelligence the facts that reason tells him should be present he may be able to give a satisfactory answer.

No rule can be given that will enable a man to write out facts within his knowledge with ease that does not take into account Practice. The most facile writers are those who write most, other things being the same. The art of giving expression to thoughts in writing cannot be acquired except by practice. No amount of grammar or rhetoric will suffice and the more a person writes the better he writes. The day he stops he begins to rust.

### What to Do—How to Do It

What is the thing to be done and how must it be done are distinct conditions not generally recognized. Candidates in examinations are prone to mix them. They should be kept separate. What do you know of the subject and what should be done about it are often different parts of the same question. They illustrate to an extent substance and procedure. It happens quite often that the person familiar with the subject matter is not familiar with the procedure. It happens also occasionally that the man acquainted with procedure is able to tell how a thing should be done and not able himself to do it. This illustrates theory and practice and the reason he cannot do what he knows is because training and skill can be acquired only by practice. It is only a genius who can build a piano by learning from a book how it may be built or merely watching another person building it.

A policeman must be able to recognize conditions that are wrong and know what to do to right them. For the purpose of passing an examination for promotion he should be able to *see* what is asked of him and *write* what he knows with ease and fluency. If unable to recognize a wrongful condition when he sees it, or unable to see it when told of it or unable to distinguish the right thing to do or unable to explain his decision in

writing, then he is unable to pass an examination. In these cases he must learn and seek training.

There are men who can get along by their own efforts and others who need assistance and direction. There are some whose memories are retentive and others with memories like a sieve, but holes in the sieve can be plugged up if enough knowledge is poured in. There are men who reason logically from cause to effect; there are others whose minds seem to work backward or sideways like a jumping kangaroo and these cannot learn until they are set on the right path and taught to go from one subject to another in logical order.

The aim of this chapter is not to give an unassimilated multitude of details but to give general principles by which details may be recognized. There are thousands of things which a policeman is required to know that no reasonable person will expect him to learn by memory.

Just as no lawyer knows all about the law but does or should know general principles which either lead him to the correct conclusion or direct his attention to where the details are to be found, so no policeman can be expected to remember all the details of his duties but should know certain general principles to guide him in reaching the right solution of any police problem that presents itself.

The mere learning of rules by rote is not enough. In itself it is of little or no use. To be of use a rule must be applied and its application again calls for thought and action. Since one aim of this work is to teach the way to prepare for and pass civil service examination the details to be used will be such as will serve the purpose of illustration.

### Cardinal Requirements

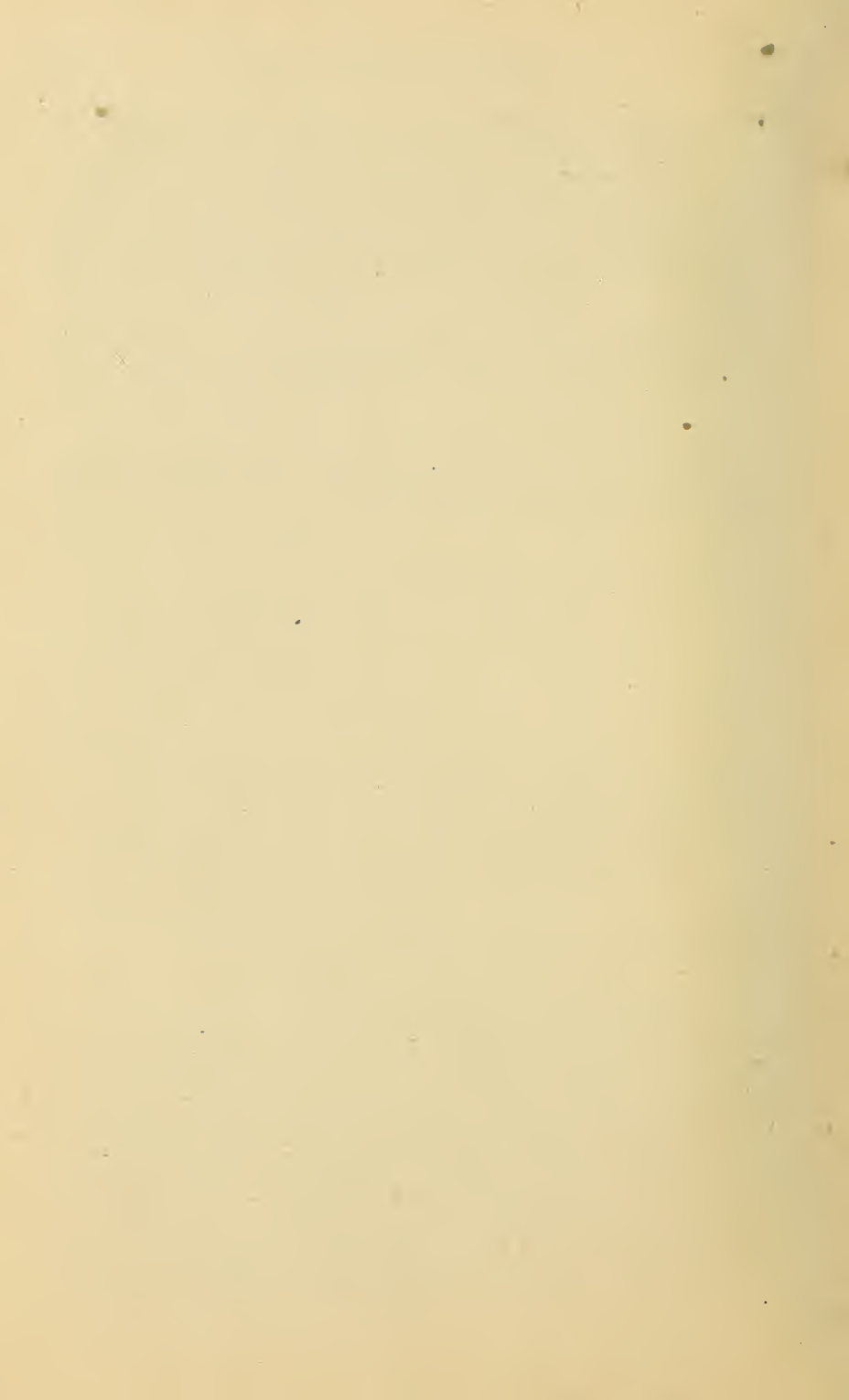
There are three cardinal requirements for the passing of a good examination—*ability to understand what is asked, knowledge of the subject matter and ability to give the answer clearly in writing*. The first and last are overlooked too often. Dependence is generally placed upon the second. Men have been known, able to repeat the rules from cover to cover, familiar with the Codes to the extent of knowing their contents verbatim, able to name the page and the number of the section where a specific piece of information was to be found, who never could do well enough in their examinations to get a place on the list from which they could be appointed. Obviously their failing was not in lack of

knowledge of the subject matter. It must have been due to one or the other causes.

Every question in a Civil Service examination can be broadly divided into two classes—*Substance* and *Action*. A great many candidates do not distinguish the difference between these. They take action when called upon to give the substance of a rule or law and in the process of answering forget what they were asked about.

The difference between substance and action is well illustrated in the two Codes—The Penal Law defines crimes while the Criminal Code prescribes the action to be taken when crime has been committed.

The rules of the Department lay down principle as well as prescribe the action that should be taken. When properly drawn this distinction should be made clear.





# PRACTICAL POLICE WORK

## CHAPTER I

### HOW TO LEARN

*A policeman must first know what is wrong and then know what to do about it. That invites the question how is he to know. He can know only by learning and he learns only through the eye or the ear. He can read the matter in print or hear it explained or he can do both which is preferable.*

In case a man confines himself to reading he must try to memorize as well as to understand. Neither one is quite enough in itself. Take for example the five general and fundamental duties—*Preserve the Peace, Prevent Crime, Protect Life and Property, Enforce Laws and Ordinance, Detect Crime and Arrest Violators of the Law.* These of course should be remembered, but they should also be understood and the best way to understand them is for a man to think out for himself as many examples of each as he can. When that is done he will have received a lasting impression of the meaning of each.

The next essential thing is to remember that there are various weapons furnished to a policeman to enable him to perform these five fundamental duties and that they vary from *the giving of information to the making of an arrest.* The man who studies properly will ask himself under what conditions he can or should use one of these weapons and when another *and write out his answers.*

*The making of an arrest is the final and most important of these weapons.* For that reason to know that *no arrest can be made except in accordance with law* is quite as important as to know the law of arrest.

The law of arrest is contained in the Criminal Code which also tells that in the making of an arrest there must be *an act and a purpose,* the act being the taking of the accused into custody, the purpose being to have him answer for a crime. Every act of taking into custody, therefore, is not an arrest. This distinction if kept in mind will keep men from bothering about extra tech-

nical situations which is the bane of so many, such as the arrest of a material witness.

It will be shown that the Law of Arrest distinguishes between *felonies or States prison offences and misdemeanors punishable in a lesser degree, that when the crime is a misdemeanor it must either be committed in the officer's presence at or about the time of arrest, or the officer must have a warrant from a magistrate. When made for a felony there must have been a felony committed with knowledge of its commission or at least reasonable grounds to suspect; or as an alternative there must be a warrant.*

Now the way to understand all about the power to make arrest is for a policeman to ask himself for examples—various examples without being hair splitting and he will soon learn. If he knows that "*in his presence*" means *within his sight, or within his hearing when he goes to the spot immediately or where the crime is continuous* as in the case of stolen property carried by the thief he will know as a consequence that even though glass intervenes he can go through it to make the arrest even in the case of a misdemeanor.

### Guide to Grade of Crime

The best guide of the grade of the crime is the Penal Law, but if that be not handy most felonies can be distinguished in other ways. Either they are crimes against the person or against property, against morality or against the public welfare. If felonies, *they endangered life, or did serious damage, or there was the probability of their doing so, as there were the bad or evil conditions of the mind called intent.* To pick out a felony then a policeman should ask? Was the damage serious? Was the means used likely to have made it serious? Was there evil intent?

Since most crimes are committed against either the person or the property of another (excepting those regulating public morals and the public welfare) this gives a basis from which to start and the two fundamental methods of committing such crimes, Assault and Larceny, are the points from which a start can be made in the process of reasoning. No policeman should bother *at the outset* with trying to learn the different degrees of these or any other crimes. Difference of degree is mostly for the District Attorney, the Grand Jury and the Judge to consider. The policeman should determine for the purposes of arrest whether the crime is a felony or a misdemeanor. Consider assault. It is either simple or felonious, a misdemeanor or a felony.

Now apply the rule to determine which it is. *First, the nature and character of it. Second, the conditions under which it was made or the manner of the making. Third, the malice or intent exhibited.* To satisfy the first condition, to be felonious the injured person must have received *grievous bodily harm*; the second can be satisfied if the weapon or means used was *capable of inflicting serious bodily harm* even though such harm did not come from it; the third calls for a *wrongful intent or bad mind*. While intent in most cases can be presumed from the nature of the crime there are other cases in which it must be specific as in the case of assault by drugs where the intent may be either to do serious bodily harm or to enable the perpetrator to commit another crime. *No crime can be a felony without this wrongful intent to which the passions give rise.*

### Guiding Elements

Then we have the three elements to guide us. Is the damage serious and was the commission intentional? If so it is a felony, no matter how committed. Was it committed through a means *likely to produce serious bodily harm*? If so it is a felony whether serious bodily harm resulted or not. *Was the perpetrator in a vicious mood* at the time or did he have either of the specific intents mentioned at the time of commission?

The bad condition of the mind will make the crime a felony if the person should be injured without intention when the perpetrator is committing another felony. The bad intent makes even a slight assault a felony when the prevention of or resistance to an arrest or the execution of a court process is the motive which prompted it. If the foregoing conditions are not present and little injury is done then the assault is simple and a misdemeanor.

Now take Larceny, the other fundamental crime—against property. It can be either a felony or misdemeanor depending generally upon the *amount taken, the time and place of taking and the manner of the taking*. If a large amount—over \$50 is taken serious injury is done. If the time be the night and the place a dwelling house there is greater deliberation, more evil intent indicated and a less amount makes a felony. If property be taken from the person the manner of taking indicates an evil desperate person willing to take the chance of committing another crime to defend its possession.

Most crimes defined in the Penal Law are committed against either the person or the property of another and most of them

are allied either with assault or with larceny. Such laws have been made necessary because the courts have been over-technical in their definitions and because criminals have from time to time invented ways of committing crime that did not come under the then existing laws owing to such hyper-technical interpretations.

### Power of Arrest

We have seen that the final and most powerful weapon in the hands of a policeman is the *power of arrest*. That means the right to use force either to take the accused into custody or to get at him. Force means the power to break into a building when the power to arrest exists but it must be used with discretion when necessary only, and not to a greater degree than is absolutely necessary to affect the taking.

There remains the warrant which is a power given by a Magistrate who may be a Judge of a higher criminal court and which is issued in misdemeanor cases to accomplish an arrest *not made at the time of the crime*, and in felony cases *when the crime was not obvious* to the officers. Since a magistrate has to use care to make certain of the crime before issuing a warrant, the policeman who executes it is relieved of responsibility, but he must have the warrant with him to arrest under its authority. The accuser is under arrest when taken into custody or when he submits by consent, not before.

A warrant differs from a summons both in its tenor and in the nature of the cases to which it applies. The summons is used in case of petty offences such as violations of the city ordinances or trivial misdemeanors as well as in violations of the Motor Vehicle Law. It says directly to the accused "*Come in*" or *you will have to* while a warrant is addressed to the Peace Officer and directs him to "*bring in*" the accused.

Summonses have been issued from time immemorial to save the accused from unnecessary punishment and humiliation and to save the people unnecessary trouble and expense when only petty offences are concerned which even though sometimes defined as crime are not of a criminal nature. They are issued in Motor Vehicle cases, for example, when identification is made because *first the driver is responsible, second because there is generally a presumption against wrong doing and in favor of accident* in such cases, and third because *the punishment to the parties concerned would be frequently too great if an arrest were made*. But they

are not to be made use of where there is positive evidence of negligence of the kind classed as criminal. They are not to be made use of where a real crime involving knowledge of wrongdoing exists as distinguishel from a technical crime, acts which though violative of the law are not criminal, the Penal Law to the contrary notwithstanding. The blank summons issued to policemen is in effect issued by the Chief Magistrate. Since Bench warrants issue after an indictment, or to re-commit a person already on bail and they commit the accused directly to prison, bail cannot be taken by a Desk Officer.

### Review of Crimes

A policeman is but little concerned practically with the technical difference between a principal and an accessory excepting in so far as it shows him that *a person can become guilty of a crime who knew nothing about it at the time it was committed*, but becomes guilty in case he aids or harbors the accused afterwards with the intention to have him escape arrest or punishment, provided he knows or has reason to suspect the man's guilt. Neither is the distinction between the commission of a crime and the attempt to commit it so important to the policeman, as he can arrest for an attempt just as for the commission. In both the above cases the distinction is more important to the court than to the policeman. The grade of the crime is the same, the punishment only is different.

It is quite important that a policeman should know that others can be guilty as well as the actual perpetrator, viz., the *plotter or procurer and the aider or abettor*, and that *mere intent to commit a crime if not accompanied by an act is not a crime*. In this respect crimes are to be distinguished from sins.

The only thing essential for the ordinary policeman to know about bail is that in the case of misdemeanors Desk Officers can take it, under certain conditions, but that in practically all cases it is the function of a magistrate. A policeman who comes with a warrant ought to be able to identify the signature of the magistrate who issues a warrant to the magistrate who endorses it for execution in the county where the latter has jurisdiction.

It is because of the inconveniences and unnecessary punishment of the accused that warrants for misdemeanors are not to be executed at night time or on Sundays unless the magistrate directs it in writing.

Search warrants are very important things to be remembered about. They are issued either to recover stolen property, to get property that has been used in the commission of a felony or that is intended to be used as such; that the property must be fully identified before a magistrate will issue a warrant and when the property is taken the policeman should leave a receipt for it.

The question which puzzles policemen most is the nature of the knowledge of the commission of a felony they must have before making an arrest. It will bear to be repeated that *it need not necessarily be personal knowledge*, but it must be more than suspicion. *The statements of reliable third persons corroborated by other facts, official communications from the police of this or other States, evidences that convince him or would convince a reasonable person* is sufficient. On that point there is no absolute rule to guide.

### The Policeman as a Social Adviser

Since a policeman is required to give information and assistance to the inquiring public he ought to know and be able to direct those who are ignorant. If a woman complains of being abused by her husband he should know that the nearest Magistrate Court is the proper place to go; if non-support be charged then she should be directed to the Domestic Relations Court; if a child be the offender, the Children's Court; if a person fail to pay a domestic's wages, the nearest Municipal Court. The patrolman in such cases should be able to give information regarding the assistance to be obtained from the Bureau of Domestic Relations, the Children's Society or the Legal Aid Society, and consequently should be able to answer questions on these matters. Because he frequently has to appear in the minor criminal courts, the Traffic Court, the Night Court, and Special Sessions, he should know the extent of the jurisdiction of each and the police procedure to be followed. Knowledge of the higher courts is necessary only as an academic question.

## CHAPTER II

### GENERAL PRINCIPLES OF THE LAWS

#### Malicious Mischief

Malicious mischief partakes of the nature of a crime both against property and against the person. The motive, however, is not gain. It is either a felony or misdemeanor depending upon its gravity. If it be one where human life is endangered or property put in serious danger and there is a malicious intent present, it is stamped at once as a felony. To such a class belongs certain injury to a church or irreparable destruction of an election return, the setting off of an explosive in a ship with persons aboard, the burning of crops, forests, buildings, the changing of lights or signals on railroads. If the offence, however, be one that just annoys or causes slight loss or damage even though intentional it is only a misdemeanor. To this class would belong interference with message carrying wires, signs on highways, slight injury to public structures, interference with fire hydrants, false fire alarms, destruction to trees or real property, injury to a merchandisable ice pond, or shell fish bed, killing game in a cemetery, putting up a shanty on another's property, driving dangerous animals on a street or roadway without warning, damaging an automobile, taking fish from a preserve, injuring an arsenal, trespassing upon a rifle range, cutting cables used for anchorage, using the American flag for advertising, injuring growing crops, removing books from a library, disfiguring monuments.

#### Crimes Against the Person

Challenging to fight, carrying dangerous weapons and disorderly conduct are prohibited because otherwise they lead to injury to the person or are likely to. Duelling is the consummation of a challenge to fight, maiming and mayhem, aggravated assaults which result in permanent injury to an organ; prize fighting is demoralizing as well as injurious to the participants and homicide the most serious result that can arise from assault.

As a practical proposition a policeman is not much concerned with the distinction the law makes in classifying homicide into four kinds. He already knows that every assault is not a crime and neither is every homicide, and for the purpose of arrest it is not important whether murder or manslaughter is to be charged. For the purpose of evidence it is more or less important, but of that later. Excusable and justifiable homicide are for others to determine.

### Crimes Against Property

Crimes against the person are not nearly as numerous as crimes against property. Some are against both. The desire to possess the property of others is the most potent agency for the commission of crime. Out of that motive or desire come crimes against the person and crimes against the community, and crimes in which other motives crop out.

Blackmail, bribery and corruption, burglary, business frauds, cheating, obtaining money under false pretenses, coining or counterfeiting, receiving stolen property, extortion, forgery, cheating hotel keepers, larceny, using false weights and measures, and a host of others with a more limited application all have the same general intent underlying them, viz.: *the getting of another's property without being by right entitled to it*. They belong to the class known as crimes against property.

In the case of larceny there is an *act*—the taking of property of another, and an *intent*—to defraud the owner of its use or benefit and appropriate it to one's own use or the use of another. If these elements are present the crime of larceny is present and a policeman in working out a particular case can apply the rule and determine the crime. The main difference between larceny and extortion for example is the consent of the owner of the property. In larceny he parts with it without consent; in extortion it is with his consent, but the consent in extortion is forced or obtained by fear or by pretence of exercising official authority whether the extortioner be an official or not. Then the main difference between extortion and blackmail is that blackmail is practically only attempted extortion in writing. In extortion the culprit got the property, in blackmail he tried to get it through a threatening letter but failed.

When a man is put in fear of personal injury to himself or to a relative, or of being accused of a crime; a deformity or a disgrace exposed, a secret concerning himself or a relative made



public, himself or a relative kidnapped or injury done to his or their property, the law concerning being "*put in fear*" is violated.

But after all the main thing for a policeman to know about extortion and blackmail is that the *criminal got or tried to get, another person's property and that he made the other person give up through fear, or under the pretence of the offender being an official of some kind.* When that is established it is easy to decide on how to act.

Crimes against morals are distinct from crimes against the person and against property inasmuch as they are violative of laws designed to prevent the moral degradation of the person concerned directly, or of others indirectly. Consequently some of these crimes are directly harmful; others indirectly so or likely to lead to harm. In this category can be placed the sex crimes, gambling, indecency, obscenity and others. Again there is a class of crimes which offend not directly against an individual but against the general public which if not prohibited would result in injury to the individual. In this class belong offences relating to civil rights, various kinds of conspiracies, those covered by the election law, public nuisances, interference with traffic, offences against the public health, against public justice, public records and various others.

With these latter classes as with the crimes against persons and property the policeman should be guided by *the gravity of the offence, the intent of the doer* and frequently by *the manner in which the thing is done* whenever he intends to make an arrest and does not know definitely whether or not the law makes the crime under consideration a felony or a misdemeanor.

Let us apply these rules to some of the crimes with which a policeman has to deal. Take the kindred crimes of abduction and kidnapping. The gravity of the offence is manifest. Therefore both must be felonies and a policeman should arrest whenever he knows either has been committed and has at least reasonable grounds to believe a certain person did it. The only practical difference between kidnapping and abduction lies in the motive. *Abduction can be perpetrated only against a woman and the sex motive must be present.* There are three kinds of women who may be abducted differently. The woman under eighteen even, for marriage without her parents' consent; the chaste woman over eighteen who has been enticed or inveigled into a place, and the woman over eighteen, chaste or otherwise who had been taken away by force.

*In abduction the two main elements are the taking and the motive. In kidnapping there is a taking, but the motive is usually gain. The taking or keeping must be against the will, but a child under twelve cannot consent to go. With a child under sixteen, however, there may be one of several motives such as an intent to conceal, to extort money for its return or to steal from its person.*

### Anarchy

One of the odd crimes on the statute book is that designated as criminal anarchy. Anarchy itself is a doctrine and is not a crime. It is a doctrine which advocates the overthrow of organized government. So long as anarchists advise their followers to carry out the doctrine by lawful means such as amending the United States Constitution it is no crime, but when they advise by word or writing that such a thing should be carried out by force or violence or the assassination of an executive they commit crime. Some persons are erroneously of the opinion that to advocate the assassination of an executive such as the President is criminal anarchy, but that is not so unless it be advocated for the purpose of bringing about the overthrow of organized government.

For practical police purposes, however, it makes little difference what the motive is when a man advocates the assassination of another. He should be arrested.

### Children and Animals

The humane feelings of the community in contra-distinction to the brutal tendencies of the individual has prompted the State to make laws for the protection of children and animals which are unable to protect themselves. There are special peace officers for the enforcement of these laws with whom policemen are required to co-operate. *By law every person under sixteen is a child* and entitled to the protection of parent or guardian. Now if a child is abandoned or left destitute without food, clothing or shelter it is quite evident that a grave offence has been committed and *grave offence is a felony*, and a policeman can arrest for a felony when it has been committed and he knows it or has reasonable grounds to believe it. But if the child is not abandoned, even though not provided for, the offence is not so grave and is only a misdemeanor. Children can be offended against in other ways. Occupation that endangers their health or safety or im-

pairs their morals, amusement that let them into theatres, dance halls, bowling alleys, concert halls, skating rinks, billiard rooms, saloons, moving picture places unaccompanied by a parent or somebody who can stand in the parents' stead is forbidden, because it is dangerous. Not being grave, it is only a misdemeanor.

The brute that is in man has been responsible for making combative animals fight. It has frequently kept them without food, drink or sustenance. It has cruelly beaten, maimed and injured them. It has, when they could no longer serve his purpose, left them abandoned to die in torture. These things are now forbidden by law. They are not reckoned grave and are misdemeanors. There is only one offence in connection with animals which is a felony and that is the poisoning of domestic cattle. Obviously in this last there is *the property damage involved with the bad mind that a person must have who would commit such a deed*. And yet the poisoning of a dog however valuable is only a misdemeanor.

### Burglary

Burglary is a crime against which police are always on guard. It is one of the most important they have to deal with, both because of its frequency and its gravity. A burglar is mostly a desperate thief. It is an aggravated form of larceny and because of its gravity and the bad mind that prompts it is always felonious. The crime originally was the breaking into a dwelling house in the night time to steal, but the definition has been very broadly extended by statute in this State. There still must be *a breaking, an entering and the evil intent*, but these words have been given a meaning very much wider than the dictionary meaning which will be described later.

Another matter about which policemen worry unnecessarily is the crime of compounding a crime. From an academic standpoint it is interesting to them, from a practical standpoint interesting to the District Attorney. It is either a felony or misdemeanor depending on the grade of the original crime compounded. It just means giving up something as a consideration for the accused agreeing to conceal or keep out testimony, or to abstain from prosecuting, and the consideration may be money or anything of value. Taking back stolen goods is, however, no consideration if no favor be shown the thief.

## Conspiracy

An arrest for the crime of conspiracy is rarely or ever made except upon a warrant. In the first place it is only a misdemeanor and in the next its commission is not obvious. There is more or less secrecy about it. There must be two or more persons involved and they must conspire. The object of their conspiracy may be to indict another, commit a crime, bring a lawsuit, cheat somebody, to keep him from attending to his lawful business by force, threats, intimidation or injury. Such is conspiracy against an individual. Then there is conspiracy against the public interest by agreement to do an act injurious to the public health, morals, trade, commerce, justice or laws. But merely talking the matter over or even agreeing to do it is not enough *except in the cases of felonies upon the person, arson or burglary*. In all others an open act towards their perpetration must be done before conspiracy can be charged.

## Disorderly Conduct

Formerly whenever a policeman did not know exactly what to charge against a person he made it disorderly conduct. There is such a crime, though its existence was long disputed. *It consists either of an act or speech, the use of any threatening or insulting behavior intended or likely to provoke a breach of the peace; or offensive or disorderly act or language that annoys or interferes with others in any public place, or a disorderly refusal to abide by an orderly ruling by a person in authority.* That rule is not hard to understand or apply. It will work even in offences specially designated as disorderly conduct by statute as in the case of street walkers.

## Forgery

A very grave felonious crime is forgery, but not very important to the policeman from a practical standpoint as its commission is not obvious. Here again there is an act with the intent to defraud. Although the common method of committing forgery is to imitate another's signature with the intent to defraud, yet the crime could be committed by writing an instrument over a genuine signature, by alterations or obliterating or piecing together. It can arise through the making of a plate or stamp or failure to make an entry in certain instances.

## Gambling

Gambling although not necessarily nor essentially criminal, gives the police more concern than others that are. The reason for this is that not being condemned by the Bible nor the moral law very many people do not regard gambling as wrong and refuse to abide by the law. Embraced under the general heads of gambling may be considered policy, horse racing, lottery and the like.

Although the statute does not plainly say so, the crime of gambling is restricted to such places as those where there is a profit to an outsider. This leaves out friendly games even when played for money. There are also certain places where it is a crime to keep gambling paraphernalia because of the possibility of danger or demoralization or because of the scandal possible. Churches, courts, polling places, military camps, educational institutions, and cars and vessels are examples.

Gambling may be a felony, a misdemeanor or *no* crime. A general rule to help is that *the profiteer is generally a felon*, provided he engineers the game or acts directly for one who does. Those who aid indirectly are sometimes misdemeanants, sometimes felons, and those who go up against the game are victims but not criminals, one of the few cases where all parties concerned are not criminals. The possession of policy slips is presumptive evidence of intent, but not criminal if the presumption can be overcome.

In lottery the contriver or manager of the scheme is a felon, while all those who help out are only misdemeanants and the crime exists whenever there is a plan to distribute property by chance among those who have paid a valuable consideration for it. It does not excuse if the lottery is conducted under the auspices of the State or another country.

## Indecency

Indecency shocks sex morality. The laws against it are enacted in the interest of morality. The term applies to anything that will excite to lust or sex offences. It includes the exhibition of pictures, print or exposures and plays of a lewd, lascivious or filthy character or the dissemination of reading matter with lustful or criminal stories. Being only a misdemeanor this class of crime invites arrest only when committed in the presence, but apart from this fact there are other difficulties. The principal

one is to determine whether or not the thing is indecent. That does not always depend upon the matter but upon outside conditions. Again what may appear indecent to some is not apparently so to others. Since there are no exact standards with which to judge whether a play, exhibition, book or picture is indecent the safest plan for a policeman who is not an expert, is to report the fact so that a warrant may be procured and the responsibility placed upon a magistrate. When the thing is indecent beyond question he should arrest the party responsible. A recent addition to this class of crimes is advertisements for the treatment of private diseases. They also include the advocacy of birth control and the doing of anything calculated to facilitate sex immorality.

### Intoxication

It is not a crime to get drunk in one's own house or club or the home of a friend. It becomes a crime when intoxication is public. There never was an authoritative definition of drunkenness or intoxication that was not disputed. The safest plan for a policeman is not to interfere with a man under the influence so long as he can help himself. Being drunk and in charge of an engine or vehicle endangering others is criminal.

### Nuisances

The policeman should distinguish between public nuisances and private nuisances. All nuisances are annoyance but all nuisances are not crimes. Before one becomes a crime the public must be *annoyed, endangered or injured*. The public is composed of "*Any considerable number of persons*. A considerable number means *at least three*. How must these persons be annoyed? In their *comfort or repose*. How endangered or injured? In their *health*. How can the community suffer a nuisance? *By any condition that offends public decency, obstructs traffic or navigation or renders three or more persons insecure in life and property*. The crime has been broadened to take in opium joints and offices where passage tickets are sold unlawfully.

Policemen have a great deal to do with nuisances either by themselves or in co-operation with other departments. They are not classed as serious crimes but being so numerous and of such a variety they occupy a great deal of a policeman's time and call forth the exercise of every weapon at his disposal from ad-

monition to the making of an arrest. They also demand discretion as a nuisance in one place is not necessarily so in another. The studious policeman will make note of conditions and see to which the rule applies. *Annoy, injure, endanger health, comfort or reposes. Any considerable number of persons.*

### Perjury

The crime of perjury interests policemen in an academic way only. A policeman never arrests for perjury without a warrant, and the courts rarely convict for the crime. This is so in spite of the fact that the crime is being continuously perpetrated every day and right in the presence of courts. As a provable proposition the commission of the crime is not obvious even when glaringly apparent. *The essentials to perjury are an oath, the occasion for an oath, falsehood, wilfulness, knowledge, and materiality* either before a court or where an oath is required. *Knowledge, Wilfulness and Falsehood* are the three important essentials. Its gravity makes it a felony but its improbability makes it a crime at which a policeman should look askance until the warrant is given over to him.

### Public Officers

From the standpoint of obedience to the law respecting the conduct of public officers rather than from duty to be performed in the enforcement of it the law of Bribery is of interest to a policeman. Being a trustee for the public he must not treat the property of the city as if it were his own nor receive remuneration for services for which the public pays him. The gravity of the individual offence is not what makes the crime sometimes a felony as it is the intent to prevent grave possibilities by severe punishment. Bribing a public officer might work very serious detriment to the public welfare, taking unlawful fees might be trivial in an individual case, but as a general practice work grave injury to the public. Destruction of a record might defeat the ends of justice while the misappropriation of funds belonging to the public is more grave than from a private party because of the confidential relations an officer bears to the public. There is a multitude of offences which apply to public officers, but those which most concern policemen are: grave neglect of duty, taking gratuity to let a prisoner escape, exceeding one's duty, arresting without proper legal authority, a

refusal to help him in the making of an arrest, refusing to make an arrest when in duty bound to make it, resistance to a public officer in the discharge of duty.

### Public Safety.

The public safety is endangered in a way that is felonious when explosives are offered to a railroad for surreptitious transportation or when an explosive is maliciously placed near a building with intent to throw it down and injure life. There are other offences under this head that are *misdemeanors* and a policeman should be able to recognize them because he might come upon the criminal trying to perpetrate them and therefore could make an arrest. They are the overloading of a passenger boat, applying too much steam to a boiler, or letting a steam boiler burst from over generation of steam. Keeping ordinary explosives without a permit or manufacturing them in a tenement are also misdemeanors, but high explosives cannot be manufactured in the city under any circumstances. The transportation of explosives, the manner and place of loading and the conditions under which they can be transported are matters for the policeman to know as he shares the duty of enforcement with members of the Fire Department.

The carrying of dangerous weapons surreptitiously is resorted to by the criminal and the coward. Some of the crimes that come under this head are misdemeanors but that does not greatly concern a policeman as he usually meets the condition directly and the crime is committed in his presence. He comes across them, either when the offenders are using the weapons in committing a felony or when an arrest has been made for another offence. This type of crime is largely confined to one nationality and to those who are naturally criminal in their tendencies. In spite of its sweeping character the law has been ineffective because of the difficulty of locating violators. Dangerous weapons are divided by the law into two general classes, one of which cannot be carried at all, and the other which cannot be carried with the intention to use as weapons against another. A black jack, slung shot, billy, sandbag, metal knuckle, bludgeon, bomb, or bombshell are not weapons that well-behaved citizens are in the habit of carrying about with them, and if well-behaved citizens will not possess such articles the law says that those disposed to be ill-behaved must not.



Daggers, dirks, dangerous knives, stiletos and the like may be in the possession of a person for a harmless or utilitarian purpose and in such event their possession is not criminal, but if there be the intent to use them against another their possession is a misdemeanor. This intent is sometimes manifested by the appearance of the weapon as in the case of a nicked razor.

A citizen may own a cannon, machine gun, rifle, shotgun or musket without license from a magistrate, but nothing smaller. He cannot keep one at home, carry it concealed upon his person, nor carry it if it be small enough to be concealed. Not only can a person not have these firearms, but dealers cannot sell them to persons who are without a permit to the great benefit of the gun dealers of Jersey City. Even when a person has a license he cannot wilfully discharge a firearm in the street, nor even without malice and in fun point a loaded firearm at another, nor discharge it in such a way that another might have been injured even though not injured, without committing a misdemeanor.

Certain care is imposed upon the train conductor for the protection of the public. If that care is neglected a misdemeanor is committed and a policeman who is present or a civilian could arrest. Among these are starting trains while a manifesting passenger is about to alight or enter, obstructing ingress or egress to cars, opening gates while the car is in motion or running the train while intoxicated. These are crimes against the person which may result in individual injury. The danger from them is not as great as where a person displaces a rail, obstructs the tracks, breaks a signal, fires shots or throws stones so that the life and limbs of a large number are put in jeopardy and where consequently the offence is a felony.

### Religious Meetings

Because of the recognized right of everybody to enjoy their own form of worship without being molested, the disturbance of a religious meeting by profane language, rude or indecent acts or unnecessary noise within or without is a misdemeanor and the police are obliged to give protection against all such conduct. The offence is mostly perpetrated on the streets, but sometimes within churches where there are factions in the congregation. In the former the policeman on post should give the necessary protection; in the latter he should wait until called upon as church people rarely want to proceed to the limit of the law when they have family disputes.

### Riots—Unlawful Assemblies

Of the twin crimes of riots and unlawful assemblies the policeman hears more than he sees. There are very few riots and few unlawful assemblies, but the police have frequently undertaken to interfere with assemblies that were not unlawful. In order to be an assembly three or more persons have to be present. In riot they disturb the peace by force or violence to persons or property, in unlawful assemblies they threaten to do so. In riot they threaten to do an unlawful act by force or violence and have the power to do so. In unlawful assembly they intend to do so and talk about it.

A riot is generally a felony, an unlawful assembly is a misdemeanor. It is a felony if the purpose of the assembly be to resist the enforcement of a Federal or State statute or the obstruction of an officer of either in the performance of his duty. The person who directs, advises or encourages a riot is guilty of a felony. Lesser offences arising out of riots including the act of refusing to disperse or remaining after the meeting has become a riot or after being warned to disperse are misdemeanors.

### Robbery

This is just an aggravated form of larceny. The same thing is done as in larceny; the same intent is present but the manner of doing it is different. To be robbery the property must be taken either from the person or from the presence of another. It must be taken against his will. The taking must be accompanied by force, violence or the fear of injury.

“From the person” means that the property must have been attached to the person at the time. “From the presence,” means close at hand. There the taking has to be accompanied by force or violence or fear of injury to the victim or some member of his family. The force used must be for the purpose of retaining and not to get away.

The reason why robbery is a felony regardless of the amount taken is that it evidences a reckless disregard of the serious consequences that may result from being discovered in the act. A robber is always a wicked, desperate criminal.

### Sabbath

The State follows the custom of Christians in keeping the Sabbath as a day of rest. That means that *labor is prohibited* upon that day. The *repose* of the people and *religious observances come before everything else on Sunday*. That prohibits not only servile works but recreation of any kind that would interfere with *repose or religious observances*. Only works of *necessity and charity* are allowed, but even they cannot interfere with *repose and religious observances*. When these are not interfered with, prepared food, a necessity, can be sold before 10 A. M. in delicatessen stores or between 4 and 7:30 P. M. and in restaurants all day long while such necessities as tobacco, milk, eggs, confectionary, ice cream, soda water, fruits, drugs and newspapers can be sold all day. Barbers can shave before 1 P. M. Games and sports that do not disturb the peace can go on if they do not disturb religious worship or the repose of individuals. But the complaint of one individual who might be a crank would not be sufficient to stop an orderly game. Processions and parades are forbidden with music, except military or funeral processions. Dramatic and acrobatic performances on the stage are not allowed.

### Suicide

Suicide is not a crime. The person who succeeds is beyond the law. A person who attempts suicide is no longer a criminal but an abettor can be guilty as well as a person who advises the act. These are felons and can be arrested under the conditions governing the arrest of felons.

### Treason

Treason means war. The person guilty of treason must himself make a war on the State or adhere to an enemy at war giving aid and comfort. This is the only crime defined by the United States Constitution. It is not felony but of a grade by itself. It does not respond to the rules governing the manner of making arrests in felony cases. Before there can be treason there must be an overt or open act. To conspire to make war is not enough.

Treason would be committed if persons rose in a body to prevent by force and intimidation the enforcement of a statute

generally against themselves, but not individually in a single instance and for a private purpose. The crime of treason had not been expanded during the war. As a crime against the United States it cannot be without amendment to the Constitution. It had been supplemented by several Congressional acts which pass out of existence with the passing of the war. But the crime of treason both against the State and the United States remains

### Coercion

Policemen should be careful about arresting on charges of coercion. They generally are involved in labor disputes and hard to prove. But when violence, or injury is threatened against a person to make him do something he has no right to do or abstain from doing what he has a right to do, when tools are taken away or intimidation used then the policeman should use the best means calculated to correct the condition. The police frequently run down writers of letters threatening injury to persons or property. The crime is committed when such letters are deposited.

### Disguise

Police have to see that a permit is obtained for a masked ball, otherwise they are not to permit persons to go about masked.

### Sanity

A policeman is not concerned so far as an arrest is concerned with the question of sanity in the perpetrator of a crime. Every body is presumed to be sane till proven insane, so that while an insane person cannot commit a crime the police should arrest the perpetrator of a criminal deed and let it be proved that he was insane. An exception to this would be a regularly committed lunatic who had escaped. He should be turned back to the asylum authorities.

### Children

Policemen should be careful about arresting children under 12. There is a presumption of their being unable to commit crime. It is true the presumption may be removed, but that does not

justify an arbitrary arrest. It justifies the seeking of evidence to remove the presumption and then going to a magistrate for a summons so that he may inquire into their ability to commit a crime. Sometimes, however, such children have to be arrested for their own good. Children under seven cannot commit crime.

### **Trespass**

Simple trespassing is not a crime, but trespassing in certain places is made specially so. These places are either dangerous to the trespasser or something is carried on there which calls for more than ordinary care in guarding. Trespassing after certain warnings may become a misdemeanor.

### **Public Morals**

Police in recent years have had considerable additional duties thrust upon them by the enactment of laws against the unrestricted use of habit forming drugs. These laws are both Federal and State and Municipal and have the same object—the protection of the individual whose mind and morals would be ruined by the drugs. Although the laws are for protection of the user it has been found necessary to begin the restriction with the producer and carry them through all stages of the traffic to those who sell or give drugs away. The drastic character of the provisions was made necessary by the methods to which addicts resort to procure drugs and the desperate measures to which traffickers resort to supply drug fiends with dope.

The law as a preliminary forbids the manufacturing, sale or distribution of habit-forming drugs like heron, laudanum and morphine unless by registered persons. It limits the persons who can register to doctors, dentists, veterinarians and wholesale and retail druggists. It defines specifically the conditions under which drugs can be kept in small quantities by unregistered persons and specifies the amount that can be kept. It compels those dealing in drugs to make records of their sales for preservation and requires a prescription to justify a sale by a retailer for general consumption. It holds responsible for violations of the law owners of houses where opium is smoked. It makes the possession of stupor-forming drugs with intent to use them unlawfully a crime and possession concealed presumptive evidence of intent.

Since the police are charged with the active enforcement of

this law they must learn the various ways in which it is smuggled into the city, the ways of dealers in concealing sales, the methods employed by runners to distribute it, the means of hiding, the various ways of using and the manner of recognizing an addict from the drug's effect.

A law enacted in 1918 made some important changes in the statute. All offences against the law were made misdemeanors, the more easily to get convictions, the amount to be prescribed was generally reduced, physicians and others registered were given greater privileges concerning the keeping of drugs and finally a special Department of Narcotics was created upon which the active duty of enforcing the law is imposed, thus making the police force a co-operating body for the enforcement of the law instead of being wholly responsible. The amount of habit-forming drugs that can be kept without conforming with the law is limited.

### Election Crimes

It has come to pass that about all policemen are expected to do on election day is to preserve the peace in and about the polls. Frequently, however, quarrels arise between the election officers and demands are made upon the policeman to make an arrest. He should comply only when the offence is obvious. The election law is technical and the chairman of the board has the right of arrest when he chooses to exercise it. In all technical offences the responsibility should be put up to him by the policeman. Crimes against the election law are either felonies or misdemeanors. A few general rules will help to determine which. These crimes are committed either by the election officer, public officials or the private individual. *To determine whether the election officer has committed a felony let the policeman ask if the act committed was one that would directly affect the result either by deliberately adding to the votes or subtracting from the legal number. But if the act is one which may embarrass, annoy, or something which while not directly affecting the result yet might have such an effect, the offence is only a misdemeanor.* The same rule applied will determine the extent of a private person's guilt. *If he registers without having the right to, or votes without being registered, or wilfully helps another to do so, he is doing an act that directly affects the honesty of the vote and is guilty of a felony. Any act that directly affects the honest result is a felony, but there are a*

*multitude of regulations provided by law which are designed to prevent dishonesty. The violation of any of these, not directly affecting the result, is a misdemeanor because they may not have a direct bearing on the result.* There are a few exceptions to this rule such as an election officer knowingly permitting fraudulent votes to be cast which is only a misdemeanor, but generally speaking the rule will apply to practically all the election offences. Those against the primary election law are generally misdemeanor.

### Business Crimes

Business crimes arise where the person conducting the business has unusual opportunities fraudulently to impose upon his customers, or where his business is of a nature that affords opportunities for the commission of frauds. The doctrine of caveat emptor puts the burden on the customer of looking out for himself and while this does not apply criminally yet in the absence of fraud there is no redress for a bad bargain. There are laws regulating banking, insurance, stock dealing and other kinds of business but the violation of these is seldom obvious, seldom a police matter, because in the first place he would be unable to detect the commission and in the next there are departments specially charged with the enforcement of such laws. Pawnbroking, second-hand dealing and junk dealing are however three kinds of business regulated by the State and City. They will be dealt with in detail later.

Police are concerned with strikes chiefly because they provoke breaches of the peace. It is not a crime to go on strike unless when the striker by abandoning a machine or a position jeopardizes the safety of life or property. It is no crime to advise strike breakers to abandon their jobs through pickets, but the pickets may commit crimes by becoming disorderly or perpetrating assaults. So can the strike breaker, and since both sides are actuated by the strongest motives of self-interest not to speak of passion, breaches of the peace are almost inevitable unless the police are vigilant. Under these circumstances the police have to perform two of their fundamental duties to a greater extent than under almost any other conditions—*preserve the peace and prevent crime.* (Every man preparing for an examination should ask himself numerous questions as to how, when, where, in what manner the peace is threatened and crime

possible and he should ask also the best means of performing both duties.)

Policemen are actively concerned with the suppression of prostitution. This is one of the social evils which cannot be eradicated. It can be regulated and it is badly regulated. The crime involves the offer to commit the act, the procurer, the loiterer and the common variety. The crime is vagrancy and can be summarily disposed of in the magistrate's court. It may also be disorderly conduct.

The owners of certain buildings where prostitution or gambling is carried on are liable under the law provided they are given what is known as a *liability notice*, that is a notice by the Captain of the precinct that he knows or has reason to believe the premises are being used for such purpose. Then it is up to the owner to suppress the practice or incur the liability. There are so many loop holes of escape in the procedure that the very greatest care is necessary to bring home the liability. Convictions under this head are almost nil.

### Extradition

Extradition is the removal of a prisoner from a State to which he has fled back to the State where he is charged with having committed the crime. The detectives' force has charge of such cases.

## EXAMINATION QUESTIONS

Mention all the conditions under which a felonious assault may be committed. What is the duty of a policeman when a citizen makes the following complaints to him on his post about matters none of which he saw: A had maliciously discharged an airgun at the complainant; the pellet had hit him on the head and raised a lump. B had cocked a loaded revolver and threatened to shoot if he came near; C had punched the complainant on the body several times and seriously hurt him without leaving external marks; D had been going about the streets patting little girls on the head and giving them candies.

What are the essential elements of larceny? What three conditions go towards making an act one of grand or one of petty larceny? Classify each of the following as an act of grand larceny, or petty larceny or neither and give reasons. (a) Giv-



ing a bad check in payment of a board bill overdue. (b) Obtaining a diamond ring on the express representation that you had a purchaser therefor willing to pay \$75 of which you were to keep \$25 and return \$50. You had no purchaser, but you pawned the ring for \$30 and kept the money. (c) Finding a diamond ring, knowing the name of the owner but withholding its return not for the purpose of keeping it but for the purpose of getting a bigger reward. (d) Stealing a gold watch from a thief with the intention of giving it to the true owner when you found him. (e) Taking an automobile from a garage without the consent of the owner for the purpose of giving the owner's 14-year-old son a joy-ride.

What elements must be present to make a crime one of forgery? Tell all the ways in which the crime may be committed. What action should a policeman take and what care should he exercise if informed by a man that a third party had signed the complainant's name to a receipt for free tickets for a reviewing stand which were subsequently sold for \$10?

Who may be convicted of being disorderly persons? How are disorderly persons distinguished from persons guilty of other crimes, in the manner and nature of the proceedings to be brought against them? How are they distinguished from persons guilty of disorderly conduct?

Suppose a woman came to you on the street and said she was afraid her husband would assault her that evening, that he had threatened to do so on leaving her in the morning and she expected him to carry out his threat. What advice and assistance would you give her? What would be the full procedure? On what theory would you interfere?

If you followed a witness across to Westchester with a warrant for a misdemeanor, issued in New York County, what should you do in case you overtook him and he disputed your right to arrest him without having the warrant endorsed? Give reasons.

What is corroborative evidence? In what class of cases is corroborative evidence needed? Why?

Mention the crimes that come under this heading.

What particular care should a policeman take when making an arrest for a crime of this class? Give reasons.

What three conditions must be present before a crime can be compounded?

A picked B's pocket of a gold watch. B caught and arrested him, but not before he had passed the watch to C. The prisoner

was turned over to you and all started for the station. C caught up with B, who was walking behind you and the prisoner, but soon left. Then B came to you and whispered, "I got the watch back and a ten spot for you to call it off. Here it is." What should you do and under what authority of the law would you act? What offence would you commit by agreeing to the proposition?

How many persons can be involved in a conspiracy? What is the grade of the crime? In what cases is it complete as soon as an agreement is made, when not? What is an overt act? In order to make it criminal what must be the nature or character of the subject of the conspiracy? If you are nervous and easily annoyed and two associates conspired to keep you in a state of nervous fear and thus keep you from doing your work with interest, did they commit a crime or not? Explain fully.

What particular duties are imposed upon the desk officer when any of the following things happen at the station house?:

(a) A deserter from the U. S. Army is brought in. (b) A man wanted for counterfeiting in Canada is brought in. (c) A query is received from another State regarding a person wanted for a felony there, but now in the precinct. (d) A fire is reported. (e) A foreign attache is brought in who cannot identify himself, but is charged with having killed a woman with his automobile. (f) A water main has burst and is flooding the station house. (g) A bomb is found under the station house steps. (h) A public building is blown up. (i) A man shoots himself in the street outside the station. If there are any duties common to each, state that duty and don't repeat it; if there are other duties common to some and not to others state the duty and tell those to which it applies.

Discuss with reference to the law and with appropriate examples the responsibility imposed upon a desk officer with regard to arraignment before him; (a) by an officer and (b) by a citizen, telling the duties imposed, the discretion if any he can exercise, the cases wherein he has no discretion and the methods he can use to relieve himself of the responsibility for participating in an erroneous arrest.

## CHAPTER III

### Procedure, etc.

#### Reasons for Policemen Existing

What are the reasons for the existence of policemen is a question which every officer of the law should ask and answer as a preliminary to an understanding of his job. Policemen have existed throughout the whole period of civilization and their existence is necessary to keep the vicious part of man from preying upon the better part.

Perhaps before men came to live together in communities, the savage discovered that there was a good and bad side to his nature. If he did not make the discovery as early as that, it was brought home to him as soon as communal life began.

Various reasons are assigned as to why men took to living in association with one another. It has been ascribed generally to the necessity for obtaining food. Men then as now got their food not only from the soil but through preying upon the lower animals most of which were then wild and able to put up an offensive and defensive fight. By combining together men found it easier to overcome the brute.

No sooner was the communal life begun than man's innate selfishness began to show itself and the strong man quickly discovered that it was not necessary for him to work while he was able to take away the food for which weaker men had toiled. He took it and gave the first exemplification of the triumph of might over right. But the weaker men asked themselves if combination was a remedy against the lower animals why could it not also be a remedy against the animal in man? They could, however, tell an animal on seeing it, but they could never tell when the animal part of themselves was going to assert itself and dominate the better part, so they had to make laws defining the things which were wrongful, and providing means of punishment. The earlier laws like those of Draco were drastic and punished all

violators with death. Like many laws of the present day which did not have public approval they failed because few were found guilty of any crime on account of the harshness of the punishment. The policy of making the punishment fit the offence was one that took centuries to evolve.

It was found to be of little use to have laws and kings or judges to enforce them unless there were persons to discover if the laws were broken and who were the law breakers. The men designated as the King's servants in this respect were the first policemen.

The disposition to fight and quarrel was from the beginning another characteristic of men. Although this disposition is strongest where they live least together, yet the opportunity in such cases is less. As congestion increases, friction increases. Friction develops irritations and irritations lead to quarrels and breaches of the peace. The necessity for policemen to prevent this grows in greater proportion than the growth of the congested area.

Since wars, feuds and private quarrels are the natural outcome of the strivings of men with each other and since these quarrels are not prevented by education, religion or any known agency and since fear of punishment has been found to be the greatest deterrent, laws are necessary to prescribe punishments, and the existence of policemen to discover crimes and their perpetrators will always be necessary to civilized society.

### Modern Functions of Police

The detailed functions of policemen have varied. Now they preserve the peace, prevent crime, protect life and property, enforce laws and ordinances, and detect and arrest violators of the law. These duties they perform by means of aid or advice, admonition or warning, the service of a summons, and the making of arrest.

Aid and advice are given to every trivial offender, ignorant of wrong-doing, admonition and warning to offenders in trivial cases when by that means the condition can be remedied and its repetition prevented; a summons is served in more serious cases when it serves the same purpose as an arrest, and the offence is still petty. An arrest is made when the crime is a felony or a serious misdemeanor.

What is a crime?

A crime is an act or omission prohibited by law, punishable

upon conviction by death, imprisonment, fine, civil disability or other penal discipline.

The Legislature can enact a reasonable law making anything a crime which is against the public welfare.

A Crime is a public wrong, triable in the criminal courts, the purpose being to punish the defendant, make him suffer, and thereby deter him from again offending, as well as to give an example to others so that they will not offend.

A Tort is a private wrong, triable in the civil courts, the theory being to compensate the complainant.

There is a lot of things that are both private wrongs and crimes. A man who unlawfully hits another on the nose or damages another's property, etc., may be punished in a criminal proceeding for the public wrong, and punished also by paying damages or forfeiting property to the person injured by the private wrong.

What constitutes a Crime?

Generally speaking there cannot be a crime unless there is an act of omission or commission coupled with criminal intent.

Examples:

Black, while intoxicated, mistook White's house for his own and broke into it. His act without the criminal intent did not constitute a crime.

Black, who on the day of a public election was 21 years of age, believing he was only 20, voted and stated that he was 21. His criminal intent without the unlawful act did not constitute a crime.

Where the doing of a particular act or its omission is made a crime, however, the intent is immaterial.

Examples:

Blew, a bartender, sold a pint of beer to a 17-year-old boy, believing him to be 21. His act constituted a crime because the law prohibited the sale to a person under 18.

Blew, operating a motor vehicle at night, unintentionally omitted to display proper lights. His act constituted a crime because the law required that lights be displayed.

### Division of Crime

A crime is either a Felony or a Misdemeanor.

A felony is a crime punishable by death, or imprisonment in a State's prison. A misdemeanor is a crime less than a felony and

is punishable by imprisonment elsewhere than in State's prison or by a fine.

Three classes of persons are equally guilty of crime: The actual perpetrator, the planner or procurer, and the aider and abettor.

**Examples:**

Black hires Redd and Brown to kill White and gives them a gun. Redd kills White while Brown keeps watch to see that he is not detected. Black, Redd and Brown are equally guilty of homicide.

An **accessory** is a person who comes into the crime, if a felony, after its commission by *harboring, concealing* or *aiding* the offender with the *intent* that he escape arrest, trial, conviction or punishment. Knowledge of the liability of the person aided or reasonable grounds to believe it, is necessary to make the accessory guilty.

**Examples:**

In the foregoing case if Frank concealed Redd after escaping, knowing that he was wanted for the killing of White, Frank would be an accessory.

In misdemeanor cases all concerned are principals.

**Example:**

If Black committed a misdemeanor and to escape from a pursuing policeman, hid in Brown's barber shop, Brown would be a principal in the crime if he knew of Black's act and harbored him to escape arrest.

### **Attempt to Commit a Crime**

When an effort is made to commit a crime and failure follows, it is an attempt to commit a crime.

**Examples:**

If Black put his hand in White's pocket, intending to steal a pocketbook, but withdrew it through fear of detection, without moving the pocket book, Black would be guilty of an attempt to pick White's pocket.

If Black intending to commit arson spilled kerosene oil on the floor of the building he intended to burn but was detected before applying the light he would be guilty of Attempted Arson.

## Arrests

An arrest is the taking of a person into custody that he may be held to answer for a crime.

A person is put under arrest through restraint or by voluntary submission. When either condition exists it is a crime for the arrested person to escape, but one of them must exist.

Arrests are made either under the authority of a warrant or under the general authority of law. Warrants are issued by persons having the authority of a Magistrate both in felony and misdemeanor cases. In felony cases they are issued when the commission of the crime is not obvious; in misdemeanor cases under the same circumstances and also when an arrest was not made at the time of commission. Arrests can be made both by peace officers, and by private persons. Policemen are peace officers. Both may arrest when the crime is committed in their presence, i. e., first in their sight; second in their hearing; third in continuous crimes as where a man is carrying a watch he stole.

Policemen and civilians may also arrest a person who has committed a felony even though he did not commit it in their presence. Sometimes one person will falsely charge another with the commission of a felony, but even though the charge is false a policeman acting in good faith would be justified in arresting the person charged if there be corroborating circumstances. He should, however, before assuming to make the arrest, make such diligent inquiry, touching the truth of the charge, as the occasion will permit. Official intelligence from within or without the State; circumstances from which the fact may be deduced; open and notorious knowledge by the public have all been held to be knowledge sufficient to justify the arrest. There is no well defined line to follow. The policeman must use common sense, and when he does so no jury will mulct him in damages for trying to do his duty.

### Examples:

White, a reliable person, charges Black with robbing him and states evidential facts which constitute a robbery.

The Chief of the Chicago Police Department telegraphs to the New York police to arrest Black for robbery. A general alarm is sent out for Black who is wanted for robbery.

The police can arrest when a felony has been committed, and they have reasonable grounds to believe that the person arrested committed it, even though he did not. Civilians cannot arrest

on suspicion. What is the nature of the reasonable grounds that would justify a policeman in making an arrest when a felony has been committed? Facts, circumstances, and conditions however trivial that would lead a reasonable man to come to a like conclusion.

Example:

White's store was broken into and robbed and Black was seen coming out of the alleyway adjoining the store the night of the burglary. Black could be arrested, though innocent. He was simply unfortunate in being in that place at that time.

In the night time the police can arrest under certain circumstances, when they have reason to believe a person committed a felony. This provision has never been made clear by the courts.

Example:

If Black were found by a policeman in the night time carrying a bag of silverware which he couldn't account for and which appeared to be the proceeds of a burglary, the policeman would be justified in taking Black to the station house for investigation, a prisoner if necessary, and if Black could not satisfy the desk officer that he obtained such property lawfully, he could be charged with a known burglary that it was reasonable to believe he had committed.

There is no distinction between a peace officer without a warrant and a private person, in respect to the right to arrest for a misdemeanor. The courts have held that where an arrest may be made by a policeman without a warrant it need not be made at the very time of the commission of the crime charged, but may be made in a reasonable time thereafter. The reasonableness of the lapsed time depends upon circumstances.

Civilians who fail to make an arrest at the time of the commission of a misdemeanor, should be instructed to apply for a warrant, if they know the offender.

Although an arrest can be made by a civilian as well as by a policeman, the civilian is required to take his prisoner before a magistrate or to turn him over to a policeman without any unnecessary delay.

The policeman to whom a prisoner is turned over must take him to the station house. This is required for the purpose of preventing such things as a breach of the peace, compounding of crimes, and for the protection of the arresting civilian. When such a thing occurs, the officer is to invite the civilian to go along



and make the complaint. Should he refuse to do so or identify himself to the officer, the latter may insist, and in case of absolute refusal to do either, the complainant would be subject to a charge of disorderly conduct. In making an arrest force necessary to compel submission can be used both by a civilian and policeman, but no more force than is necessary. If the offender be charged with a felony the officer may even under extreme circumstances take his life to prevent his escape; if he be charged with a misdemeanor such extreme force cannot be resorted to.

To effect an arrest when the right to arrest exists, doors can be broken, even in misdemeanor cases, after a demand for admittance into a building has been refused. This is true, whether the arrester is an officer or civilian. Doors can also be broken if the prisoner escaped and took refuge in a building.

Warrants are issued by magistrates and executed by peace officers. Magistrates include the Mayor as well as the Judges of all Courts having criminal jurisdiction. Peace officers include policemen, sheriffs, and their principal deputies, on all occasions, and special officers in the execution of their particular duties, such as attendance officers, officers of the children's and animal's societies; Health Department inspectors, probation officers. Outside of New York City there are other peace officers, such as game wardens, marshals and constables.

Outside of New York City, warrants are to be returned to and prisoner arraigned before the magistrate issuing the warrant if possible. In New York City they go to the particular court from which they were issued.

A warrant issued by a magistrate of a county cannot be served in another county without being endorsed by a magistrate of the second county. If issued by a judge of a State court, endorsement is unnecessary. Any warrant, however, issued by a magistrate in New York City can be executed in any county within New York City.

Example:

If Justice of the Peace Smith of Yonkers issued a warrant for Black he should not be arrested on it in New York County unless it was endorsed for service by a magistrate here. If, however, it was not endorsed until the day after the arrest it would be a mere irregularity and not an unlawful arrest. If Black were charged with a felony and it was impracticable to get the warrant endorsed, he could be arrested without the warrant.

Bench warrants are issued:

1. After an indictment.
2. When the prisoner does not appear for trial, his surety has died or bail is insufficient.

Bench warrants act as a commitment and the prisoner arrested under one should be taken to prison immediately as a desk officer cannot accept bail. If the arrest is for a felony, there is no exception to this procedure, but if for a misdemeanor, he may be taken before a magistrate on demand for admission to bail.

When making an arrest on a warrant, an officer must state his authority and show the warrant if requested. He can break into a building to execute it after announcing his purpose, being refused, and upon giving notice of his intention. He may call upon any person for assistance and make an arrest for refusal to help.

### Arrests Generally

In Domestic Relations cases concerning non-support of a wife, certificates of the issuance of a warrant are given out to the person applying for them. On the strength of these certificates, policemen make arrests when the person named is pointed out and identified by the authorized bearer of the certificate whether within or without a building. The policeman is not justified, however, in breaking into a building upon mere information of the presence of the accused who must be pointed out and identified.

A Magistrate has the right to order an arrest orally or in writing for any offence—felony or misdemeanor—committed in his presence and a policeman should obey such order or serve a summons if ordered whether he saw the offence committed or not.

A person who has been adjudged an habitual criminal can be arrested as a disorderly person or have his house searched any time he is acting in a suspicious manner. "Habitual Criminal" is a judgment that can be imposed after conviction upon a person already convicted in this State five times of misdemeanor, or after conviction of a felony, provided he has been convicted here before of some other crime.

An inspector of election on election day may give a written order for the arrest of a person annoying or interfering with the election officials and the policeman should arrest even though he did not see the offence. He should take the prisoner at once before the nearest magistrate, first allowing him to vote.

United States Army deserters are arrested when proclaimed

deserters by the army. This is not usually done until after an absence of more than ten days. They are sent to the nearest army post within the city. Civilians should not make such arrests.

Prisoners on parole are subject to arrest if they violate the terms upon which they were paroled. Warrants for their arrest are issued by the Board of Parole or the reformatory managers and can be executed either by parole officers or policemen. When the Department has been notified of the issuance of such a warrant, any policeman may and should make the arrest. Such a prisoner can be locked up until the prison authorities call and take him. Court procedure is not necessary. The Board of Managers of the House of Refuge and of Elmira Reformatory have charge of the paroling and arresting of their own prisoners. The Board of Parole has charge of the cases belonging to the New York City Reformatory, the Workhouse and the Penitentiary.

A material witness is not arrested in the ordinary sense. He is taken into custody in certain instances when the case is serious and the witness not responsible. There is no Code authority for the procedure but there is long usage to justify it. It should not be resorted to when the witness is willing to tell what he knows to competent authority. He should, however, be safeguarded until he has done so.

A peace officer who saw a misdemeanor committed can direct another peace officer to take the prisoner into custody. The first peace officer is the arresting party.

### **Arrest by Surety**

A bondsman is the custodian of the prisoner for whom he is surety. He can at any time before such prisoner is finally charged arrest and surrender him into the custody of the official to whom he had been committed, or authorize another in writing, upon a certified copy of the undertaking to do so. A copy of the undertaking must accompany the surrender. A policeman should not arrest a person on bail unless he receives proper written authority from the bondsman, and then, usually, only when the bondsman is unable to effect the surrender. Policemen should, however, give all reasonable assistance to bondsmen who are surrendering prisoners.

### **Foreign Representatives**

Ambassadors and ministers representing other countries in the

United States are exempt from trial and punishment here. This exemption extends to their household which includes secretaries and servants. The names of such household is on file with the Secretary of State at Washington. When any of them commit a crime they are to be returned to their own country for punishment.

When the crime committed by an Ambassador or a member of his household is felonious he should be arrested in order that he may be turned over by a Magistrate to his embassy. As a matter of policy, when it is a misdemeanor no arrest should be made. The name of the offender should be taken instead and reported.

The immunity granted to members of a foreign legation does not extend to consuls who are commercial agents.

### High Seas

Crimes committed on the high seas are punishable by the country under whose flag their ship was sailing. The police should interfere in such cases only at the request of the master. Crimes committed within the territorial three-mile limit are punishable in this country as a general rule even though the ship be under a foreign flag. This is sometimes modified by treaty. When such crimes occur, as a general rule, a policeman can go aboard the vessel and make the arrest whether the master of the ship like it or not.

The commanders of Naval vessels of foreign countries in this harbor have jurisdiction over crimes committed on their vessels but not of crimes committed by their men on shore.

A man who commits a felony in another State and flees to this State is subject to arrest under the same conditions as if he had committed the crime within this State.

### Statute of Limitations

There is no Statute of Limitations in homicide cases. In other felony cases the time within which an arrest can be made unless an indictment is found is five years. In misdemeanor cases the limit is two years, excluding such time as the offender may be a refugee outside the limits of the State. Either county has jurisdiction of a crime committed on the border within 500 yards of the line. A person committing a crime on a train or boat that passes through several counties may be tried in any one of them.

Judges and lawyers while sitting in or trying a case in court are exempt from arrest while court is being held.

An escaped prisoner is always subject to be retaken within the State by the person from whom he escaped.

### **Neglect to Arrest**

To neglect to make an arrest when arrest is the proper remedy, subjects a policeman to punishment as a misdemeanor. When an arrest is made the prisoner must be taken without delay to the nearest Magistrate. The arrest is also to be made known to the policeman's superior who makes it known to the police commissioner within twenty-four hours. If court is not in session the prisoner is to be detained or bailed pending the next sitting of the court.

To refuse to make an arrest when ordered to by a Magistrate renders the person refusing liable to punishment for a misdemeanor. The same liability attaches to a person who refuses to aid a policeman in arresting or retaking a prisoner.

### **Summons**

A summons is a Magistrate's written order commanding the person addressed to appear in court in answer to a charge. A peace officer or any person can serve it. It is also used as a means of inquiry as to whether or not a crime had been committed.

A summons is served on an individual by delivering it to him, on a corporation by delivering a copy to a responsible officer or person in a managerial position, after showing the original.

Instead of ordering a peace officer to bring in a prisoner as a warrant does, a summons commands the accused to come and answer. Some are issued in blank by the board of city magistrates to policemen and special officers in the city employ, over the name of the Chief Magistrate. They are filled in by the serving officer and returnable within forty-eight hours after issuance. The manner in which police use and serve them is regulated by rules of the department.

### **Rescue**

To rescue a prisoner from lawful custody, charged with a felony is itself a felony. To rescue one charged with a misde-

meanor is itself a misdemeanor. This is true whether or not the prisoner has been convicted.

### Escape

When a prisoner escapes and is recaptured he must serve, not the time that is to elapse from the date of his recapture, but that which was to elapse after the date of his escape.

It is felony for a prisoner charged with felony to escape from prison or custody by force or fraud; a misdemeanor if held for a misdemeanor. In the same way a person who aids in bringing about the escape of a prisoner from prison or custody is guilty of felony or misdemeanor according to whether the prisoner is held on one or the other charge. This is true even though the escape has not been effected or even attempted directly.

An officer who wilfully and corruptly lets a prisoner escape from jail or custody is guilty of a felony. For any other reason such as negligence he is guilty of a misdemeanor. In addition to other punishment he forfeits his office, and is forever disqualified from holding public office in this State.

A ministerial officer such as a sheriff or subordinate who takes anything in the nature of pecuniary reward for helping or conniving at the escape of a prisoner is guilty of a misdemeanor even though the escape did not take place.

One who harbors an escaping prisoner is guilty either of felony or misdemeanor according to the nature of the crime with which the escaping prisoner was charged.

### Search Warrant

A search warrant was originally issued by a Magistrate to a peace officer to enable him to search for stolen property. There are three cases in which it is now issued:

1. When the property was stolen or embezzled.
  2. When the property was used as a means of committing a felony.
  3. When the property is to be used to commit a public offence.
- In all cases the property may be taken from the premises where found or from the person of any body having it in his possession. Within the city and county of New York the warrant is returnable in five days; in other counties in ten days.

The property concerned and the building suspected must be designated with great particularity as well as the reasons why it is

believed to be in such place before a Magistrate will issue a search warrant.

A search warrant carries with it the power on the part of the executing officer to break into a building when admittance had been refused. Property taken must be receipted for in detail and the receipt left on the premises if nobody be there.

The officer executing a search warrant must return it at once to the Magistrate after execution with a true inventory and an affidavit that it is true. Unnecessary severity in executing it is a misdemeanor.

## BAIL

### Procedure in Accepting Bail in Police Stations

A desk officer is not empowered to take bail if prisoner be:  
 Charged with a felony, except a trainman on a train or street car arrested even for a felony, arising from an accident in connection with the operation of his train or car, resulting in an injury or death to a person, or injury to property. If court is not open, the desk officer may bail such person in the sum of one thousand (\$1000.00 dollars) or in his discretion parole him to appear in court on his personal recognizance, or, charged with a misdemeanor, when his case has been already presented to a Magistrate, or, charged with violation of parole, or, intoxicated and unable to understand the proceedings. If a prisoner, even though partly intoxicated, be able to understand the proceedings, he may be admitted to bail, when able to take care of himself if bailed, or provided some relative or friend is present and will assume responsibility for his safety, or, a fugitive from justice from another State, or, charged with Bastardy, or, charged with being a Deserter from the U. S. Army, Navy, or Marine Corps, or under 16 years of age, and charged with improper guardianship, arrested on a bench warrant.

The misdemeanor, as a rule, must come before the desk officer on an original arrest under the State or local law.

### Amount of Bail Required

Prisoner charged with:

- (a) A Misdemeanor .....\$500.00
- (b) Violation of Corporation ordinance punishable by fine only, double the amount of the largest

- fine that could be imposed.
- (c) Violation of Corporation Ordinance punishable by a fine or imprisonment . . . . . 100.00
  - (d) Violation of Corporation Ordinance punishable by imprisonment for 30 days or less . . . . . 200.00
  - (e) Violation of the Motor Vehicle Law (except Felony or Intoxication) . . . . . 100.00
  - (f) If a child under 16 is arrested, charged with juvenile delinquency, the personal recognizance, in writing of the parent or guardian may be accepted, in lieu of bail. This recognizance, however, usually is not taken if such child is the victim of a crime or witness to its commission by another.

### Defendant May Bail Himself

A defendant may be admitted to bail on his personal undertaking if he deposits as security, accompanied by an oath of ownership, the necessary amount of money, or, liberty bonds, or

- (a) Property other than money which is worth the amount of security required, or,
- (b) His pushcart, if charged with a violation of the ordinance relative to peddling, or,
- (c) His bicycle, if charged with a violation of the ordinance relative to bicycle riding, or,
- (d) His motor vehicle, if charged with violation of the motor vehicle law (except Felony), or,
- (e) A motor vehicle, with the written consent of its rightful owner, who must be present, if charged with a violation of the motor vehicle law (except Felony).

NOTE: If a defendant be charged with a violation of a Corporation Ordinance, punishable by 30 days' imprisonment, or less, he may be paroled on his promise to appear before the Magistrate at the time specified.

### Qualification of Surety

A surety who offers bail for a prisoner, must qualify under oath, as follows, and be

- (a) A resident of the State.
- (b) Not Policeman, Warden, or Prison Keeper, or an attorney practicing in the Courts of this State.



- (c) Worth the amount of the undertaking, exempt from all execution.  
He must execute the bond in the presence of defendant.

### Security That May Be Accepted

- (a) Real Estate located in New York State  
 (b) Stock and fixtures, household furniture, usually located in county where bail is effective.  
 (c) Money or other personal property if deposited in the station house.  
 d) A surety company if a resolution of its Board of Directors authorize its officers or attorneys to bail persons. A certified copy of this resolution must be filed with the undertaking.

NOTE: Under the strict letter of the law all property other than real estate offered as security should be deposited in the station house. Such security is taken, however, as a matter of police procedure.

### Disposition of Security Deposited in Station House

Security that can be easily transported must be taken to Court when prisoner is arraigned and delivered to owner by Magistrate's order.

Security that cannot be conveniently transported is kept in the station house and turned over to its owner upon Magistrate's order.

Security deposited in the station house and not turned over to owner, is delivered to the Property Clerk of the Police Department, unless otherwise directed by the Magistrate.

### Questions on Bail

- Q. Could a defendant give his personal undertaking and offer as security real estate owned by him?  
 A. No—A defendant who bails himself must deposit money or other personal property in the station house—if such is required, and make affidavit to the effect that he is the sole owner of such property.  
 Q. If a person be charged with several misdemeanors, is separate bail required in each case?

- A. Yes—for instance, if charged with five petit larcenies, the amount of bail required is \$2500.00.
- Q. If a surety offered real estate as bail, could the desk officer refuse it because the deeds are not presented, or because he was doubtful of the surety's ownership, or the amount of his equity?
- A. No—If the surety is in other respects qualified, and then properly identifies himself and makes affidavit to the desk officer as to the ownership of the equity, the desk officer is required to accept the security offered. If, however, the surety is unable to identify himself, or the desk officer has good grounds to believe that his title to the property or equity in it is not good and sufficient, such bail may be refused.
- Q. If a surety offer personal property, such as stock and fixtures, which he does not deposit in the station house, could the desk officer refuse to accept such security if doubtful as to its value?
- A. Yes—Where personal property is offered, either by defendant or surety, the desk officer may refuse if he, in good faith, be doubtful as to its value, or if the person offering it refuse to make affidavit that he is the owner.
- Q. If a surety offers real property and be of unsatisfactory reputation, can the desk officer refuse to accept him as bondsman?
- A. No—provided he qualifies in other respects; the desk officer should, however, make diligent inquiry as to the sufficiency of such security.
- Q. Can two prisoners, each charged with the same misdemeanor, bail each other out?
- A. Yes—provided they are able to qualify as bondsmen.
- Q. If a child be charged with juvenile delinquency, can the desk officer under any circumstances refuse to accept the personal recognizance of such child's parents or guardian?
- A. Yes—the law only states that a Lieutenant may accept such recognizance. The Lieutenant should only refuse such recognizance, however, in cases where the acceptance would defeat the ends of justice.
- Q. If the defendant in a misdemeanor case be in a hospital, can the desk officer accept bail for him?
- A. Yes—provided the case has not already been presented to a Magistrate. If bail is to be accepted, a sergeant or lieutenant would be sent to the hospital with the bonds-

man and bail accepted there.

Q. If a prisoner, who is arrested for a misdemeanor after closing of the day court, offers bail and insists that it be taken for night court, is the desk officer required to accept it?

A. No—the prisoner should be bailed to appear the following morning.

Q. If a prisoner arrested during the time court is open desires to give bail, is the desk lieutenant required to accept it?

A. No. The Charter requires that a person arrested must be taken immediately before the nearest sitting Magistrate.

Q. What should a desk officer do if a surety offer bail for a prisoner held in the station house on a felony charge?

A. The desk officer should inform the surety that bail can only be accepted by a Magistrate, fill out proper form, give it to such surety and tell him to apply to a Magistrate. If the surety return to the station house with bail bond or release slip signed by a Magistrate, the desk officer should communicate with such Magistrate and verify his signature and upon such verification, release the prisoner.

Q. A child has been arrested for juvenile delinquency and has been sent to the Children's Society. His parents offer bail for him at the station house. What is the duty of the desk officer?

A. The desk officer should make out personal recognizance bond, have parent sign it—then make out proper form—give it to parent and instruct him to go to the Children's Society for his child, then notify the Children's Society by telephone of his action.

Q. A bondsman brings the person he has bailed to a station house and offers to surrender him. What action should the desk officer take?

A. If such person had been bailed at that station house and his case had not been presented to a Magistrate the desk officer should accept his surrender. If bailed at some other station house, or his case had been presented to a Magistrate, the bondsman would be instructed to surrender him at the place he would be confined in if not out on bail.

## CHAPTER IV

### COURTS—JURISDICTION

#### Criminal Courts

The Magistrates Courts, the Courts of Special Sessions, the Court of General Sessions in New York County, the County Courts outside New York County, and the Supreme Court are the courts which have original criminal jurisdiction in the City of New York. The first two are inferior courts, but Special Sessions has been made a court of record. The City Court of Utica and Oswego are criminal courts in those cities. A court composed of State Senators and members of the Court of Appeals constitute the court for the trial of impeachments.

The appellate courts in New York State are the Appellate Division of the Supreme Court and the Court of Appeals.

The United States Circuit Court of Appeals and the United States Supreme Court are appellate Federal courts to which decisions of the United States District Court can be appealed.

#### Magistrates' Courts—Chief City Magistrate

The City Magistrates constitute a board presided over by the Chief Magistrate. He assigns the other Magistrates and is the administrative head of all the Magistrates Courts.

The Mayor, Chief Magistrate and Police Commissioner constitute a board to fix the boundaries of the districts for each Magistrates Court in each Borough. Special Magistrates court or Courts of Special Sessions for the trial of specified classes of offenders are also provided for.

#### Magistrates' Jurisdiction

Magistrates as such have summary jurisdiction in case of disorderly conduct, public intoxication, vagrancy and violations

of the Ordinance. When a Magistrate sits as a Special Sessions Judge he can dispose of offences constituting violations of the rules and regulations of various State and City Departments. He can also dispose of violations of the general business law effecting small loan brokers and employment agencies, the lodging house section of the charter, the sections relating to the disposal of dead bodies and of signs and names of practitioners in the public health law; the section relating to the parental control and unlawful employment of children in the education law, and all violations of the labor, Sabbath, tenement house and conservation laws as well as article 11A of the highway law and that part of the Penal Law affecting animals.

Fraud on hotel keepers, accepting street car transfer tickets for use, sending messenger boys to disorderly houses, opening fire hydrants, advertising on the National or State flag, placing injurious substances on roads, using unmuffled motorboats in tidal waters, carelessly distributing drugs, driving vehicles, animals or teams on sidewalks, as well as fraudulent representation in labor organizations are all triable by the same court with a Magistrate presiding.

In case a person is entitled to a trial before three judges of the court of Special Sessions, a Magistrate cannot try him without his consent.

### MUNICIPAL TERM

The Municipal Term Court is really a branch of the Court of Special Sessions although held by a Magistrate. The Magistrate holding it is designated by the Chief Magistrate. Each court covers a district the boundaries of which may be changed by the Chief Magistrate from time to time.

Violations of the ordinances; of departmental regulations; of laws prosecuted by departments other than the police, and violations of the labor law come before the Municipal Term. The Board of Magistrates may, however, except certain cases which otherwise would be triable in this court.

Offences of the kind tried by the Municipal Term when committed without the district are tried before the Magistrate ordinarily holding court in the district where they are committed. The ordinary court procedure is followed in the Municipal Term.

## TRAFFIC COURT

The Traffic Court has been organized by the board of City Magistrates to try violations of the traffic regulations. It exists only in the Borough of Manhattan, and deals with vehicular traffic violations. The court is not in session every day. When it is in session offenders are brought there direct by arrest or summons. When it is not in session and an arrest is made the prisoner is brought to the Night Court in the night time or to the ordinary District Court in the day time.

## DOMESTIC RELATIONS COURT

The Domestic Relations Court exists for the adjustment of family troubles. Family troubles usually are:

Parents' failure to support or provide for minor children.

Husbands' failure to support or provide for their wives.

Grown children's failure to support parents or grandparents.

The court has not jurisdiction in abandonment cases where the father left or abandoned his children in destitute cases. That offence is a felony and the accused is arraigned in the Magistrates' Court.

## GENERAL POWERS OF MAGISTRATES' COURTS

Magistrates have jurisdiction of first offenders in some misdemeanor cases whom they can send to the City Reformatory for as long as three years.

Magistrates have jurisdiction of women who offend against the law forbidding prostitution, and may send them to the Bedford Reformatory, House of the Good Shepherd, Wayside Home or similar institution for as long a term as three years.

Magistrates have jurisdiction involving habitual use of drugs and may commit addicts to an institution, correctional or charitable where such addicts are treated.

Magistrates have power to put prisoners on probation.

Persons who are arrested for offences in the city are arraigned in the court of the district in which the offence was committed, except—

Men misdemeanants and women misdemeanants who demand an immediate hearing in Manhattan and the Bronx arrested after the close of the day courts who are taken to the Men's Night Court. (When a man and woman are arrested for a joint of-

fence they are both taken to the Men's Night Court.)

Offenders against Federal Laws who are taken before a U. S. Commissioner.

Children under 16 charged with juvenile delinquency who are taken to the Children's Court.

### CHILDREN'S COURT

The Children's Court has been established for the trial of juvenile delinquents. Juvenile delinquents are children under 16 who have committed some crime other than homicide. The court is a branch of Special Sessions.

A child under 16 who has committed a crime is arraigned in the Children's Court.

If a child and an adult working in concert have committed a crime the child can be used as a witness against the adult in the Magistrates' court; after his own arraignment if the Children's Court be in session or before his own arraignment if not. The Children's Society has charge of juveniles from the time of their arrest until after their arraignment.

### SPECIAL SESSIONS

The Court of Special Sessions exists primarily for the trial of persons charged with misdemeanors. Three judges sit without a jury. Its jurisdiction extends to all the boroughs. Cases in this court are prosecuted by information and not by indictment. It does not try libel cases. It may not try other misdemeanor cases if—

A person be charged with cruelty to animals or a first offender against the motor vehicle law pleads guilty.

A Grand Jury indictment has in the meantime been found against the accused for the same offence.

A Supreme Court Judge, a Judge of General Sessions or a County Court Judge has meantime certified that it is reasonable to have the charge prosecuted by indictment.

### THE GRAND JURY

The Grand Jury is a body of responsible citizens chosen to inquire into crimes prosecutable by indictment in the county. Its numbers are not to exceed twenty-three and sixteen must sit to transact business. Twelve may vote an indictment.

Before finding an indictment the Grand Jury hears the witnesses for the defence. This is discretionary. When the evidence is strong enough to accuse, it finds a *true bill*. A true bill is, however, only an accusation.

In addition to the title of the action and the names of the parties an indictment must contain a plain concise statement of the act constituting the crime. After indictment a bench warrant is issued by the court or District Attorney for a person not in custody. He is arraigned in the court in which the indictment is found or in that to which it is sent.

In felony cases the defendant must appear to answer in person. In misdemeanor cases he can answer by counsel who either moves to set aside the indictment; demurs or pleads thereto. There are three kinds of pleas:

Guilty,

Not guilty,

Previous conviction or acquittal of the same charge.

An individual pleads himself, a corporation pleads by counsel. Usually the counsel conveys the plea to the court. If "Guilty" the prisoner is remanded; if "Not Guilty" the case is put on the calendar for trial. Pleas of "Guilty" are not accepted where the punishment may be death.

The Supreme Court and the Court of Special Sessions try indictments in New York County; the County Courts in other counties or the Supreme Court.

The Court of General Sessions tries felonies in New York County. It also hears appeals from the Magistrates' courts and Special Sessions. Unlike the Supreme Court or the County Court, its jurisdiction is limited to criminal cases.

The Supreme Court can try indictments found in general sessions or in the County Courts, or send them to be tried in those courts; grant new trials, grant writs and hear and determine the various kinds of motions in respect to an indictment or the person accused.

## COUNTY COURTS

County Courts exist in all the counties outside the county of New York. In Brooklyn, Queens, Bronx and Richmond as well as Albany and Ulster they have jurisdiction over all indictment cases including those punishable with death. In other counties they cannot try cases where the death sentence may be inflicted. In counties within the city their original jurisdic-



tion is practically similar to that of the Court of General Sessions within New York County, but outside the city they try bastardy cases, master and servant cases, domestic relations cases, licenses and other kinds of cases which within the city are either heard at Special Sessions or in the Magistrates Courts.

## COURT DUTIES

When a policeman brings a prisoner into court there are several duties devolving upon him. He should:

1. Put his prisoner in a pen and register him.
2. Consult with the Assistant District Attorney or Lieutenant if the case be a felony.
3. Make the complaint, produce witnesses, if any, and have the prisoner sign the declaration sheet if necessary.
4. Read over the complaint carefully to detect errors or omissions. If they exist have them corrected.
5. Note his shield number and the number of his command on the complaint.
6. Make a short affidavit when more time is needed to get necessary evidence in a felony case.
7. Inform the Magistrate in case a witness is missing and procure a doctor's certificate in case a witness is in the hospital.

The complaint with the papers attached are to be delivered to the court attendant and then the policeman should stand in line with the prisoner and wait his turn to be called. Prisoners on summonses are usually permitted to sit in the body of the court until called.

## Way to Testify

When the case is called the officer should take his prisoner briskly in front of the Judge and stand at attention until ordered to take the stand.

On being sworn an officer should give his rank, name, shield number, and the number of his precinct, sit upright in the witness chair and begin his story in a straight forward manner.

When giving his testimony an officer should speak loud and distinct enough to be heard and understood by every person in Court.

Tell nothing but the exact truth, tell only what he himself heard or saw, and tell it in a brief, concise and business-like manner.

Answer in as few words as he knows how. Yes or No is sufficient if either meets the question. If he cannot answer Yes or No, a brief answer is the best.

State the exact language used or act committed when testifying to **indecent words or acts.**

Not try to make his version tally with that of other witnesses for the prosecution. He or they may have observed incorrectly and both may be testifying truthfully as they saw it.

Not lose his temper, or become irritable, as the defendant's counsel may ask him questions for the purpose of causing him to do so and thereby discredit him with the judge or jury. For instance, the defendant's counsel may ask him, "Officer are you the policeman that Sergeant Jones found intoxicated in a saloon?" The best answer would be "No," or "Yes."

Not pound the defendant, or show that he is trying to do so. If asked "Do you want the prisoner convicted?" answer truthfully.

Not argue with the defendant's counsel, or with the court, or interrupt the court, counsel or other witnesses while they are speaking.

Not hesitate to say "I don't remember" when questioned about something that he has forgotten or hesitate to ask the court for permission to consult an entry in his memorandum book, he should not read therefrom, except by permission of the court.

Not use slang words, or words he does not know the meaning of. Use simple words and sentences.

Not say "I guess so" or "I think so" when testifying. If he does not positively know he should say so.

Not testify as to the defendant's previous character, except by direction of the court or in answer to a question.

The prisoner's record may not be gone into in giving evidence as it is only when he himself tries to prove good character or in the case of second offenders that character is to be proved. A witness should use no unnecessary words; tell time exactly and distance as precisely as possible.

### After Testifying

On leaving the witness stand a policeman should take his stand beside his prisoner. If a commitment be secured he should obtain the commitment paper from the attendant and deliver it and the prisoner to the prison keeper with any property not to be used as evidence and get a receipt for what he delivers.

In case of a discharge the prisoner's property should be returned to him and a receipt obtained, or a written order from the clerk procured in case there is doubt about the ownership of the property.

After finishing with his case the officer returns to the station, apprises the desk officer of the disposition of the case and delivers property he may have for evidence.

The desk officer should be acquainted when an officer is subpoenaed to court. The officer should take the subpoena to court and deliver it to the attendant. If property is to be taken from headquarters he should first go there and show his subpoena. Property taken to court and brought back again should be receipted for on the taking and returning of it.

### Faults in Testifying

An officer is asked what the defendant said when arrested. An answer we frequently hear is "he admitted to me that he was guilty." This is obviously only a conclusion, and when the defendant objects to it, the Court directs the officer to answer the question and not to attempt to describe the effect of the defendant's statement. The officer finally testifies, "He, defendant, said to me, I took the package from the wagon; I was hard up and needed the money." That is in fact a much more effective and accurate answer, but an unfavorable impression has been created on the jury by the rebuke to the officer from counsel and the Court, and the jury is apt to get the impression that the officer is being unfair.

Again, an officer may say "They acted in concert," unless he is aware that by the rules of evidence he cannot so characterize, but that he must state what the actions were and leave it to the jury to draw conclusions as to whether or not they were concerted.

Many jurymen seem to have a prejudice against the testimony of police officers, and jurors who constantly, as citizens, trust their lives and safety to the word of an officer, when sitting on juries will not believe the testimony of the same officer, unless it is corroborated. This feeling may in part arise from the fact that the jury realizes that the police officer desires that the accused be convicted. If he is an honest officer and knows that the defendant is guilty, having himself seen him commit the crime, he must desire his conviction, but it is important, as this feeling exists on the part of many jurymen, that a police witness shall not appear to be over-zealous; and by a little more famil-

ilarity on the part of police officers with the ordinary rules of evidence than some of them now have, they may avoid rebukes from the Court for attempting, in their ignorance of what evidence is admissible, to give that which is not. Such rebukes are sometimes administered to a witness who is trying his best to testify truthfully, but is ignorant of the limitation upon what he may say, and when a police officer is so rebuked, the result is that the jury is prejudiced against his testimony.

### CONTEMPT OF COURT

Contempt of court is a misdemeanor. In the higher courts it is punishable without the aid of the statute. It is:

Words or acts of a disorderly, contemptuous or insolent character committed during the sitting of the court, in its immediate view or presence and tending directly to interrupt proceedings or impair respect for due authority.

Similar behavior before a sitting referee or jury.

A breach of the peace, disobedience to a lawful mandate, resistance of a process, refusal to be sworn or interrogated and publication of a false or grossly inaccurate report of proceedings.

## CHAPTER V

### EVIDENCE, PROCESSES, ETC.

The law of evidence is concerned principally with two things :

1. What may be proved in court.
2. How may that thing be proved.

The accused is entitled to a fair trial, and presumed to be innocent until proven guilty. He should have the privilege of being confronted by his accusers and the opportunity to cross-examine them for the purpose of :

Exposing their weaknesses; testing the value of their statements, and opportunities for attentiveness in observing; strength of recollection; disposition to speak the truth.

Most testimony must be given by the person who saw the act or heard the noise, not by others who were told; that would be *Hearsay*. Hearsay Evidence is allowed when it is the dying declaration of a person feloniously injured, who at the time of making such declaration believed he was going to die, and subsequently did die as a result of that injury.

A policeman, however, is allowed to testify to the fact that a complaining witness reported to him the burglary, larceny or whatever crime which the defendant is charged with and his subsequent action in the case. He is not allowed to testify to the words the complainant used in making such report. If the crime charged be rape, or other sex offense, the words used by the woman in making the complaint may be testified to for the purpose of showing her lack of consent, particularly, if she made the complaint immediately after the occurrence.

A material statement made by a third person in the presence of and hearing of the defendant, if heard, may be testified to in order to show what the prisoner said or did on hearing it.

#### Confessions

Voluntary statements by the accused are admissible as evi-

dence; he need not be informed or warned that they will be used against him, as in England, by a policeman at the time of an arrest. The Federal courts follow the English rule. They must not be extracted through the instrumentality of fear.

A Magistrate warns a prisoner of the use which may be made of his confession before receiving it.

A policeman should record a confession in his memorandum book in accordance with the rule for keeping memoranda.

The most unimpeachable confessions are those written out by the accused. If the policeman writes it, he should get the prisoner to sign it and the policeman should also sign as a witness.

In first degree murder cases confessions can be used only to strengthen other testimony. Confessions made outside of court are not in themselves sufficient to convict. When made in court after the crime is charged and after a plea of guilty is entered they are enough to convict.

A confession made under duress is not admissible as evidence. Duress can be exercised by the police or District Attorney.

Example:

If Black were arrested on suspicion of burglary and confessed only because he was put in fear of physical punishment, such confession could not be used against him. If, however, he stated that he had pawned the stolen property in a certain pawnshop, the policeman to whom such confession was made could testify that as a result of a conversation he had with Black, he went to a certain pawnshop and found therein the stolen property.

A confession to a District Attorney under the stipulation that the confessor will not be prosecuted, cannot be used against a prisoner.

A confession by a defendant to his attorney or confessor, is privileged, and cannot be used except by his permission.

A confession made by a defendant while under the influence of liquor may be used against him unless he is so drunk as not to understand the nature of the confession.

A confession by a witness, documentary or otherwise presented in any proceeding where he is granted immunity by statute cannot be used against him, unless he makes and deposits in the office of the County Clerk a statement waiving immunity.

### When Compelled to Testify

A person may be compelled to testify in the trial or investi-

gation of the following offenses, even though he claim that his testimony may incriminate him, but if compelled to testify he is granted immunity by statute unless he waives such privilege.

- Penal Law relating to the following:
- Art. 14. Criminal Anarchy.
  - Art. 34. Bribery and Corruption.
  - Art. 36. Bucket Shops.
  - Art. 72. Duelling.
  - Art. 74. Election Law.
  - Art. 88. Gambling.
  - Art. 140. Disturbing Lawful Meetings.
  - Art. 164. Prizefighting and Sparring.
  - Art. 188. Riots and Unlawful Assemblies.

### When Corroboration Is Necessary

Corroboration of testimony is necessary to secure conviction in:

Sex offences.

When it is that of an accomplice.

When it is that of a child under 12.

When a person is put upon trial for a particular offence, evidence of similar acts formerly committed, cannot, as a rule be proven.

Example:

Black is charged with robbing White. Evidence that he had previously robbed Green would not be admitted.

There are exceptions to the above rule. When the question of criminal intent is raised, or where the presumption of intent has been overcome and it must be re-established, evidence of similar acts can be introduced to prove such intent. This is another reason why the criminal records of a prisoner should always be looked up.

Example:

Brown is charged with obtaining money from White on a worthless check. As proof that he had criminal intent, evidence may be offered that he gave similar worthless checks to others.

Brown is charged with passing counterfeit dollar bills. As proof that he knew they were counterfeit, evidence may be offered that he passed similar counterfeit bills on others.

Brown is charged with standing at the window of his home,

on a certain date, with his private person exposed. As proof that he did so intentionally, evidence may be offered that on other days he committed similar acts.

Brown is charged with receiving stolen goods from Black on a certain date. As proof that he knew such goods were stolen, evidence may be offered that he bought stolen goods from Black on other dates.

Whenever it becomes necessary to prove motive, a fact, a condition, an act or a circumstance that would go to supply such a motive, can be testified to. Had the accused anything to gain pecuniarily? Had there been a quarrel? Was there spite or jealousy? Would the accused be benefited in any way or gratified by the act?

Example:

Black is accused of killing White, the fact that Black would inherit White's property; that he had quarreled with White prior to the killing; that he had occasion to be jealous of White, etc., may be proved.

As a part of a chain or circumstances it is competent to prove any previous preparation for the crime such as buying of the instrument of execution, threats made or intentions expressed by the accused.

After a person has been accused of the commission of a crime it is competent to prove acts, speech or conduct on his part influenced by the crime or the accusation and having to do with or relating to it.

Telephone conversations can be testified to just as other conversations, provided the witness can identify the person speaking by the tone of the voice. When a telephone conversation is had and an act follows as a natural sequence, both the conversation and the act can be testified to for the purpose of showing the chain of circumstances that led up to the final happening.

Example:

"Is this Brown?"

"Yes."

"This is Black speaking. Do you want to sell those stolen coats you bought last night?"

"Yes."

"All right. Bring them over to my store and we will settle on a price."

"Very well, I will bring them over right away."

A policeman who heard such conversation could testify to the



fact that he heard it, and subsequently saw Brown leave his home with stolen coats and deliver them to Black.

A witness cannot testify to what a third party told him. That is hearsay. For example: In the trial of Black charged with stealing a horse, White could not say "Brown told me he saw Black steal the horse."

There is no method legally prescribed for the manner of identifying a criminal. The accused may be identified while alone or in the company of others. He may or may not have been pointed out in advance to the witness. Since the identification is subject to challenge and the method by which it was brought about may be raised at the trial for the purpose of discrediting the identifying witness, the best method is where the accused is picked from a number of others without the witness having had a previous opportunity to look him over.

Opinions or conclusions cannot, as a rule, be admitted as evidence unless given by an expert. There are, however, certain conclusions which are obvious to a person endowed with common sense, and these can be testified to, such as the appearance of a person, color of his hair, his condition and behavior. Testimony of that kind is admissible.

Evidence given by word of mouth is called, sometimes parole, sometimes oral evidence.

### KINDS OF EVIDENCE

Documentary evidence consists of books or written matter produced for inspection of the court.

Exhibits are articles or things submitted in evidence which directly relate to the case.

Competent evidence is evidence pertaining to the fact at issue. For instance: "Brown is accused of committing a burglary in New York and Jones testifies that he saw Brown in Chicago at the time such burglary was committed."

Cumulative evidence is evidence of the same general kind and character and to the same point as evidence already given.

Circumstantial evidence is evidence of facts and circumstances from which the existence of the fact to be established may be inferred. For instance: If established as a fact that Brown was alone in a room at the time a pocketbook was stolen from a table therein, it would be reasonable to suppose that Brown was guilty of stealing it, as he was the only one who had such an opportunity."

Corroborative evidence is additional evidence to strengthen

that already given. For instance: "A woman charges Black with assault and states that she screamed at the time of the occurrence; the testimony of a person who heard such screams would be corroborative evidence.

Presumptive evidence is evidence of facts from which the fact at issue may be presumed. Example: "If Black had a stiletto concealed on his person it is presumed that he intended to make unlawful use of it."

Direct evidence is the evidence of witnesses who testify to their actual knowledge of the facts to be proved. Example: "Black accused of stabbing Brown with a knife and Smith testifies that he saw Black do so."

Sufficient evidence is the amount of weight of evidence which will convince a reasonable mind. The sufficiency of the evidence produced is a question of law, therefore the Court decides that question before submitting a case to the jury.

### Destroying Evidence

It is a felony:

To make up fraudulent written matter for the purpose of having it introduced as evidence in court.

To offer to procure or to procure fraudulent written matter, having knowledge of its character.

A misdemeanor:

To destroy purposely, written matter to be used as evidence with the object of preventing its use.

To incite another to testify falsely even though perjury is not committed.

To prevent the attendance of a witness or the production of anything to be used as evidence, through threats of violence, deceit or fraud.

### Marking Evidence

Evidence should be marked very carefully. The ends of justice may be defeated through careless marking. Another witness should see it marked and be able to identify the mark. A note of the mark should be made in the officer's memorandum book.

An article or thing received from another should be doubly marked by the person giving it, and the officer taking it. Tags, as a means of identification, are as a rule unsafe and inadequate.

Evidence to be placed in an envelope should be marked first in the presence of a witness and the envelope sealed in his presence. The time, date, names of sealer and witness should also

be marked on the envelope. The seal should be broken in the presence of the Court and not before. When it is necessary to reseal, the same procedure should be followed.

Revolvers are scratched for identification purposes and a note of the serial number made. The calibre and make is noted. Cartridge shells empty or charged are also scratched after being examined as to previous discharge. Bullets are marked by a deep dent to prevent tampering, after being examined for previous marks.

Poisons, drugs and the like are put in metal containers, marked and sealed in the manner indicated. Clothing and documents are properly marked with something indelible or ineffaceable; the denomination and serial number of paper money to be used as evidence is taken. Metal coins are scratched.

Dead bodies are tagged for identification, and the tag contains a comprehensive description of the body, the date of death and the name of the deceased if known.

### Responsibility to the Law

Everybody is presumed to be responsible for his acts which means that anybody who commits an illegal act must take the consequences. The law will not regard a man as insane unless he is proven so. Neither will it treat him as a lunatic, imbecile or idiot unless actually adjudicated as such. While these things can be put up as a defence the offender in order to escape must show

1. That he did not know the nature of the act.
2. That the act was wrong.

In the last analysis a person who proves the foregoing of himself is held incapable of committing a crime. So is a child under 7. If between 7 and 12 he is presumed incapable which presumption may be removed by proof. A person may not be fully competent (*compus mentis*) and yet be liable for his criminal acts.

There is a difference between the presumption in an insane person and in a child under 12. In the first case the presumption may be overcome by the accused; in the second case the burden is upon the State to remove the presumption. A policeman should not arrest a child under 12 for a trifling crime without a warrant. He may be taken into custody for improper guardianship.

### Who Are Punished in This State

To be punished in this State for a crime, the crime must have been committed :

1. In this State, wholly or partly.
2. In another State and the proceeds brought to this State, provided the crime would have been larceny here, and by one who helps in abduction or kidnaping from this State even though in another State at the time or

Participates in the commission of a crime in this State while absent in another by causing, procuring aiding or abetting, or

Does an act while outside of the State which in its natural course results in a violation of the law in this State.

### Subpoena

A subpoena is a process to compel the attendance of a witness in court. It is served by anybody by showing the party the original and leaving a copy. When it contains a direction to bring books or papers it is called a subpoena duces tecum.

When witnesses reside in another county service is usually effected through the Sheriff of that county who makes return without delay to the District Attorney. The person served with a subpoena must appear under a penalty if the process be issued by a court of record, District Attorney or County Clerk. If issued by another person it must be endorsed by a judge of a court of record. In New York City such endorsement is not needed.

A court outside this State cannot directly order the attendance of a witness from this State. The subpoena, however, can be endorsed by a judge of a court of record here and then it is good if tendered with fees amounting to ten cents a mile for each mile to and from the court and \$5 a day additional.

Disobedience of a process including a subpoena is contempt of court, as is a refusal to be sworn or to testify.

A conditional examination may be had for witnesses who are too sick to attend or who are about to leave the State. In such cases counsel for the defence must be notified so as to be present and cross-examine them.

To dissuade a duly subpoenaed person from attending court, or to practice fraud on a witness for the purpose of affecting his testimony is a misdemeanor.

### Perjury

To constitute perjury there must be :

An oath or affirmation.

A false statement knowingly made.

An occasion where an oath is required or may be lawfully administered.

A material matter misstated.

It is perjury whether the oath is made orally or in writing, before a court or by affidavit or at a hearing or inquiry ordered by a court or by law.

Perjury is a felony, so is subordination of perjury. To be guilty of the latter a person must wilfully induce or persuade another to swear falsely.

To attempt to procure false testimony from another even when the attempt fails is a misdemeanor. To say positively that you know a thing when you believe but are not sure is perjury.

Examples:

At the time of a robbery in First Street, Black was in Second Street and Brown was in Twelfth Street. Black was being tried for the crime. Brown swore in defence that at the time of the robbery Black was in Second Street. Even though Brown's statement were true in fact, he committed perjury because he did not know whether it was true or false.

Miss Jones, a witness in a criminal proceeding, was asked her age and answered untruthfully. Doing so, she did not commit perjury unless her age was material to the point at issue.

## QUESTIONS ON LAW AND PROCEDURE

In each of the following cases state what crime, if any, is committed, what duty is imposed upon a patrolman when the circumstances are brought to his attention by a citizen, what evidence is needed to justify an arrest, and what to secure a conviction:

A, carrying loot, the product of a robbery, is caught by B in the act of burglary. A offers him the loot to be let go and B lets him off and keeps the loot.

A knows B to be a professional burglar, but says nothing about it. B in appreciation of this gives A \$1000.

A stole a rifle worth \$50 from B. B swore out a warrant for A's arrest, but later gave the policeman \$10 not to serve it. B has got the rifle back and \$10 to give the patrolman.

A committed a felonious assault on B for which there was a criminal and civil suit entered. A paid B \$100 in settlement of

the civil suit and stayed out of the jurisdiction when the criminal trial was called.

A and B agree to corner the stock of bunting and obtain all of the supply there is except that in store houses. They hire D who is C's employee, to steal all C's bunting, take it to a yard adjoining tenement houses and with the aid of E burn it.

A and B for the purpose of obtaining Government contracts hire C, an employee of the department, to tip them off as to the amount of other bids which he is able to do by obtaining the figures through transparent envelopes.

A and B for the purpose of keeping D out of competition with them, hire C, a lawyer, to bring a number of suits against D so that he would not be able to give attention to the business in hand.

A for the purpose of finding out if there are any traitors in a secret society, secretes himself in a closet during the meeting and is discovered there.

A for the purpose of covering up a defalcation, burns up an account book and charges B with stealing it.

A child of 10 throws a stone with a sling, hits a chauffeur on the wrist, who lets go of his wheel. The car runs into a bank and one of the passengers is thrown out. This passenger follows the boy and beats him so severely that he had to be carried home.

A, a citizen, arrests a man for robbing a woman in the street. He does not know what to do with his prisoner, so B, a third party, says he will hold on to him while A is telephoning for a policeman. When A comes out the prisoner is gone and B explains that he broke away. This is denied by others present. Then you come along and A insists that you arrest B. What should you do? If you did arrest him what charge would you make?

Suppose the man who escaped had been arrested for simple assault, would you arrest B for letting him escape? Why? Give reasons.

If the citizen had let him go after arresting him for the crime, what penalty would he incur? Explain.

If an officer allows a prisoner to go who tells him he is a friend of the Commissioner and will have him broke, of what crime is the officer guilty?

A, B, C and D live together in a flat. A makes bombs, intending to kill capitalists. B buys some of the explosive matter to oblige A. C knows of the bomb-making and discusses and advises the uses to which they are to be put. D knows of the work

and sympathizes with it, but is not known to take any part either in the making of the bombs or in the discussion concerning them. Which of them are breaking the law and why?

X and Y are detectives who have the adjoining flat, instal a dictophone, listen to the conversations and make notes. While they are listening, a bomb blows up, kills A and X and another innocent tenant in the house.

Explain the crimes for which the offenders are liable to arrest, and the evidence to collect for their conviction.

Suppose a magistrate, while on his way to court, saw an altercation between a teamster and the chauffeur of a private auto, who accused the teamster of wantonly injuring the auto. The teamster left his wagon and assaulted the chauffeur with his fists; then after remounting his wagon gave vent to a stream of filthy, coarse and obscene language. There is no policeman in sight.

What is the power of the magistrate in such a case? What is his duty? Give the full procedure.

(a) Suppose the chauffeur appeared against the teamster?

(b) Suppose he did not?

What courts have authority to compel offenders to keep the peace?

For how long?

What class of offences is concerned in such cases?

What exceptions to such a class?

When is such an undertaking broken?

What are the penalties for breaking such an undertaking?

Suppose you were told that a certain woman was asked to give false testimony and incited to it by the pretense that the party against which it was to be given had injured her. What would you do?

The following objections are made to persons offering themselves as bondsmen at a station house. State which of them are valid and which are not, giving reasons.

(a) A man claiming to be the owner of real estate is alleged to have only a life interest therein.

(b) A man claims that he is the owner of property, but it is alleged that the mortgages and his wife's dower right leave him no equity.

(c) A man offers a piece of property as security which it is alleged he does not own.

(d) A man offers himself as a bondsman who it is alleged is not a citizen.

(e) A man offers himself as a bondsman who is alleged to be the owner of a disorderly house, a gambling house and is a professional bondsman.

A man offers himself who it is alleged is an ex-convict from a State prison.

A, a resident on the beat of Patrolman B and well known to the patrolman, is walking on the sidewalk when his brother and two special officers seize him and force A into an automobile.

A calls on B for protection. B jumps aboard of the machine. A's brother shows a court order committing A to a lunatic asylum. A says it is fraudulently obtained, that the brother wants him incarcerated so as to make away with certain property. The policeman says they must go to the station. A's brother shoves B off the running board and the car starts off. B commandeers another machine and follows. He fires his revolver at the tire of the retreating auto and wounds one of the officers in the leg. They escape. B waits for A's brother and arrests him for kidnaping. Discuss the conduct of B as to the propriety or impropriety of his conduct.

A informs you that he caught B picking his pocket and arrested him. B denied that A had the right to arrest and refused to go along. Then he broke away from A and ran into a stable, closing and bolting the door. A was about to force the door when C arrived and told A to go about his business or he would punish him for destroying C's property. C was owner of the stable. A appeals to a policeman. Explain all the information the policeman should give A as to his powers and what assistance he should render to A.

The right to carry arms is guaranteed to every citizen of the United States by the Constitution. How is the exercise of this right regulated by the State?

(a) With regard to the nature of the arms;

(b) With regard to the keeping of them;

(c) With regard to the carrying of them.

What is a bench warrant and in what cases is it issued? What are you to do if one is delivered to you?

How can an officer in charge of a prisoner protect himself when taking his prisoner through a neutral county?

Suppose a warrant was simply signed in blank by a magistrate who did not know the name of the defendant. In what particulars would it be defective?



## CHAPTER VI

### EXTRADITION

When a person commits a serious offence in New York and escapes to another place, say Chicago where he is located, the matter is first laid before the District Attorney by the detective and his witnesses. The District Attorney may present the facts to the grand jury, and upon the issuance of an indictment, make out a bench warrant and give it to the detective to execute.

Notice of the facts is next sent to the police of Chicago who arrest the fugitive, and if he refuses to waive extradition an exemplified copy of the indictment is sent to Chicago. Upon this a magistrate in that city may hold the fugitive for thirty days.

The complainant has to make an affidavit setting forth the facts of the crime, that the accused was in New York on the day it was committed, and asking that he be returned to New York to be prosecuted.

The District Attorney next makes application to the Governor of this State for an authorization to bring back the prisoner, giving it as his opinion that the accused committed the crime and naming the officer who is to bring the prisoner back. Three warrants are signed by the officer and endorsed on the back that the accused cannot be found in the State of New York.

The application, certified copies of indictment, bench warrant and affidavit of complaint in regard to flight are collected together, duplicate copies made and sent to the Governor of this State. When he examines them and is satisfied he files one and returns the other to the District Attorney with the requisition and the authorization to the officer to receive the prisoner.

The Governor of Illinois, after receiving and examining the papers and requisition, makes out a warrant to the proper authorities directing them to turn over the prisoner to the New York authorities. This warrant is delivered to the officer having the man in custody who thereupon turns him over to the New York detectives who take him back to New York.

Should the prisoner waive extradition proceedings, the detective goes at once to Chicago with the bench warrant and a certified copy of the indictment. The prisoner signs a waiver and is at once delivered to the detective from New York.

When a person commits in Chicago, say a crime classed as a felony in New York and that fact is communicated to New York where he now is, the police here can arrest him and hold him for extradition. When the offence is a misdemeanor an exemplified copy of the indictment or complaint must come from Chicago and upon it a New York magistrate can issue a warrant and the man can be arrested. Then the Chicago authorities send a certified copy of the indictment or complaint, meantime the accused being held on a short affidavit pending its arrival. When it arrives the detective makes out a full complaint against the accused, attaches to the papers the indictment or complaint and has the magistrate hold him for thirty days pending a warrant from the Governor of the State of New York. If it be not issued in that time the prisoner is discharged.

The Governor's warrant can be sent to the Police Department first or through the Chicago officer who applies for it. It is taken by the detective to the prison warden who leaves a receipt in exchange for the prisoner whom he takes to the District Attorney's office where if the accused sign a waiver he is turned over to the Chicago authorities, a receipt given on the back of the warrant which is returned to the Detective Bureau and through the Commissioner sent to the Governor.

Should the accused refuse to sign a waiver he is taken before a Judge of the Supreme Court, or court of record where he can raise the question of not having been in the State of Illinois at the time of the crime, but no other issue. He can go to the Governor on this question on appeal. When the Court decides against him he is turned over to the Illinois authorities in the manner already described. If he were out on bail, his bondsmen must produce him upon notice from the District Attorney.

The waiver which the prisoner signs in the District Attorney's office is one making it unnecessary to go before a Judge of the Supreme Court; otherwise extradition proceedings cannot be waived in this State. Neither can they in New Jersey and Pennsylvania, so that in these States papers must be obtained.

The signature of a judge of a court of record is sufficient to an exemplified copy of the complaint to be sent to the Governor when the grand jury is not in session. The practice of holding

the prisoner for thirty days pending extradition is general, but not universal in all States.

## INTERNATIONAL EXTRADITION

For the purpose of illustration, we will assume that in the County of New York, Brown committed an extraditable felony, fled to a foreign country to avoid arrest, and that his whereabouts become known to the police.

The detective handling the case should report the facts to the District Attorney of the County where the crime was committed.

If there be an extradition treaty between the United States and the foreign country to which Brown has fled, the District Attorney hears the witnesses and if satisfied that there is sufficient evidence to convict, sends a telegram to the Governor of the State of New York, stating the crime with which Brown is charged, his description, where he is, and asks that he be arrested.

Upon receipt of such request, the Governor notifies the Secretary of State of the United States of the facts, and the Department of State instructs the United States Minister, or Ambassador in the country, where Brown is, to cause his arrest.

The Ambassador or Minister makes application to the proper tribunal for the man's arrest and if it is made, he notifies the Secretary of State of the United States, who in turn notifies the Governor of this State who notifies the District Attorney of the county that he is detained, awaiting extradition papers.

The District Attorney then has the witnesses appear before a judge of a high court (usually a Judge of General Sessions) and make depositions as to the facts in the case. These depositions are attested to by the Judge and certified to by the Clerk of the Court. They are also certified to by the County Clerk, as to the election of the Judge.

Triplicate copies of the depositions are made, to one of which is attached an application to the Governor of the State, for a requisition upon the Secretary of State of the United States, and all are forwarded or taken to the Governor's office at Albany. One copy is retained at the Governor's office, and the requisition of the Governor is attached to the other copies which are forwarded, or taken to the office of the Secretary of State, in Washington. The State Department in Washington retains one set of such papers and the Governor's requisition, the other set is authenticated by the Secretary of State of the United States, given to the officer, with the warrant of the President of the United States

and a letter from the Secretary of State of the United States addressed to the United States Ambassador, or Minister in the foreign country where the man is in custody.

Upon the officer's arrival in the foreign country, he presents all his papers at the Embassy, or Legation and the necessary proceedings for the delivery of the fugitive are conducted by the Embassy.

When the fugitive Brown is delivered into the custody of the officer, who is the agent of the Government of the United States, he is brought back to the County of New York and placed in proper confinement, the case thereafter taking its usual course.

## CHAPTER VII

### HOMICIDE, ARSON, ASSAULT, ETC.

#### Compounding a Crime

To compound a crime there must have been a crime committed and then corrupt agreement to let the criminal get off. The corruption may consist in taking money, property, gratuity, reward or even a promise. The agreement may either be expressed or implied and the promise may be to conceal a crime, abstain from or delay prosecution or withhold evidence. This does not apply to certain misdemeanors known as private crimes which may be compromised with the consent of the Court.

Compounding a felony is a felony; compounding a misdemeanor is a misdemeanor. The agreement in itself constitutes the crime even though it be never carried out.

Examples :

Brown cashed a check forged by Black and did not prosecute him because he made good the amount of the check. Brown's watch was stolen from his pocket by Black, and it was returned to him *because he agreed* not to prosecute. The mere taking of one's goods back again or receiving reparation is no offence if no favor is shown or agreed to be shown to the thief.

Brown knew that Black committed a robbery and received a sum of money from Black because he agreed not to inform the police.

Brown was to be a witness against Black who was to be tried for robbery. He fled the jurisdiction of the court because Black gave him a sum of money.

The offence of compounding a felony is complete at the time when the agreement to refrain from prosecuting is made.

## Advertising

Various kinds of advertising are forbidden by law.

Advertising counterfeit money for sale or anything that purports to be counterfeit money, stamps or token of value, or aiding in it with knowledge is a felony.

Advertising by placard anything in which you are interested on the property of another without consent is not only a misdemeanor but there is a presumption of guilt on the interested party which he must overcome. That presumption warrants a policeman in making an arrest if the circumstances warrant an arrest.

To advertise an offer to procure a divorce or dissolution of the marriage tie or to engage as an attorney for such purpose is a misdemeanor.

To advertise the treatment of private diseases is a misdemeanor.

To use the United States flag or the State flag for advertising purposes is a misdemeanor.

False and misleading advertising for the purpose of making a sale is a misdemeanor as are false statements about the purchase or a sale of securities of a corporation with intent to deceive the public.

Selling real estate by means of prizes, distinctions or puzzles is a misdemeanor. So is the placing of advertising matter in any postable place in a public street, such as a curb post or hydrant.

Throwing or causing to be thrown advertising matter in the street, yards of private persons, stoop, vestibule or letter box of a building is a violation of the city ordinances, as is the driving of an advertising wagon through the streets. This does not apply to the ordinary signs of a firm's regular business wagons.

The city can punish by ordinance the tearing down of its placards.

## ARSON

Arson was originally the setting of a house on fire in the night time in which there was a human being. That was once a capital offence and is still arson in the first degree.

The crime of arson has been broadened greatly in this State. The house may not be burned directly if a structure is set on fire which may communicate to it, but a house must be concerned in the fire. The time of the commission of the crime is no longer restricted to the night time but includes the day time

as well. The person whose life has been risked need not have been in the house at the time of the fire. It is enough if somebody is ordinarily there. A house includes boat, car or any structure.

Arson is a felony. The insurance people have had a provision added to the law making it a felony to burn a building for the purpose of collecting insurance. Under the provision "building" also includes any structure or car. Collecting insurance is the motive in the majority of arson cases. Pyromaniac, a malady of the weak-minded; revenge and the concealment of crime are other motives.

The insurance collecting arsonites are of two kinds.

1. Victims of business reverses trying to recoup losses.

2. Professional fire-makers who set their own fires or hire their services out for pay to others. The latter kind are the most dangerous. They hunt up merchants in business difficulties, over-insure their own goods or remove insured property before setting the fire. They move from place to place and assume different names to avoid detection of the insurance companies and the public authorities.

Pyromaniacs are mental defectives who delight in the excitement a fire creates. They are not numerous.

Arson for revenge is more frequent than pyromania. Anything which excites such desire for revenge as to induce the commission of a crime is likely to provoke the crime of arson if the revenge can be gratified best in that way. Arson to conceal homicide or other crimes is infrequent and not of sufficient importance to warrant discussion.

Arson is hard to prevent and difficult to detect. For this reason the city employs a corps of assistant fire marshals to run down the perpetrators. With these men policemen are to cooperate, but inasmuch as the patrolman on post is the one most likely to discover a case of arson and as the evidence of the crime can best be secured at the time of its commission the policeman should neglect no opportunity to use the best efforts and the most diligent endeavors to detect, secure and preserve whatever evidence of the crime may be available at the time of his making the discovery.

Quickness of thought and action, acuteness of observation, extreme care in noting conditions, circumstances and details are of the greatest importance to the policeman who has first discovered such a fire as may have been set by a "fire bug."

Since the crime of arson must in most cases be proved by

circumstantial evidence every circumstance of probative value should be noted. These include the time the fire started; who saw it first; where it started; who first entered the burning building; how he entered; what he found; what he saw.

*Antecedent facts*, that is facts which went before are very important. Who was last seen in the building; when; how was he occupied; was the time a usual time for his presence? Were any packages seen to be carried into the building recently; by whom?

Conditions found in the building are important. Traces of a lighted candle where it ought not to be; trains of inflammables to lead the fire to other parts; the remnants of burst bladders; wood soaked with kerosene oil; soaked clothes in closets; powder concealed in mattresses; time fuses on the premises; escaping gas from an open jet near an open light.

The solvent condition of the insured is important. Had the stock been running down; was business bad; was the place overstocked; was the insurance disproportionate to the stock value.

The previous character of the owner is important. Was he an habitual drunkard; had he had other fires; was he honest in his dealings?

The policeman first on the scene should see, hear, observe and take notes; preserve everything even the slightest detail from being molested; allow nobody but the firemen, assistant fire marshals or the detectives to get at facts; refuse to discuss anything he learned with an outsider and give full particulars to the detectives and marshals when they arrive.

Examples of the things which might be important in detecting arson would be unlighted candles on hand or the remains of one that might have been used; oil cans on the premises particularly if they bore marks of finger prints; packages and paper boxes in which oil cans might have been wrapped; tags or labels on such packages to identify the place in which it might have been purchased.

Precautions of the firebug to cover his get-away are important. Drawn blinds, covered windows, etc., should be noted.

The salvaging of important or valuable articles in advance would be significant. Had jewelry, oil paintings, silverware, expensive clothing or very valuable merchandise been removed; horses taken from stables or automobiles from garages? Had papers or valuable records been removed in advance? Were the goods destroyed unfashionable or out of season?

If the person under suspicion can be found quickly he should



be subjected to rigid and searching examination, not only for the purpose of getting incriminating admission but to get his statements before there is time for concoction in order to check them up. Incendiarists are wily and pretend to misunderstand; hence an officer who speaks their language should be present to assist in the questioning.

The whereabouts of a suspect before and at the time of the fire, the persons in his company; the insurance he carried; how long it had been carried, should be ascertained. The better the alibi offered the more suspicious the detective should be. Innocent persons do not have their alibis all ready as the man who plots the thing in advance is likely to have.

If an arrest be made his home if elsewhere should be searched for any thing in the nature of articles or documents that would prove evidential. An arrest should be made only after it is evident that the fire was criminal. The homes of near relatives might also bear investigation.

### Pyromaniacs

Pyromaniacs usually stay in the neighborhood of the fire which they started to enjoy the excitement. They can be found in doorways in the immediate vicinity often with the evidence of their acts upon them. They have even been known to send in the alarm or report the fire to a policeman. They generally live in the neighborhood and if there is evidence of pyromania the weak-minded of the neighborhood should be looked up.

If the pyromaniac does not succeed in getting his first fire started he usually starts another and another. In fact two or three fires in the same neighborhood in the same night is often set by him. Whenever anything like that occurs the policeman should be extremely careful to notice anybody showing excitement or extreme interest in the fires. Frequently some of the substances which they used in setting the fires—oils, matches, excelsior, are carried around with them while the firemen are extinguishing the fires.

### Arson in First Degree

A person who wilfully burns or sets on fire in the night time

1. A dwelling house in which there is at the time a human being; or
2. A car, vessel, or other vehicle, or a structure or build-

ing other than a dwelling house, wherein, to the knowledge of the offender, there is, at the time, a human being. Is guilty of arson in the first degree.

### Arson in Second Degree

A person is guilty of arson in the second degree who:

1. Commits an act of burning in the day time, which, if committed in the night time, would be arson in the first degree; or,
2. Wilfully burns, or sets on fire, in the night time, a dwelling house, wherein, at the time, there is no human being; or,
3. Wilfully burns, or sets on fire, in the night time, a building not inhabited but adjoining or within the curtilage of an inhabited building, in which there is, at the time, a human being, so that the inhabited building is *endangered*, even though it is not in fact injured by the burning; or,
4. Wilfully burns, or sets on fire, in the night time, a car, vessel, or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time; or,
5. Wilfully burns, or sets fire, a vessel, car, or other vehicle, or a building, structure, or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice or defraud the insurer thereof.

### Arson in Third Degree

A person who wilfully burns or sets on fire, a vessel, car, or other vehicle, or a building, structure, or other erection, under circumstances not amounting to arson in the first or second degree,

Is guilty of arson in the third degree.

Since burning to collect insurance was removed from third to second degree arson it is now difficult to tell what is arson in the third degree.

### Assault

There are three degrees of assault. The first two are felonies, the third a misdemeanor, viz.: simple assault. A policeman

for the purpose of an arrest should know whether the assault is simple or felonious. For the purpose of conviction he should be careful to note whether the conditions or circumstances make the crime one of the first or second degree.

One kind of felonious assault includes:

Deliberate and wrongful striking with a weapon or instrument likely to do grievous bodily harm. The harm need not have been done if the weapon used was likely to do it.

Examples:

Black stabbed White with a knife slightly injuring him.  
Felonious Assault.

Black struck White with a cardboard box slightly injuring him.

Simple Assault.

Another way of committing felonious assault is to administer a drug, medicine or the like, if the drug be ordinarily harmful to life, and the intent be to do the victim injury.

Examples:

Black sent White a box of poisoned candy, which White partook of.

Black, with evil intent, administered poison to his wife.

Sometimes the police are called on to take action in cases where it is not clear that the person who administered the drug or poison had criminal intent. If a prima facie case be established, a summary arrest can be made. If, however, it is apparent that there was no criminal intent, an arrest should not be made except on a warrant.

Example:

Brown, a nurse, administered arsenic to Jones, a patient, injuring him, and on investigation it was apparent that it had been administered by mistake.

A third way to commit felonious assault is to administer a drug, intoxicating narcotic or anesthetic agent with intent to effect the commission of another crime.

Black, intending to rob White, put chloral in the beer which White was drinking.

Black, while committing burglary in White's house, administered chloroform to the inmates.

Black, intending to know a woman carnally, administered morphine to her.

Grievous bodily injury, wilfully inflicted even without a weapon is a fourth way of committing felonious assault, as if

Brown broke Jones's leg by striking him with an automobile he was operating wrecklessly.

A fifth way to commit felonious assault is with intent to commit a felony, resisting a court order or a lawful arrest, as if Brown hit a woman while trying to rob her or hit a policeman to escape from custody.

When the conditions attending the commission of an assault are not felonious, the assault is simple, and the crime is a misdemeanor. The most common are, unlawfully striking another with the hand, unlawfully pushing a person, slightly injuring a person by striking him with a weapon not likely to inflict serious bodily injury and the like.

### Degrees

A person is guilty of Assault in the First Degree (Felony) who, with an intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another.

1. Assaults another with a loaded fire arm, or other deadly weapon, or by any means or force likely to produce death; or
2. Administers to or causes to be administered to or taken by another, poison, or any other destructive or noxious thing, so as to endanger the life of such other.

A person is guilty of Assault in the Second Degree (Felony) who, under circumstances not amounting to the crime in the foregoing section:

1. With intent to injure, unlawfully administers poison to, or causes to be administered to, or taken by another, or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health; or
2. With intent thereby to enable or assist himself or any other person to commit any crime; Administers chloroform, ether, laudanum to or causes to be administered to, or taken by another or any other intoxicating narcotic or anesthetic agent; or
3. Wilfully and wrongfully assaults another by the use of a weapon, or other instrument or thing likely to produce grievous bodily harm; or
5. Assaults another with intent to commit a felony, or to prevent or resist the execution of any lawful process or

mandate of any court or officer, or the lawful apprehension or detention of himself, or of any other person.

A person is guilty of Assault in the Third Degree (Misdemeanor) who commits an assault, or an assault and battery not specified in the foregoing.

### DYING DECLARATIONS

Inasmuch as dying declarations must be taken in accordance with the statute, the methods of taking them should be carefully studied, otherwise the statement if taken would not be admissible as evidence.

The thing of greatest importance is that *the victim believes he is going to die as the result of the injuries received* and makes a statement of the belief before making the declaration.

The following is a sample of the questions that may be asked:

Q. What is your name?

Q. Where do you live?

Q. Do you now believe that you are about to die?

Q. Have you any hopes of recovery from the effects of the injury you have sustained?

Q. Are you willing to make a true statement as to how and in what manner you came by the injury from which you are now suffering?

Statement: (If possible the statement should be written out and the victim's signature obtained.)

Witnesses:

.....  
.....

If the victim be about to die and does not believe it, the doctor should be requested to tell him so. If he still refuses to admit his belief in near death the statement cannot be admitted as evidence, but should be taken nevertheless.

It is also a good plan to have the victim of a crime and the person accused confront each other. Important admissions or identifications are often obtained in this way.

### HOMICIDE

Homicide is the most serious of all crimes. It is the taking of one human being's life by the act, procurement or omission of another.

Homicide is divided into four kinds, two of which are crimes and two of which are not. The two grades constituting

crime are called murder and manslaughter, and the other two are justifiable homicide and excusable homicide. A policeman should make an arrest surely in the first two, possibly in the other two cases in the interest of precaution.

Both murder and manslaughter are felonies. There are two degrees of murder, but a policeman is interested in the degree only on account of the nature of the evidence he is collecting.

First degree murder is committed with deliberation and premeditation.

Example:

Black was jealous of White and killed him.

By an act imminently dangerous to human life showing a depraved mind.

Example:

Black in a spirit of caprice, fired a shot at White and killed him.

While committing a felony.

Example:

Black robbed White; as a result, White at the time died of heart disease.

Second degree murder means the killing of another without deliberation and premeditation but intentionally.

Example:

Black accidentally met Brown who had wronged him, and on the impulse of the moment, shot and killed him.

Manslaughter means the killing of another while committing or attempting to commit a misdemeanor.

Example:

Brown struck White with his hand and caused White's death.

While in the heat of passion.

Example:

Black and Brown had a quarrel, in the course of which Black impulsively drew a knife and killed him.

While trespassing on a private right.

Example:

Black was trespassing in White's home and in trying to eject him, White lost his life.

In the performance of an illegal abortion.

Examples:

Dr. Black performed a criminal abortion on Jane Doe, and killed her unborn quick child.

Dr. Black performed a criminal abortion on Jane Doe, and caused her death.

Jane Doe performed an abortion on herself, and killed her unborn quick child.

By killing an unborn quick child through injury to the mother.

Example:

Black struck a woman quick with child, and caused a miscarriage.

By an act of culpable negligence.

Examples:

Brown, an engineer having charge of a boiler, wilfully created an undue quantity of steam, causing the boiler to burst and kill White.

Brown, an elevator operator, through gross neglect, left the door open. White stepped through it, fell through the shaft and was killed.

Homicide is justifiable:

When committed by the executioner of a man condemned by law to die.

By a public officer when absolutely necessary, when overcoming actual resistance to a court order.

Example:

Patrolman Jones had entered Black's house to execute a search warrant. Black absolutely refused to permit the search, pointed a revolver at Jones, and threatened to shoot him if he did not immediately depart. Jones did his utmost to disarm him, and being unable to do so, shot him.

By a public officer when absolutely necessary in arresting a prisoner for a felony.

Example:

Patrolman Jones had Black in custody for robbery. Black attempting to escape, knocked Jones down and endeavored to get possession of his revolver. As there was imminent danger of this, Jones shot him.

By a public officer when absolutely necessary in performing a legal duty.

Example:

Black, after committing a robbery, was fleeing from the scene in an automobile. Patrolman Jones ordered him to stop, but he failed to obey. As there was imminent danger of his escaping Jones shot him.

To prevent a person from committing a felony on the person

of another when there is imminent danger of his doing so.

Example:

Black entered a bank, pointed a revolver at the cashier and commanded "Deliver that money or I'll shoot." White, the bank watchman, shot Black to prevent him from effecting the robbery.

In self-defence when absolutely necessary.

Example:

Black, without provocation, shot at White with a revolver, and still kept it pointed at him. White to repel the attack, threw a stone at Black and killed him.

Inasmuch as it is not always apparent to a policeman whether or not the homicide was justifiable, the safest plan to follow if there be any doubt whatsoever, is to make an arrest and leave the determination of guilt to the magistrate.

Excusable Homicide is the killing of a person through accident or misfortune, such as might happen during the performance of a lawful act by lawful means with ordinary caution and without unlawful intent.

Examples:

Dr. White caused his patient's death by accidentally administering the wrong medicine.

White was operating an automobile in a careful law-abiding manner, and accidentally struck and killed Jones.

White, a policeman, accidentally let his revolver fall to the ground; it discharged and killed Jones.

A summary arrest should not be made when the case is clearly one of excusable homicide. If, however, a person is killed or seriously injured by a vehicle, the driver, if a non-resident should be taken before a magistrate to determine the degree of culpability, if any.

A homicide case is the most important occasion on which a policeman can perform his three duties towards evidence. *Collect, Preserve, Present*. He begins at the scene. He ends at the trial.

At the scene of a homicide the work a policeman does and the extent of his inquiries will depend to a large extent upon whether:

- The murderer is known and has escaped; or
- Has escaped without being known; or
- Has not escaped and is known.

The last of the three is easiest, yet there are details which should not be overlooked.



The police at the scene should summon medical aid, arrest the murderer, note his demeanor, record any statement he may make, examine his person and clothing for evidence, and line him up for the identification by witnesses; secure the weapon or thing by which death was caused, note the exact place where found, mark it for identification, safe-guard any blood or other stains that may be on it. If a revolver had been used, note its make, calibre, number, and the number of empty and discharged cartridges in it; search for any discharged bullets that did not enter the body, and empty cartridge shells if an automatic had been used.

He should get material witnesses, take their statements, have them affix their signatures, keep them separate, and detain them until they give their version of the affair, while still fresh in their minds, to the detectives.

He should measure the exact location of the body in relation to some fixed object, its exact position, note any evidence of a struggle that may be on it, safe-guard any knife cuts, powder or blood stains, or other evidence of a struggle that may be on the clothing, remove the body to the station house or morgue when permission of the Medical Examiner is obtained, and it has been examined by detectives and photographed if photographing be necessary.

A policeman, preferably the one first at the scene, must identify the body at the autopsy as being the one found at the place of the crime. The policeman who is to make such identification, should take such description of the body before its removal, have it identified by relatives if known, try to establish identity if unknown, place a tag on it containing its description and pedigree, and name of slayer if obtained.

He must remove all property from the clothing in presence of witnesses and senior officer present, note, mark and tag clothing and property, deliver property to desk officer, and on the clothing being removed, keep it in his possession until delivered to the property clerk of the Police Department.

If the murderer be known and has escaped, the policeman first at the scene should quickly gather all the information possible, his description, how he left the scene, description of the vehicle used, if any, the direction he took, his residence, former residences, residences of relatives, where employed, associates, where likely to be found and telephone all such information to the desk officer for the purpose of a general alarm.

Otherwise the procedure would be similar to that in all other cases.

If the murderer has escaped without being known then the real hard work of investigation begins. The person who found the body must be questioned as to how it was disposed. Information must be gathered that might supply a motive. This should include a history of the deceased, those he was last seen with and his habits. Every trace left by the murderer should be carefully noted as foot-prints, finger-prints, tire marks, weapons, instruments, writings and photographs which often lead to detection.

The detective who takes charge of a homicide case should direct, advise and assist the patrolmen who are present, take any necessary action that they have failed to take, examine any evidence that they have found and take possession of that which may aid him in a solution, examine all witnesses, and have their statements properly recorded, detain material witnesses until they give their version of the affair, while it is still fresh in their minds to the District Attorney, Medical Examiner and possibly a Magistrate.

He should institute searches, have body photographed if necessary, examine everything in the minutest degree and with the fullest detail that may have any bearing upon the manner of the crime, its author or motive.

A headquarters should be established at the scene of every important homicide by the detective in charge. He should inform his commanding officer and other policemen working on the case of its location, and keep his commanding officer informed as to the progress that is being made.

#### Desk Officer

There are seven places that a desk officer may have to communicate with in case of a homicide. They are the:

- Telegraph Bureau,
- Precinct Detectives,
- Homicide Bureau,
- District Attorney's office,
- Chief Medical Examiner's office,
- Commanding Officer, Precinct and District,
- Missing Person's Bureau,
- Friends or Family of Deceased.

What additional duties the desk officer may have to perform will depend upon circumstances, and what is known in connection with the flight.

If the murderer has escaped and is known, the Telegraph Bureau must be notified to send an alarm. If there be reason to believe that he will try to leave the city the Telegraph Bureau should be informed and requested to send immediate alarm to all police officers stationed at ferries, bridges, railroad terminals and telephone booths within the city and possibly to adjoining towns and cities.

If results might be obtained by immediate action the information should also be sent out to the men on patrol in the precinct by flash light, signal box and police booth. If the murderer is believed to be hiding in any particular building or buildings in the precinct, the reserve must be sent to surround and search such place.

A desk officer's duty in connection with a body brought to the station house is to:

1. Supervise the search.
2. Record and properly dispose of property found on the body.
3. Notify the Missing Person's Bureau if unidentified.
4. Note identifications if made.
5. Notify morgue to remove, except Medical Examiner has given permission to remove it elsewhere.
6. Make record of removal, by whom, and to where.
7. Make report.

### Street Homicide

A body found in the street or public place should not be moved until exact measurements are taken of its position. If in the center of the street it may be moved to the sidewalk after examination by a detective, but should not be removed to the station house until permission of the Medical Examiner is given. All the facts already enumerated should be gathered; weather condition and everything else of moment noted in the memorandum book of the officer, and full details turned over to the detective who takes charge. The detective in addition to doing the things mentioned already, has the body photographed if necessary, exact measurements of the location taken, and everything of importance about the person of the victim, such as bullet holes, knife cuts, powder marks, torn clothing, noted and recorded.

### Body Found in Vacant Ground

The uniformed member of the Force first at the scene should:

Report all the facts to the desk officer.

Safe-guard the body from disturbance pending the arrival of a detective.

Note in his memorandum book the position of the body and its surroundings.

Safe-guard any foot-print, or other evidence that might lead to the identity of the perpetrator, or person who placed the body there.

Keep all unauthorized persons a reasonable distance away from the body and permit none to leave the scene until the arrival of a detective.

The detective on reaching the scene should try to determine how long before the finding of the body the murder occurred; whether it occurred there or elsewhere, and if elsewhere, how long the body lay at that place. This he can usually do by observing the state of decomposition; the condition of the soil under it, the manner of its disposal, and the presence or absence of evidence of a struggle. If the murder occurred there, the murderer's and the victim's foot-steps may be found; if elsewhere, then only the murderer's or his accomplices. Foot-steps found adjacent to the body should be compared with those of persons lawfully at the scene for the purpose of cancellation, and possibly with the victim's. Foot-steps that might be the perpetrator's should be measured and casts of them taken. The detective should be able to approximate the slayer's height from the length of the foot-print, his weight from the depth of the impression, the shape of his feet from the angle made by the toes with the line of direction, and whether he carried the body from the length and regularity of his stride.

Casts should be taken of any tire marks found and the distance between tires carefully measured. Samples of the soil and any vegetation such as burdocks, should be secured, as such substances may be found adhering to the suspect's clothing or shoes. Conditions around the body and any box or clothing in which it might be wrapped or enclosed should be noted so that previous possession or place of purchase may be traced and the body photographed before removal.

### Homicide in Dance Hall

The patrolman who discovers a homicide in a dance hall, cabaret or place of public amusement, and the detective who investigates it, in addition to the precautions already mentioned,

should take measures to prevent anybody from leaving until thorough search is made. The names of those present should as far as possible be obtained.

### Homicide in Joint

Similar precautions should be taken if the killing occurred in a saloon or "joint." Besides, the persons present should be kept from conferring to guard against a possible "frame-up," and in addition if they were of unsavory reputation, all should be held as principals or witnesses.

### Homicide in Private House

When a homicide occurs in a private house, the patrolman who enters first should note in his book the position of the body, evidences of a struggle if any, condition of doors and windows, lights, furniture, etc. Unauthorized persons should be kept out and the general precautions otherwise adhered to.

The detective who investigates the crime is to:

1. Establish the crime.
2. Look for a motive.
3. Detect and arrest the criminal.

The crime can be established from the condition of the body and surroundings. The motive can be ascertained by looking up the history of the victim and the criminal detected from the trail of evidence he leaves, circumstances, etc.

A number of persons if present at the place of the crime, obstructs investigation, upsets calculations by a multitude of theories and is dangerous as a means of communicating with the criminal. They should be dispensed with.

A struggle can be evidenced by overthrown furniture. The weapon, article or substance used to kill may be lying around or traces of the substances be discovered in a bottle or a package. The manner of the murderer's exit and entrance may be evident from the appearance of a door or window.

Search to be effective should be thorough and not haphazard. The good detective does not hesitate to go down on all fours and examine everything with the closest scrutiny. Every square of the carpet should be gone over separately and nothing overlooked.

Knives, glasses or revolvers may bear finger-prints; walls and door knobs may have blood stains, foot-prints may be visible and

important, though not apparent to a casual observer, capable of development, and of being photographed by a dusting of powdered chalk on a dark damp surface, or powdered graphite on a light surface. The print of a naked foot damp from perspiration can be developed in this way and a photograph made of it.

When an article is found that may be useful as evidence, its exact position in relation to the body is important enough to be noted.

When a revolver was used to commit the crime, the usual conditions as to calibre, number, shells, etc., are not only essential, but there are other things. Where are the bullets? Are there any bullet marks? What was the angle at which the revolver was held? This last is often important in disposing of claims of self-defence.

Blood stains should not be removed from a knife. Dust or dirt in the grooves may yield important evidence by being identical with similar substances found in the pockets of the accused.

Clubs, bottles, iron bars, hatchets or the like which bear stains of any kind should be preserved for the stains, as similar articles with similar stains may be found in the possession of the accused. A man was once convicted, but on a second trial acquitted because a piece of lead pipe was found in his cellar similar to a piece of lead pipe found in the room of the crime, and lead stains were found on the underclothes of the man himself. Brick dust on a bloody hatchet once led to the arrest of a bricklayer who owned it and established the authors of the crime. Tools in other trades may bear similar tell tale marks.

The wrapping of a bottle containing poison is often more important than the bottle itself. A button torn off in the scuffle led to the identity of him who bombed Russel Sage. Two hairs on a hat may establish whether the murderer was blonde, dark or red-headed. A cigarette butt at the scene may be of the brand the murderer smoked; a burned match like others in his possession. A hat may bear the maker's name, or a coat the tailor's. Laundry marks are of the greatest importance. Therefore, nothing can be overlooked, nothing considered too trifling as the truth often lies in the smallest detail.

From the victim's body can sometimes be obtained evidence to incriminate. Clothing torn from the perpetrator may adhere, so may hairs, etc., to the hands. In certain crimes other evidence can be found by the medical examiner.

The statements of witnesses during an investigation cannot always be relied upon. Many persons are habitually inaccurate.

Under the excitement of an unusual occasion, they become more so. They exaggerate. They prevaricate. Others are reticent to avoid trouble or notoriety. To sift the truth from one and draw out the other is a lesson in detective work.

Six or seven ordinary and seemingly unrelated incidents if told by as many persons may make a chain of circumstances from which an important deduction may be made. No statements, however trivial, having any possible bearing on the case, should, therefore, be discarded in the course of criminal investigation.

### Motive

Of greatest importance is the motive for the deed. Motives have their foundation in the wickedness and weakness of human nature. Generally they are:

Greed of gain.

Sex jealousy.

Revenge and anger.

Moral depravity and perversity.

Fear of disgrace.

Crank's delusions.

When greed of gain is the motive, the question of what is to be gained and by whom, should be carefully gone into. The amount concerned and the previous character of the suspects are important in running down a clue supplied by this motive.

Revenge as the motive might be inferred from previous quarrels or injuries inflicted, previous intrigues with a woman discarded, or anything that would cause a person with unbalanced mind to seek to get even.

Jealousy as a motive arises from a man carrying on love affairs with two women, or with one woman when married, or with any woman when he himself is married, or vice versa, in the case of a woman.

Moral depravity and perversity applies to persons so depraved morally as to be capable of committing murder to gratify their perverted tastes. All beastly crimes are of this nature.

Fear of disgrace is the motive which sometimes prompts an unmarried woman to kill her illegitimate child.

Prominent persons have most to fear from cranks.

When the motive has been established, criminal responsibility must be fixed on the accuser. This can be helped by threats if made, the time he was last seen in the locality, his opportunity to be in that place at the time of the occurrence.

### Pursuit

The next step is the pursuit. Pursuit should be persistent, merciless, tireless. Persistency, more persistency, and still more persistency is the word that in detective work spells success. Every clue should be followed to its end, every theory investigated, every report run down, until the accused is secured.

### Demeanor and Conduct

The demeanor and conduct of an accused when arrested is important and may be testified to in court. Attempt to get away or elude discovery, anxiety to conceal facts, agitation, fear, all have some evidential value, but they may have even greater value in leading to the discovery of evidence yet undiscovered. Statements volunteered should be recorded as should answers to questions if of value.

The prisoner's person, clothing or articles carried may yield evidence, evidence of a struggle, of finger marks, scratches, bites or blood. Underneath the finger nails, blood may find an abiding place. The prisoner's room or house may furnish more evidence. It should be searched. Everything found should be *collected, preserved, and ultimately presented in court.*

### Autopsy

It is a policeman's duty to identify the body to the doctor at the autopsy. It is a detective's duty to be present at the autopsy to learn what evidence it develops.

### Analysis

When a substance used in connection with a crime is to be analysed, it should first be marked by the policeman, sealed, described, and wrapped and preserved until delivered to the laboratory.

### Suicide

If a case of killing be not homicide, it may be suicide. A person who advised, assisted or encouraged it is guilty of manslaughter. If not dead, any person who advised, assisted or encouraged is guilty of felony.



The motive for this crime and the method of killing generally establishes the character of the crime readily. For that reason everything of the kind already described as evidence should be *collected, preserved and presented to the Medical Examiner.*

### Dangerous Weapons

There are two classes of dangerous weapons, the carrying or possession of which is forbidden. In the first class mere carrying or possession of the weapons is a misdemeanor. In the second class there must be an intention to use them against another person. Bombs and silencers are not strictly weapons.

#### In the Case of the

1st class:

Sand Bags	Knowing and voluntary possession or control is presumptive evidence of an intent to make unlawful use of them; peace officers excepted.
Sand Clubs	
Billies	
Slung Shots	
Black Jacks	
Bludgeons	
Metal Knuckles	

#### In the case of

2nd class:

Dangerous Knives	Intent to make unlawful use of them can be presumed if they are concealed or furtively carried on the person by any person other than a public officer.
Dirks	
Razors, particularly when nicked	
Daggers and others	

A former convict who carries or possesses such weapons is guilty of a felony when a non-convict is guilty of a misdemeanor.

The manufacture, sale, keeping for sale or giving away of weapons belonging in the first class is a misdemeanor.

Commonsense should guide a policeman in making arrests for possessing dangerous weapons, particularly when the weapon belongs in the second class. Evidence of intent good or bad may be gleaned from the furtiveness with which the weapon is carried

or concealed, the attempt or threat to use it against another, the character and business of the possessor, as a butcher with a knife, a curio dealer or collector with any kind of a weapon would be natural.

Examples :

- If a black jack were found in Brown's trunk or in his pocket, or in a drawer to which he only had access or handy to his hand in a place controlled by him, it would be presumptive evidence of possession.
- If Black with a dangerous knife in his hand were pursuing White with whom he had quarreled, or had a stiletto concealed in his stocking, or had threatened to assault White and was loitering near White's home with a sword, it would be presumptive evidence of unlawful intent to use.
- If White were a soldier on duty and armed with a billy, or a peace officer possessed of a blackjack, or a curio dealer and had an old slung shot in his curio cabinet, or a mechanic and possessed the razor, knife or other weapon used by him in his trade, such possession would not be a crime.
- To make, carry or possess a bomb or bomb-shell is a felony. This includes a stick of dynamite or other such explosive provided it is to be used unlawfully. It is a felony to ship explosives by a common carrier without revealing their nature. It is a felony unlawfully to place explosives near a building, car or vessel, where people are likely to be, so that their lives are put in danger.
- It is a felony to carry or possess a maxim or other silencer. Bombs should be guarded until taken possession of, by an agent of the Bureau of Explosives.

### Constitutional Possession Regulated

While the United States Constitution guarantees the right of citizens to bear and carry arms, the State has passed laws regulating the manner in which they may be borne or carried. This is done under the doctrine of the Police power of the State.

The law requires that a person must have a permit

1. To possess a concealable firearm.
2. To carry a concealed firearm.
3. To carry a concealable firearm.
4. To carry or possess any kind of a firearm if an alien.

The exceptions to this rule are:

1. Firearms kept for sale by bonafide dealers.
2. Transportation of firearms as merchandise.
3. Possession of firearms by persons exercising the functions of peace officers.
4. Possession of firearms by the Military or Naval force of the State or Nation in the line of duty.
5. Possession of firearms by the members of duly authorized civil organizations, while parading or going to or from the meeting place of their respective organizations.

Permits to carry or possess concealable firearms are issued in the City of New York by the Police Commissioner and elsewhere in the State by Magistrates. A stub must be attached to this permit. Such stub must be retained by the seller of the firearm.

A former convict who carries or possesses firearms unlawfully is guilty of a felony. A non-convict is guilty of a misdemeanor.

Retail dealers can sell concealable firearms only to persons with a permit or to those authorized to carry them. They must make a full record of the sale and the purchaser. They must not sell to children under sixteen years of age. Violation is a misdemeanor.

The unlawful discharge of a firearm or a gun, or the throwing of a deadly missile even though no damage is done, is a misdemeanor. So is the pointing without malice of a firearm at a person or its unintentional discharge while pointed to the injury of that person or another.

### Manner of Carrying Weapons

Dangerous weapons when carried unlawfully on the person and not in the pocket are found:

1. Down the trouser leg or in front of the trousers.
2. In the stocking.
3. Inside the sleeve or up the sleeve.
4. In the crown of derby hats.
5. About the neck.
6. In muffs, bosoms, etc.

### All Violence Not Crime

Every act of violence offered one person by another is

not a crime. The law mentions six cases where they are not crimes. They are:

1. By a public officer, or one assisting him, necessarily in the performance of a legal duty.

Example:

If White, a sheriff, in obedience to the order of a court, were seizing Smith's goods and Smith resisted the seizure, White could lawfully overcome such resistance. It would be lawful for Jones, a civilian, to assist White.

2. By a person arresting another for a felony, when necessary and in delivering him to an officer.

Example:

If White, a private person, knowing that Brown committed a felony, arrested him and Brown resisted, White could use all necessary force to overcome such resistance.

3. By a person repelling an attack upon himself or another or a trespass upon his property provided unnecessary force be not used.

Examples:

If Black unlawfully struck at White with or without a weapon, White to prevent injury, or to prevent recurrence, would be justified in striking Black. He would not be justified in striking Black to punish him for having committed such assault as punishment is a function of the Court.

If Black unlawfully entered Brown's house and refused to leave when ordered, Brown would be justified in using all the necessary force to eject him. He would not be justified in using force after he had ejected him, or using force to punish him for the trespass.

4. By a parent, guardian or teacher in lawfully correcting a child, if the force used be moderate and reasonable.

Example:

If White's son were keeping bad company, not attending school, or doing other things that might corrupt him, White would have the right to correct such habits by chastising him. He would have no right to use any unnecessary or brutal force. Parents have no right to strike their children except to correct them.

5. By the agent of a public carrier of passengers in ejecting a passenger who refuses to abide by a reasonable regulation of the company if the vehicle has first been stopped and only reasonable force is employed.

## Example :

If Brown were a passenger on a street railway car and refused to pay his fare, or was disorderly, the conductor, motorman or any other person assisting at his request could, lawfully, use all the force necessary to eject him, provided the car was first stopped and reasonable care was taken not to injure him. If he resisted ejection by taking hold of something and received injury through doing so, the persons ejecting him would not be responsible, but if the persons ejecting him threw him violently from the car, causing him injury, or any of them struck him except in self-defence, such act would be unlawful.

6. By a person in preventing a lunatic or irresponsible person from doing injury to himself or another or in restraining him when confined in an institution, provided the force be reasonable.

## Example :

A policeman whose attention is called to an insane person in a public place, or any other place where he cannot be properly cared for pending the arrival of an ambulance, should remove such person to the station house. If such person is temporarily in safe keeping, he should summon an ambulance and have him taken to a hospital. Sometimes the friends or relatives of an insane person refuse to permit his removal to a public hospital. Forcible removal should only be resorted to under such circumstances as if the ambulance surgeon in attendance state that immediate removal is necessary to prevent his injuring himself or some other person; or removal is ordered by a magistrate.

## CHAPTER VIII

### CRIMES—RIOTS TO ROBBERY

#### Riots and Unlawful Assemblies

Riots and unlawful assemblies are of the same nature. Riot is the more serious and is a felony; unlawful assembly is a misdemeanor. Both require three or more persons for their commission. In both there must be an assembly. In riot there is an act, a threat or an attempt. In unlawful assembly there is no act beyond that of assembling, but there may be a threat or an attempt and an intent to do an unlawful act by force.

The act which rioters must perform is the disturbance of the public peace by using force or violence to any person or property. Before an attempt or threat can be considered a riot the power to put either into immediate execution must be present.

When an act of violence has not been committed the distinction between the two is that when force or violence is threatened and there is power behind it, a riot is committed; when those assembled just talk it is only unlawful assembly even though the talk is a threat to use force.

All persons participating in an unlawful assembly are misdemeanants. Persons assembling peaceably for lawful purposes to protest or petition violate no law. To remain at a place of riot or unlawful assembly after a magistrate or public officer has ordered those assembled to disperse is a misdemeanor. This does not include persons who may stay to help the police. Civilians upon request must aid the police in suppressing a riot or dispersing rioters, protecting persons or property or making arrests or be chargeable with a misdemeanor.

In the handling of a mob disposed to be riotous a knowledge of "mob psychology" is valuable. It is analagous to a fire which is extinguished in its incipency, comparatively harmless, but may become very dangerous if allowed to grow.

## Psychology of Crowds

In its ordinary sense, the word "crowd" means a gathering of individuals of whatever nationality, profession or sex, regardless of the means or purpose that has brought them together. A riot many times has its inception in the gathering of a crowd to agitate a real grievance. As the agitation proceeds, the ideas of all persons in the gathering gradually take the same direction, and their conscious personalities vanish. When this stage is reached, the gathering may be said to be organized.

If injury to persons or damage to property be advocated to cure the particular grievance, or as a means of revenge because of it, and some members of the crowd assume responsibility of leadership, the others, because of their being in numbers, have no sense of individual responsibility, feel possessed of invincible power, and even if law-abiding and inoffensive citizens, ordinarily, swayed by the mob spirit, commit acts of cruelty and violence, particularly if they feel that they are unobserved and unknown.

Most persons in such a crowd feel that they are doing wrong, but they do it because the crowd urges and drives, and because they have not sufficient will power to oppose the action of the mob of which they are a part.

Riots can frequently be prevented by the police keeping the people moving and not letting them "organize." If moving be not sufficient an effort should be made to disperse them. As ringleaders are the center around which "organization" takes place an arrest of these ringleaders or of the more active disturbers often prevents a resort to violence.

When force or violence has been resorted to, it should be met with force by the police and those committing the violence or inciting to it should be arrested. Judgment and discretion, however, are necessary and no more force should be used than is called for by the occasion. After dispersal the crowd should be kept moving and not allowed to collect again.

## RIGHT OF FREE SPEECH

The right to meet, to speak one's mind and to write one's opinions freely is a prerogative guaranteed by the Constitution. That is why street meetings as a general rule cannot be interfered with by the police.

Constitutional rights are sometimes regulated in their exer-

cise by the police power, that is when their unrestricted exercise would interfere with other rights of equal or more importance. Permits for outdoor religious meetings or any meeting on park property are required but for other kinds of street meetings no permit is needed.

One of the other rights which free speech cannot interfere with is the right of free traffic. A meeting without a permit cannot interfere with the free passage either of vehicles or pedestrians on the street where it is held. When a permit is granted then the rights of the persons holding the meeting supercedes those of pedestrians, etc., who must take another route. A meeting under a permit can occupy a designated place during the time for which it was granted, another meeting must either keep a space open or itself move to some other place less congested. The regulation of this condition is a police function and anybody obstructing is liable to arrest or summons.

The right to hold a meeting does not include the right to sell books or pamphlets; neither does it carry with it the right to be disorderly or riotous. The speakers can criticise and denounce as freely as they please provided they do not overstep the bounds fixed by law. Meetings may, however, become a public nuisance, but the police should not take it upon themselves to determine this. Let those who complain carry their complaints to a magistrate. When held too late at night their character as a nuisance disturbing the comfort or repose of others may be obvious. In such cases the police should disperse them.

The American Flag must be displayed at every public meeting in a public thoroughfare; while the display of the red or black flag or any flag or insignia sacriligious or immoral, is prohibited by ordinance. The display of the red flag in any public assembly is a misdemeanor.

Baptists for baptismal ceremonies and the Salvation Army can hold religious services on the street, the one by law, the other by a general permit. Other religious meetings without permits are illegal and should be prevented by the police.

### Strikes

The right of employees to strike for better conditions is guaranteed by law. That right is subject to two important modifications. A person in charge of an engine or machinery commits a misdemeanor who strikes without first safeguarding it.



A person under a contract of employment commits a misdemeanor who by leaving his post exposes life or valuable property to destruction or serious injury.

Examples :

A number of bakers put a batch of bread in an oven then went on strike and let the bread burn.

A number of blasters put dynamite in the holes to be blasted, and then went on strike without firing the blast.

Persons on strike have the right by law to picket the place of employment and peaceably induce others not to take their jobs, to ask associates to join in the strike, or to advise prospective customers of the existence of a strike. But they have no right to be *disorderly, persistent, threatening or annoying*. Neither have they a right to violate the ordinance forbidding the obstruction of traffic and if doing so should be made by the police to "move on" or if necessary "move in."

The offences that may arise out of a strike are: Riot, unlawful assembly, obstruction of traffic, assault and disorderly conduct.

### Handling Strike

To prevent the occurrence of any of the foregoing a strike should be taken in hand as soon as it is reported. The cause of it, number striking, name and business of employer, name and address of strike leader and nationality of strikers are information that will be likely to prove useful to the police. This should be telephoned to the desk officer by the patrolman on post and furnished to other officers who may have to do with the handling of the strike. The facts should be recorded and furnished to the Telegraph Bureau, the District Inspector and the Captain of the precinct.

The general plan of handling a local strike is a matter for the Captain. He has to look out for the protection necessary for the employer's help and property. The one may be injured the other destroyed. A plan of action must be based upon certain knowledge, therefore the Captain should find out for himself the time employees go and come from work; the routes they take; the hour for lunch; the manner in which goods are delivered and the methods of their delivery in order that property and employees may receive police protection.

Two recommendations should be made to the employer :

1. That employees come to work, leave for home and go to lunch in a body.

2. That entrances be guarded and no suspicious persons allowed to enter.

The rights of the strikers should be explained to the employer and strikers and both should be cautioned against employing "strong-armed men" for the purpose of beating the strikers or strikebreakers.

When a special post has not been established at the place of strike two or four patrol posts should be arranged to converge. This will enable the patrolmen on those posts to meet at that point in such a way as to have the place always covered. It also enables the patrolmen on post to convey employees to and from cars and guard them against molestation or assault. If necessary detectives should be assigned to guard against assaults.

Since goods for the employer may be injured in other precincts and employees are apt to be assaulted about their places of abode the co-operation of other precinct commanders is often necessary to give protection. Strikes in tenement house districts are often attended by the throwing of missiles from the roofs. Police stationed on the roofs can prevent this. The detectives and the sergeant of patrol are important in the handling of strikes: the one to detect criminal acts, the other to keep the station posted on conditions.

The number of pickets that may be employed in any specified instance is left to the discretion of the commanding officer, due regard being had for the width of the street and sidewalk, the number of persons still at work, the size of the building involved, the number of its exits and their size, the number of neutrals using the sidewalk, etc., but they should not be permitted in such numbers as to obstruct the free entry and exit from the employer's place, nor in crowds which might obstruct the passage of persons from such place.

Whenever a strike or lockout is threatened the Mayor is required to report that fact to the Industrial Commission; therefore the Police Department should report such a condition to him.

### **Criminal Anarchy**

Criminal anarchy is an odd kind of crime. Few policemen understand the law against it. No other State law makes the mere use of language even with intent a felony. What is criminal Anarchy?

To understand the crime it is first best to understand the doctrine of anarchy which is counfounded with socialism to

which it is diametrically opposed. The doctrine of anarchy teaches the overthrow of all organized government. Such a doctrine is not a crime. Such a doctrine is taught and advocated in a number of schools including the Rand School and its branches.

When does the teaching of the doctrine become a crime? When it is coupled with the teaching that the overthrow should be accomplished by

1. Force or violence;
2. Assassination of executive head or any executive official of government;
3. Any unlawful means.

The teaching can be done either by word of mouth or by writing. Direct advocacy of the overthrow of government by the means specified is not necessary if the duty, necessity or propriety is taught, advised or advocated.

### **Who May Be Guilty**

Everybody having to do with the production of printed or written matter and having accurate knowledge of its contents, as well as everybody associating himself with an organization or group that teaches, advises or advocates criminal anarchy is guilty.

It is also a felony and anarchy to justify orally or in writing the killing of any executive or other officer of the United States, the State or foreign civilized nation with intent to spread or teach the propriety of the doctrine of criminal anarchy.

The above does not mean that every advocacy of the killing of an executive is criminal anarchy as many policemen seem to believe. It must be coupled with the intent to overthrow organized government through that means.

To assemble for the purpose of teaching or advocating criminal anarchy in groups of two or more is a felony. To let rooms for that purpose is a misdemeanor. Whoever lets the rooms is liable be he owner, agent, superintendent, janitor, caretaker or occupant provided he did it knowingly. Warning from the police in advance is knowledge that leaves him liable.

### **Evidence Hard to Get**

Evidence of criminal anarchy is hard to get. Nearly all anarchists speak foreign languages and are very secretive. Then

the meaning of statements is often hard to interpret. They should, if possible, be taken by a person who understands the language and laid before a magistrate for his action. For the purpose of enabling the police authorities to make provision to do this, a patrolman who hears about a proposed anarchistic meeting should notify the station house in advance of the place, the time and the nationality of those about to hold it, so that a competent man who speaks the language may be assigned to get a report.

### Deportation of Aliens

An Act of October 16, 1918, states that there will be deported from the United States alien members of the organizations believing in:

1. Overthrow of the Government of the United States by violence.
2. Overthrow of all forms of law.
3. Opposition to organized government.
4. Duty, necessity or propriety of assassinating or killing Government officials or individuals connected with the Government.
5. Unlawful destruction of property.  
Publication of literature, public speaking, or propaganda in private conversation advocating overthrow of the Government and law by opposition to organized Government, assaulting and killing of Government officials, and the unlawful destruction of property included.

### Masks and Disguises

Since disguises may be a means of hiding the identity of criminals the use of them is forbidden. Since they are a means of innocent enjoyment on occasions their use is permitted under written permit at masquerades, fancy dress balls or similar entertainments. The police grant such permits and they regulate the manner of using them and the extent to which they can be used. Unless such terms are complied with and permit obtained the proprietor of a place let for hire who allows it to be used mits a misdemeanor.

If an unauthorized assembly of masked persons takes place the police can visit the place, compel the masked to unmask, arrest the proprietor if he had guilty knowledge of the violation as well as others who guiltily participated in the affair.

## Conspiracy

Conspiracy is the consorting of two or more persons for an unlawful or evil purpose. There are six things they may conspire to do which are criminal. They are:

1. To commit a crime; or
2. To indict another falsely and maliciously for a crime, or to procure another to be complained of or arrested for a crime; or
3. To institute or maintain an action or special proceeding falsely; or
4. To cheat and defraud another out of property by means which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property by false pretenses; or
5. To prevent another from exercising a lawful trade or calling, or doing other lawful act, by force, threats, intimidation, interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof; or
6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws.

## Conspiracy Against the State

If two or more persons while out of this State, conspire to commit any act against the peace of this State, the commission, or attempted commission of which within this State would be treason against the State, they are punishable by imprisonment in a State's prison not exceeding ten years.

## Overt Act When Necessary

No agreement except to commit a felony upon the person of another, or to commit arson, or burglary, amounts to a conspiracy, unless some act besides such agreement be done to effect the object thereof by one or more of the parties to the agreement.

A combination of workmen to get an increase of wages by peaceful means is not conspiracy, when threats or violence are not used. When they threaten or attempt to use unlawful means the police have the right to interfere to stop them.

Farmers, gardeners, live stock raisers and fruit growers can combine by special legislative authority to make collective sales or market their produce. That is the reason why the dairy dealers could not be punished for raising the price of milk on agreement.

After several persons have conspired to commit an offence, the acts of any one of them affects them all, but the statement of one of them will affect only the person making them.

### Disorderly Persons

There is a semi-criminal class known to the law as Disorderly Persons. They are:

1. Persons who actually abandon their wives or children, without adequate support, or leave them in danger of becoming a burden upon the public, or neglect to provide for them.
2. Persons who threaten to run away, and leave their wives or children a burden upon the public.
3. Persons pretending to tell fortunes, or to tell where lost or stolen goods may be found.
4. Keepers of bawdy houses or houses for the resort of prostitutes, drunkards, tipplers, gamblers, habitual criminals, or other disorderly persons.
5. Persons with no visible profession or calling by which to maintain themselves, but who do so, for the most part, by gaming.
6. Jugglers, common showmen and mountebanks, who exhibit or perform for profit, puppet showmen, wire or rope dancers, or performers of other idle shows, acts, or feats.
7. Persons who keep in a public highway or place, an apparatus or device for the purpose of gaming or who go about exhibiting tricks or gaming therewith.
8. Persons who play in a public highway or place, with cards, dice or any other apparatus or device for gaming.
9. Habitual criminals within the provisions of this code.

The law requires that proceedings against them be commenced by complaint and warrant, habitual criminals excepted.

### Vagrant

A vagrant was originally a wandering criminal of the type once called a vagabond.

A Vagrant is now :

1. A person who, not having visible means to support himself lives without employment, or
2. Who, being an habitual drunkard, abandons, neglects, or refuses to aid in the support of his family, or
3. Who has contracted an infectious or other disease in the practice of drunkenness or debauchery, requiring charitable aid to restore him to health ;
4. A person :
  - (a) Who offers to commit prostitution, or
  - (b) Who offers to secure a female person for the purpose of prostitution, or for any other lewd or indecent act, or
  - (c) Who loiters in or near a thoroughfare or public or private place for the purpose of inducing, enticing or procuring another to commit lewdness, fornication, or any other indecent act, or
  - (d) Who in any manner induces, entices or procures a person who is in any thoroughfare or public or private place, to commit any such acts, or
  - (e) Who is a common prostitute, who has no lawful employment whereby to maintain herself.
5. A person wandering abroad and begging, who goes about from door to door, or places himself in the streets, highways, passages, or other public places to beg or receive alms, or
6. One lodging in taverns, groceries, alehouses, watch or station houses, out houses, market places, sheds, stables, barns or uninhabited buildings, or in the open air, and not giving a good account of himself ;
7. One who, having his face painted, discolored, covered or concealed, or disguised, in a manner calculated to prevent his being identified, appears in a road or public highway, or in a field, lot, wood or inclosure ;
8. Any child between the age of five and fourteen, having sufficient bodily health and mental capacity to attend the public schools, wandering in the streets or lane of any city or incorporated village, a truant without any lawful occupation ;
9. A person more than once convicted as a pickpocket, thief, or burglar and having no visible means to support himself, found loitering about steamboat landings, railroad stations, banking institutions, crowded thoroughfares, cars, omni-

buses, hotels, or any public gathering, or assembly, and unable to give a satisfactory explanation of his presence.

NOTE: If such criminal has been adjudged an habitual criminal, he may also be charged with being a disorderly person.

NOTE: A person not a resident of the State who does an act which would make him guilty of vagrancy is classified as a tramp.

### Tramp

A tramp is any person, not blind, over sixteen years, not residing in the county in which he may be at any time for a period of six months prior thereto, who:

1. Not having visible means to maintain himself, lives without employment, or
2. Wanders abroad and begs, or goes about from door to door, or places himself in the streets, highways, passages, or public places to beg or receive alms; or
3. Wanders abroad and lodges in taverns, groceries, ale-houses, watch or station houses, outhouses, market places, sheds, stables, barns, or uninhabited buildings, or in the open air, and does not give a good account of himself.

This section does not apply to cities of the first or second class—therefore, in the City of New York, a person so offending would be charged with vagrancy.

### Disorderly Conduct

No charge is more often preferred by policemen than the charge of Disorderly Conduct. The exact meaning of no crime has been as much misunderstood. For a time some judges went so far as to say there was no such crime.

Prior to the consolidation of the Greater City, the old city was governed under the Consolidated Act. The Charter displaced that act, but it did not displace provisions for which no substitute was provided, hence the provision of the Consolidated Act defining disorderly conduct in the city was held to apply after other provisions of the act were superceded.

The Consolidated Act defined Disorderly Conduct as "threatening, abusive or insulting behavior, in any thoroughfare or public place in the city, with intent to provoke a breach of the peace,



or whereby a breach of the peace may be occasioned." It is also classed as disorderly conduct:

1. Suffer an unmuzzled ferocious dog to be at large.
2. Loiter in the streets as night walkers or prostitutes.

Under these provisions convictions are always obtainable in the city.

### Procedure

When a person wishes to complain of the disorderly conduct of another and the policeman is not certain that the acts complained constitute the crime, the complainant lays such complaint under oath before a magistrate, and the conduct complained of is such as in the opinion of the magistrate tends to a breach of the peace then he may cause the person complained of to be brought before him to answer, according to the same law.

The Penal Law makes an act or speech which is offensive or disorderly a crime, provided it annoys or interferes with a person in any place. It makes the same thing punishable when the passengers in a public stage, railroad car, ferry boat or other conveyance are offended. Finally it makes speech or conduct or display in a conveyance a misdemeanor when it disturbs or offends but does not amount to assault and battery.

It will be seen that disorderly conduct can, therefore, be committed by *word* or *act* or *display* that is disorderly, provided it is likely to provoke a breach of the peace or cause offense to others. It differs in this State from the crime of being a disorderly person which the statute defines in the way already shown. In some States they mean the same thing.

### Influence of Time and Place

Speech or conduct which under one circumstance or in a certain place might be harmless would, in another be disorderly conduct. The likelihood of its provoking a breach of the peace is another consideration. A person who during a concert in a church shouted "Hurrah for the President," might be guilty of disorderly conduct while such an exclamation might be altogether proper at a political meeting.

When a meeting is held for a particular purpose, or to advocate a certain doctrine or policy, it might be disorderly conduct to interrupt a speaker who was discussing the subject and arguing for his side in an orderly and inoffensive way, particularly if the interruption was apt to provoke a breach of the peace.

It is disorderly conduct to interrupt a speaker with a hostile

expression, as well as for the purpose of getting him to discuss another matter than that on which he was talking, as in the case of the suffragettes who have at times insisted upon a discussion of suffrage by public men engaged in discussing entirely different subjects. (Case of Malone.)

The following is Disorderly Conduct:

Examples:

Brown refused to abide by the decision of a desk officer at a police station as to the fare he owed for the use of a public hack. Brown, in a public place, offended others by using profane and indecent language.

Brown, in a public street, annoyed and disturbed a number of others late at night by loud singing and shouting.

Brown offended a woman by making indecent proposals to her, without her consent.

Brown annoyed the passengers in a public conveyance by wilfully pushing and jostling them.

Brown stood on a soap box in the street, and by making a speech, gathered a disorderly crowd which the police had trouble to disperse.

Brown attempted to board a subway train by rushing by the guard without buying and depositing a ticket in the box.

Brown wilfully threw cow itch on the floor of a dance hall to the annoyance of those present.

Brown, one of a crowd of street corner loafers, made insulting remarks to passersby.

Brown and Black played "craps" on the sidewalk to the annoyance of passersby.

### Burglary

Of the more serious crimes with which the police deal, burglary is one of the most common. It was originally the breaking and entering of a dwelling house in the night time for the purpose of stealing. But the meaning of the crime has been greatly extended by our Penal Law. The original elements of

Breaking

Entering

Intent

have been preserved, but the first two mean much more than the dictionary meaning.

Breaking of a building means:

1. Ordinary breaking and violently detaching any part of it.

2. Opening any outer door, window, shutter or thing enclosing it.
3. Opening any outer door, window, shutter or thing enclosing any apartment in it that is separately used and occupied, as offices, store-rooms, flats, lofts in the same building, occupied by different persons.
4. Entrance through trick, strategy or collusion with one inside, such as pretending to have business with the occupant, procuring the door to be opened by ringing the bell, acting in concert with the watchman or servant.
5. Entrance through any unusual manner, as from the chimney, through the coal chute, or by the dumb waiter.
6. Breaking out after committing a crime when already inside

Entering a building as a burglar means :

1. Ordinary entrance.
2. Inserting part of body or hand.
3. Inserting an instrument to threaten or detach property.

The intent of the burglar need no longer be to steal, the intent to commit any crime inside is enough.

The term "building" includes a railway car, vessel, booth, ship, inclosed ginsing garden, and any other structure used by mankind to shelter property such as a shanty or enclosed stand against a building.

Burglary is a felony. A crime somewhat like burglary, but of a lesser grade is that of unlawful entry. When anyone of the three essential elements is missing the crime may become either attempted burglary or unlawful entry.

If the door had been open, and the offender entered to commit a felony, larceny or malicious mischief, unlawful entry would be the proper charge.

If he broke with the intent to commit a crime, but did not enter for some reason, the crime would be attempted burglary. The entrance of a tramp to a private dwelling where he went to sleep has been held to be neither burglary nor unlawful entry. It is vagrancy or disorderly conduct.

Possession of tools designed or commonly used to commit burglary with intent to use them or let them be used is a misdemeanor. If the possessor had been previously convicted of a crime, such possession is a felony.

When a person is found in a building where he does not belong under conditions that are suspicious, and unable to give a satisfactory account of himself, he should be arrested, whether

or not he is technically chargable with burglary. It will be found in most cases that the intent was criminal, and that some crime had been committed.

Examples (Burglary):

Brown acted as a "lookout" while Black forced a door to commit larceny.

Brown located or was the "finder" of the place which Black broke into.

Brown induced Black to climb through a fanlight to commit larceny.

Example (Unlawful Entry):

Black found the door of White's house open and entered to commit larceny.

Examples (Burglars' Tools):

Brown, a former convict, had a jimmy concealed in his clothing.

Brown was entering a doorway at night. On seeing a policeman approaching he threw a pick lock away.

### **Burglars Specialize**

Burglars specialize in their own particular kind of burglary, and this disposition on their part to stick to their own specialty enables the police to detect them all the easier. At headquarters there is a Modus Operandi file, where known burglars are indexed, each according to his specialty. This file should first be consulted by the policeman assigned to investigate a burglary. The building entered, the manner of entry, the means used, the property stolen, the time of the entry, the representation of himself made, the story told, the kind of associates, the vehicle used, if any, and other peculiarities are important to note and report.

### **Psychology of Burglary**

There is a psychology in burglary as in other things. To circumvent the law a burglar must be clever. He cannot be clever in all lines of burglary, hence to get away he must make an intensive study of conditions and of the modus operandi. The study of one kind is enough to occupy the mind of most burglars. Therefore the bank burglar does not qualify as a flat burglar, nor the flat burglar as a hotel burglar, nor a hotel burglar as a private house burglar, nor a private house burglar as a loft burglar.

Each kind of burglary requires a study of the building to be entered, the way of entering and the means of getting in. There are times when it is easier to do the job than others; tales that go in one place that would fail in others; representations of himself that would pass muster in a tenement house and not in a hotel; vehicles that can be used at some time and place to better advantage than at others and peculiarities in the individual which might be recognized somewhere's else.

### Methods of Entrance

Some thieves have a penchant for getting in through coal chutes, others by the windows, some like the roof as a way of entrance, some a transom, some like to climb walls while others get in by the doorway. Some use rope ladders, some climb porches, others the fire escape, while not a few like the dumb waiter shaft. Some go after clothing, some jewelry and others fancy money.

Some burglars are clever in making up as beggars; some can impersonate the doctor, many pass as canvassers, others as electricians, mechanics or gas men, while more recently not a few have worn the uniform of an army or navy officer or soldier.

The use of the foregoing methods and the assumption of the different personalities are not easy accomplishments, hence it is that the average burglar finds that to be successful in any measure he must specialize to beat the law. In order to meet this, detectives have to specialize also to beat the burglar. The Department helps him to do this by keeping the Modus Operandi file.

### The Story

The tale the burglar has told of himself is the first index to his identity. He relies for success upon the ability to impress and figures that the more like the truth his story is the easier will he be credited. That is why the trade or calling given by him is likely to be the one he pursued before taking the dishonest road. Some seek confederates among other men, some boys, while others prefer to have women accomplices.

### Vehicles

Traces of vehicles should be looked for, such as cycles, wagons

or automobiles and when they are identified particularly, great care is needed not to confound the traces of them with those of legitimate vehicles. Eyes trained for the observation of peculiarities are necessary for this duty.

### Peculiarities

Extraordinary and peculiar acts not connected with the crime itself have often been committed by burglars. It may be the poisoning of a dog, the writing of a note containing wit or sarcasm; the changing of their clothes, treating themselves to wine or cigars or committing a nuisance.

### Investigation

At the outset of the investigation of a burglary, the detective as in other cases should learn what the patrolman has learned and next make certain to establish the fact that a burglary was actually committed. Many unscrupulous persons have "framed" a burglary for the purpose of collecting insurance or to hide their own theft from other members of their family.

In a recent case, the detective, in examining marks of a jimmy in a door which had been forced, discovered that they had been made from the inside. The complainant in the case, on cross-examination, broke down and admitted that he himself had "framed" the burglary.

In another case the door appeared to have been pushed in from the outside. The screws and bolt were lying on the floor where they were believed to have fallen. The detective, from his investigation, concluded that the force used could not possibly have caused either the bolt or screws to fall to the particular spot on the floor where they had been found. The complainant in this case, on cross-examination, admitted that he had "framed" the burglary.

A detective, however, should not commit the error of suspecting every complainant of making a false allegation where the case is obscure. If in doubt, he should proceed in the same manner as if the allegation were true.

The next step is to determine the time the burglary was committed, where the burglar entered, and how entrance was effected. If the evidence of entry is not clear, such as a forced door or window, the detective should not jump to the conclusion that the servants or employees of the building were responsible for the

theft, for sometimes skillful thieves leave little, if any, trace of their presence.

The rope ladder thief climbs down his ladder, the only apparent evidence of entrance being an open bathroom or courtyard window to which no significance is ordinarily attached.

The thief who enters by false keys often locks the door behind him when leaving. The "supper worker" frequently climbs along a cornice from a vacant house several doors away, gaining entrance through an unfastened window. The expert lock opener unfastens the spring bolt of a door with a corset steel, leaving little trace of his act behind.

Consequently the detective should make the most careful investigation before attributing an unexplained burglary to the servants or employees, or to persons who had made social or business visits prior to its commission.

If entrance had been effected through a window, even though the window were closed after his exit, a skillful detective can tell the particular window entered by examining the outside of it for such marks as the brushing of dust from cornices or sills by the passage of the thief, foot-prints or finger-prints thereon.

If a spring bolt on the door or a window catch on a window had been sprung back to gain entrance, the nose of the bolt or the spring of the catch or the surrounding woodwork may show scratch marks.

If a jimmy or instrument had been used to force entrance, or to open locked drawers, the marks made should be carefully noted and measured, a wax cast taken if necessary, or practicable, or the woodwork on which the marks are, removed and safe-guarded. Measurements, casts, etc., should be held for future comparison. Not alone will marks give an idea of the instrument used, but they may lead to the conviction of one found in possession of an instrument which fits the particular kind of mark made.

The third step is to find out what the thief did after entering, and what clues he left that might lead to his identity. The detective should try to follow in the foot-steps of the thief, from entrance to exit, searching for every scrap of evidence that is apparent. If he has left footprints, these should be measured and noted.

Every article on which finger-prints might be found should be closely scrutinized. Any found should be developed at the scene or, if practicable, the article on which they appeared, removed for later development.

Anything that indicated a particular habit, such as cigarette butts, should be noted. Tools or instruments left are of particular importance. Very often it can be determined by the marks or notches on them if they have been used for certain work, or if examined with a magnifying glass, particles of material on which they had previously been used may be found on them. Facts so ascertained may lead to a particular suspect.

The fourth step is to get a description of the property stolen. Such description should be thorough and distinctive, both as to kind, quality and value. The detective should bear in mind, when obtaining information, that many persons who are victims of theft greatly exaggerate, both as to quantity and value of property stolen.

Sometimes complainants are unable to give a distinctive description in cases where the property was jewelry, silverware or clothing. With expensive clothing or silverware purchased from a well-established firm, this difficulty may be overcome by the detective visiting the firm, with the complainant. There he would be likely to find a replica of such property, and get a description and the pattern number. In the case of jewelry which had been repaired, the jeweler who made the repairs is usually able to furnish a description and tell the particular scratch mark he placed upon it.

The next step is to determine who committed the burglary. The victim of the theft, the people who reside in, are employed in or do business in the premises, and every other person who might by any chance be able to give information or lead to the identification of the suspect, should be questioned. No efforts should be spared to obtain every scrap of information obtainable.

If it appeared that the thief had knowledge of the habits of the occupants a knowledge of the interior of the rooms, or a knowledge of the place where the property stolen had been kept, prior to the commission of the theft, particular inquiry about peddlers, canvassers, inspectors or the like who had recently visited the premises or persons who might have received such information from employees or servants should be made.

Of thefts in hotels or apartment houses, bell hops, porters, elevator runners, janitors, etc., who by reason of their employment, would be likely to possess special knowledge, should be suspected, as should engineers, firemen, watchmen, new employees, etc., in loft burglaries.

If a new employee be suspected of knowing something about



the crime, the detective should endeavor to find out where such employee previously worked, and whether or not at such places burglaries had been committed. Some of this information may be obtained by visiting the employment agency, if any, which supplied him.

A detective, however, should not, without careful consideration, arrive at the conclusion that the person committing the theft had prior knowledge of the interior of the building or where the stolen property was usually kept.

The modern apartment or flat houses are nearly all built upon a general plan. A thief acquainted with the plan has little difficulty in determining beforehand the interior plan of a like apartment. Often a thief knows before entering that the place where he is likely to find property in a dwelling, is a bureau drawer, under a mattress or carpet, or in bric-a-brac, hidden by the cautious housewife.

In every case of burglary, unless apparent that it was an inside job, careful inquiry should be made as to what strangers or suspicious persons had been seen entering or leaving the premises or loitering in the vicinity at or about the time the burglary was committed.

Of vehicles, which at the time approached, left from or were standing in the vicinity, distinctive description should be obtained, care, of course, being taken to eliminate persons and vehicles obviously on legitimate business. If it were suspected that a particular automobile had been concerned, the track made by the tire should be noted, and, if practicable, an imprint taken, as an expert can determine by examination of such print the particular kind of tire used. This may lead to the identification of the automobile and its driver.

In case of flat burglaries it is always well to question the occupants of flats other than the one entered, as to whether, at the time the burglary was committed, their doorbells were rung, and if the person ringing to their knowledge had entered the hall or their apartments. Did he have any particular business with them? If they answered that the bells did ring, and that a person had entered and had no particular business with them, such person should be suspected, and his description taken. If only the finger-prints of a suspect have been obtained, the detective should have them compared with those on file, to see if they identified any particular thief.

If the Modus Operandi be significant, the detective should consult the Modus Operandi file in the record room. On finding

a parallel method recorded, he should show the picture of the thief who used this method to persons who may have seen him at the scene of the crime. If the property be found in a pawnshop or elsewhere, he should get the persons, other than the thief, in whose possession it was found, to give a description of the person from whom it had been obtained, or to state who he was, and where he would be likley to be found. If the detective had reasonable grounds to believe that any particular person did the act, he should arrest him.

A description of the property should be taken, and a thorough search made of pawnshops, second-hand dealers, junk-shops or any place where the goods might be hidden. The case should be persistently followed to its conclusion.

As circumstances differ, a detective should take whatever course the particular circumstances indicate might lead to discovery and detection.

### EXTORTION AND BLACKMAIL

Extortion and blackmail are twin crimes, in popular parlance and conception often confounded. Both are serious and are felonies. Both belong in the larceny class. Blackmail is a sort of attempted extortion by means of writing.

The essential difference between larceny and blackmail is that in larceny the property of the other is taken without his consent while in extortion it is taken with his consent. It includes corporation property. The consent, however, must have been induced by a wrongful use of force or fear or under cover of official right.

A person may consent to a wrong for the purpose of avoiding a greater wrong and is entitled to protection against the necessity of making such a choice.

The fear that owners of property may be put in, in order to make them give up is that induced by a threat:

1. To do an unlawful injury to the person or property of the individual threatened, to any relative of his, to any member of his family or to a corporation of which he be an officer, stockholder, employee or agent; or,
2. To accuse him, any relative of his or any member of his family, of any crime; or,
3. To expose, or impute to him, or any of them, deformity or disgrace; or,
4. To expose any secret affecting him or any of them; or,

5. To kidnap him or any relative or member of his family ; or,
6. To injure his person or property, that of any relative of his or member of his family by the use of weapons or explosives.

The word PROPERTY, as employed in extortion, means every kind of valuable right or interest.

Examples :

Black, president of a labor union, obtained money from White, a contractor, by threatening to call a strike on a building which White was erecting.

Black obtained money from Brown by threatening to arrest him for an immoral act.

Black obtained money from White by threatening to poison his horses.

Black obtained money from White by threatening to kidnap his child.

Black caused White to cancel a mortgage he held on Black's home by threatening to kill him.

Under cover of official right includes not only a public officer, but a person pretending to be such who

1. Arrests another, or detains him against his will.
2. Seizes or levies on another's property.
3. Dispossesses another off lands or tenements.
4. Does any act that injures another in his person, property or rights. He commits oppression and is guilty of a misdemeanor.

Examples :

Brown, a policeman, maliciously arrested White for an act not prohibited by law.

Brown, a sheriff, seized on White's property without authority of law.

A public officer is guilty of extortion, a misdemeanor, who :

1. Asks a fee for his official services.
2. Receives a fee in excess of that allowed by law.
3. Receives other compensation.
4. Receives compensation for his official services where none is allowed by law.

As if Brown, a notary public, asked for and received \$5 from White for swearing him to an affidavit.

## Blackmail

Blackmail is really, though not strictly, or technically, attempted extortion in writing. The person guilty of sending a letter demanding property can be punished for blackmail for the sending of the letter, as the crime is complete as soon as the letter is parted with.

Its elements are:

1. A threatening letter and knowledge of its contents.
2. Intent to extort.
3. Parting with the letter to be sent.

A person is guilty of blackmail who, knowing the contents, and with intent by means thereof, to extort or gain money or property, or to do, abet, or procure any illegal or wrongful act, sends, delivers, or in any manner causes to be forwarded or received, or makes and parts with for the purpose that there may be sent or delivered, any letter or writing, threatening:

1. To accuse any person of a crime; or,
2. To do any injury to any person or to any property; or,
3. To publish or connive at publishing any libel; or,
4. To expose or impute to any person any deformity or disgrace, punishable by imprisonment for not more than fifteen years.

Blackmail is somewhat similar to extortion (a felony), the threats constituting both crimes being to a great extent similar.

Extortion can be committed either by verbal or written threat, but the crime is consummated only when the perpetrator benefits by such threats. In blackmail, the perpetrator is guilty of the crime the moment he sends or delivers the written threat.

Example:

If Brown, intending to extort money from Jones, shows Jones a paper on which threats constituting extortion and blackmail were written, or printed, but Jones refuses to give such money, attempted extortion would be committed, but if it were sent the crime would be blackmail.

## Blackmail and Extortion

The crimes of Blackmail and Extortion are committed by criminals of all nationalities. The methods used in the commission vary according to the particular kind of threat by which the victim is induced to part with his property.

### How Blackmailers Work

Most of the criminals, in this city, who extort money by threatening to do unlawful injury to the person or property of others are emigrants from Southern Europe, many of whom have criminal records in the land of their birth. These persons usually reside in the sections of the city colonized by persons of the same nationality, who, in most cases, are the victims.

Such criminals generally operate in the following manner:

Three or four of them combine with one another and select a prosperous fellow-countryman as the prospective victim. One of them, who has gained the "victim's" confidence, by posing as his friend, seeks every opportunity to engage him in friendly converse on the subject of blackhanders and pictures what desperate criminals they are.

When it is felt that the man's mental state is such that he can be frightened easily, a letter signed with a black hand is sent him commanding him, say to leave his residence and proceed at a certain time and date, by a specified route, to a designated place, and either give a certain sum of money to one who will identify himself by a prearranged password, or place it under a stone, threatening him with dire vengeance upon failure to comply, or in case information is given to the police.

After the victim has read the letter, the false friend visits him to find out its effect, adroitly introducing the subject of blackhanders. If the victim confides to him the contents of the letter, he is advised not to inform the police, but to pay the money, and avoid the danger that confronts him.

If the victim signifies his intention of meeting the demand, the false friend will inform the blackmailers.

From the time the victim receives the letter until he is to leave home to deliver the money, he is kept under observation, to see if he visits or is visited by the police. From the time he leaves home to deliver the money until he reaches the place designated for delivery, he is trailed by one of the blackmailers. If his actions are not suspicious, the money is taken and the transaction concluded.

If, however, the victim excites suspicion by his actions, or there be suspicion that the police have been informed, none of the criminals will be at the place designated. The victim returns home and in a few days receives a second letter stating that the money was not accepted because the police were hiding at the place and that he is suspected of having informed them. He is

again commanded to take the money to another designated place, in a different locality, and threatened should he fail, with vengeance, swift sure and terrible.

If the recipient of a blackmailing letter fails to comply with the demand made in it, or informs the police, a bomb is made, usually by placing black powder and slugs in the center of a ball of tightly rolled paper, through which a fuse is inserted; or dynamite may be used. This bomb is taken by one of the conspirators to the residence or place of business of the victim, at an opportune moment the fuse is lighted, and the bomb placed in the hallway of the victim's residence or the doorway of his store. The fuse is timed so that the blackmailer has several minutes to leave the scene before the explosion occurs. The explosion, particularly if black powder be used, rarely does much damage.

The victim is next sent another letter, threatening future injury of a more serious nature unless he complies with their demands. If he proves stubborn, another bomb may be exploded, but generally the attempt to extort is abandoned.

Sometimes blackmailing letters, demanding money and threatening injury, are sent to victims who are engaged in business, for the purpose of frightening them into moving such business from a particular locality.

For instance:

"Marino opens a grocery store adjacent to a grocery store conducted by Carro. Fearful of losing his trade, Carro hires one of a band of reputed bad men of the locality, to put his rival out of business. The persons hired for this purpose write the usual blackmailing letter to Marino and demand an impossible sum of money from him. The first letter is followed by another, accusing him of informing the police and the letters are followed by bombs, until Marino becomes so frightened that he closes his store and leaves the locality."

### Other Methods of Operation

The most frequent offenders of this class are clever persons, who prey upon men or women of lax morals. These criminals have various methods of operation, but the one most frequently used is as follows:

A young woman enters into a flirtation with a likely victim in a hotel, lobby, or restaurant. The victim is encouraged into making improper advances, which are received with assumed

reluctance, but which terminate, usually in intimate intercourse. After one or two such acts the woman suggests a visit to Asbury Park, Boston, or some place out of the State. If the victim complies, the woman informs her male accomplices, who trail them to the hotel. After the man has registered the woman as his wife and enters a bedroom with her, he is visited by her male associates who represents themselves as United States officials and threaten them with arrest under the Compulsory Prostitution act. The victim usually pays in order to avoid arrest.

Sometimes the extortionists try to keep within the law by operating in the following manner:

Just as the victim registers in a hotel in another State, one of them pushes him, so that he steps on, or falls against another extortionist, who pretends to be injured, and indignant, and looks at the hotel register to ascertain the victim's name.

When the man returns home, one of the extortionists, sometimes representing himself as an attorney, calls and states that his client, supposed to be the person injured at the hotel, is going to bring suit for damages and use the victim's wife, who was with him in the hotel, as a witness. The man, afraid of disgrace, notoriety and possible conviction, pays to have the suit dropped.

Foolish married women are often the victims of extortionists. The following is one of the methods employed:

A fellow, gentlemanly in appearance, and a good dancer, forms an acquaintance with an unescorted married woman, who has reached the foolish age, and flatters her vanity by telling her how well she looks and dances. This acquaintance is made in a Tango Parlor (may be) and strengthened by visits to other parlors, culminating in a visit to a seashore hotel, where a female, claiming to be the wife of the man, enters and, finding them, threatens divorce. The victim is induced by the man to pay to avoid disgrace.

Another method is known to the police as the "badger game." It is worked by a man and a woman:

The woman, young and attractive, flirts with a likely victim in a hotel parlor, cabaret, prominent thoroughfare, etc. She informs him that her husband is out of town and that she is out for a good time. He is invited to her home. The acquaintance proceeds to such intimate relations that he removes his outer-clothing and otherwise compromises himself. At the psychological moment the confederate knocks, or rings the bell, and the woman pretends to be greatly frightened, informing the victim that her

husband has returned, may be inducing him to hide in a clothes closet.

The supposed husband is permitted to enter, pretends to be suspicious, searches the premises, finding the victim and displays great anger, threatening him with arrest.

The supposed wife intercedes, claiming that he is innocent of any wrongdoing and stating his name and address, if she has learned it. A money settlement is suggested and the victim leaves the premises a wiser but poorer man.

The writing of a letter, anonymous or otherwise, to another person for the purpose of annoying him is a misdemeanor. So is the sending of a fake subpoena or any paper simulating a legal process for the purpose of making him believe he has to appear in court. Even though there is a threat in the letter to do injury and no attempt to extort money, a misdemeanor only is committed.

## ROBBERY

To constitute Robbery there must be six elements present:

1. The property taken must be personal property or money.

Example:

If Black feloniously and forcibly took possession of White's real estate in his presence, he could not be charged with robbery.

2. The taking must be unlawful, the taker not the actual owner or the lawful custodian.

Example:

If Black stole White's watch and sold it to Brown, White would not be guilty of robbery if he forcibly took his watch from Brown.

3. The property must be taken from the person or in the presence of another.

Example:

If Black, while White was absent from his home, assaulted him and made him unconscious, then went to White's home and stole property, he could not be charged with robbery, as the property was not taken from the person, or in the presence of White: whereas, if he entered White's home, compelled White to absent himself by threatening to shoot him, and then stole White's property, he could be so charged, because the property was in White's presence when the robbery was begun.



4. It must be taken against his will.

Example:

Black's employer gave him a sum of money to deposit in the bank; he conspired with his friend Brown to steal it and for the purpose of deceiving his employer, permitted Brown to manhandle him and take the money from his possession by force. Brown could not be charged with robbery, because the property was not taken against Black's will.

5. Force or violence must be used to obtain it from the person or presence of another or he must have been put in fear of injury to himself or his property, or to a relative, or his family, or any one in his company at the time of the robbery.

Example:

If Black stole White's automobile while it was in Brown's charge, and accomplished the theft by threatening to injure White who was not present, he could not be charged with robbery.

6. The force used, or the putting in fear of injury must be for the purpose of obtaining or retaining possession of the property, or to overcome resistance to the taking. If the force is employed merely as a means of escape, it does not constitute robbery.

Example:

If Black secretly picked White's pocket and then assaulted Green, who tried to prevent his escape, he could not be charged with robbery.

### Three Elements Constitute Robbery in the First Degree

An unlawful taking or compulsion, if accomplished by force or fear, is robbery in the first degree, when committed by a person under any of the following conditions:

1. Being armed with a dangerous weapon; or,
2. Being aided by an accomplice actually present; or,
3. When the offender inflicts grievous bodily harm or injury upon the person from whose possession, or in whose presence the property is taken, or upon the wife, husband, servant, child, or inmate of the family of such person, or any one in his company at the time, in order to accomplish the robbery.

### Robbery in Second Degree Is

Unlawful taking, when accomplished by force or fear, but not under circumstances amounting to robbery in the first degree.

1. By the use of violence; or,
2. By putting the person robbed in fear of immediate injury to his person or that of some one in his company.

### Third Degree Robbery

A person who robs another under circumstances not amounting to robbery in the first or second degree, is guilty of robbery in the third degree.

Robbery differs from Extortion, a felony, in the following ways:

#### Robbery

1. The property taken must be personal property.
2. The taking must be against the will of the victim and against his desire.
3. The threat of injury is such that the victim has no alternative other than the giving of the property demanded to avoid injury.
  - (a) Obtaining property by threatening to expose victim to disgrace and humiliation would not constitute robbery.
  - (b) In robbery it must be proven that the property was taken in the presence or from the person of another.

#### Extortion

1. The property obtained may be any kind of property.
2. The taking is with the consent of the victim, although against his desire.
3. The threat of injury made to obtain the property is of such a nature that the victim is given time to consider.
  - (a) Obtaining property by such threat would constitute extortion.
  - (b) In extortion it is not necessary to prove that the property taken was in the presence or from the person of another.

## CHAPTER IX

### BRIBERY, ETC.

A person to be bribed must be acting in a representative capacity and not for himself. The bribe must be a consideration to influence his action improperly.

There are five classes of persons who may be bribed :

1. Persons authorized by law to hear and determine a matter in dispute. They are judges, jurors, referees, appraisers, etc.
2. Public officers who ask for, receive or agree to receive valuable consideration to influence their official action.
3. Witnesses in an authorized proceeding who receive or agree to receive a consideration to give false testimony or stay away from the trial.

All the foregoing are felonies. In addition there are :

1. Labor representatives who can be bribed by a consideration to induce them to call off or call a strike.
2. Servants who take gratuities or commissions from trades people as a consideration for the trade of their employer which they control.

In the first three the taker and giver of the bribe are equally guilty. In the case of the labor representative the person who gives the bribe is guilty of a misdemeanor, but not the labor man who takes it.

#### Methods of Detecting Bribery

The police are called into action in bribery cases after a demand has usually been made and when one side is willing to go through with the formalities for the purpose of "getting" the other.

Marked money, a suitable place for negotiations, a policeman concealed so as to hear and if possible see, a seizure of the person and of the money passed constitute the ordinary methods of procedure.

Sometimes dictaphones are introduced but when the case is difficult a detective or possibly two should take part after higher officials have been consulted with.

Examples:

Black, a subpoena server, employed in the District Attorney's office, received money from Brown because he agreed to postpone the service of a subpoena.

Black, a policeman, received money from Brown because he agreed not to enforce the gambling law.

Black, a juror, received money from Brown because he agreed to vote to acquit him.

Black, an Alderman, received money from Brown because he agreed to vote for a certain concession.

Black, a witness, received money from Brown, because he agreed to absent himself from the trial.

Black offered to give a policeman money if he would give false testimony in court.

## LARCENY

Every fraudulent taking or obtaining of the money or property of another is larcenous. All of the crimes of this nature are not included under the head of larceny in the Penal Law, as from time to time, methods of cheating and defrauding sprung up which were not covered in the law, and for which conviction could not be had on account of the rigid interpretation of that provision of the Penal Law which says that nothing is a crime unless specifically made so by the law.

A person is guilty of larceny who with criminal intent:

1. Takes another's property;
2. Deprives another of the use or benefit of his property;
3. Obtains another's property by trick, artifice, fraud, cheat, false token or writing, misrepresentation or false pretense.
4. Being intrusted with another's property as bailee or custodian, appropriates it to his own use, or the use of another.

False pretense means a pretense about some existing fact, and not a pretense of something to be done. A person cannot be convicted of obtaining property by false pretense, unless it is proved that the false pretenses were made with the intent to cheat and defraud and that the complainant was induced to part with his property on the strength of such false pretenses.

**Example:**

If Black, intending to defraud White, obtained money from him by falsely telling him that Brown had sent him for it, criminal intent would be apparent. But if, with like intent he borrowed money from White, on the pretense that he was going to invest it in business, and failed to do so, or to return the money, larceny could not be charged.

The giving of an N. G. check, and on its strength obtaining something valuable is larceny, when the giver knows that the check was N. G. The difficulty is to prove the intent. It is *prima facie* evidence of criminal intent when the giver:

1. Draws a check on a bank in which he has no account or credit whatsoever; or,
2. When his check has been dishonored by the bank because of insufficient funds and he does not pay the drawee thereof the amount due thereon together with costs within ten days after receiving notice from the drawee that his check was N. G.

If a check were given for the payment of a debt overdue, there is no crime.

**Example:**

Black obtained goods on credit from White and gave him an N. G. check for the amount of the debt.

Larceny by Bailee or Custodian.

**Example:**

Black agreed to hire White and received a deposit of money from him as security for the faithful performance of his duties, agreeing to return it on the termination of the employment, and failed to employ White, or return the money.

White sent Black to the bank with a \$50 bill to get change, and he lost the money gambling.

Black, an attorney, acting on a contingent fee, misrepresented to his client the amount he received in settlement of the claim, and retained a greater sum than he was entitled to under his contract.

Black obtained possession of jewelry from its owner, upon a statement that he had a customer to whom he could sell it, and upon an agreement either to return the jewelry or the price of it and he did neither.

Other methods of committing larceny are by bringing stolen property into this State; finding lost property, and not looking for the owner, having the intent to keep it; selling or pawning

property entrusted to a person for one's own use, or for the purpose of being manufactured, or with criminal intent, changing the original mark of identification of any such property; operating a public telephone, slot machine or automatic vending machine by artifice; fake money.

There is the case of various kinds of collectors who appropriate large sums from their employees in small amounts. Unless some one of the sums exceed \$50.00 only petit larceny is chargeable.

Example :

If Black, a collector, were required to turn over to his firm each evening the amount of his collections for that day, and stole \$50.00 from each day's collections, he could be charged only with petit larceny; whereas, if required to turn in the amount of his collection at the end of each week, and stole \$50.00 each day, he could be charged with grand larceny.

A false written statement to obtain credit, or a false oral statement that a written statement on which credit was obtained is now true, when it is not, is a misdemeanor.

Example :

Brown made a false written statement of his financial condition, and White believing it to be true, gave him goods on credit.

Brown made a true written statement relative to his financial condition on a Monday and on it obtained credit from White. On the following Saturday he made a false oral statement to White that his financial condition was as good as it was stated to be on the previous Monday, and obtained credit thereby.

Larceny is both a felony and misdemeanor. The grade of the offence depends upon the *amount*, the *time* and the *manner and place of taking*.

A person is guilty of grand larceny who :

1. Steals any property from the person of another.
2. Steals in any other manner property over \$50.00 in value.
3. Steals public documents or records.
4. Steals in the night time property of more than \$25.00 in value from a dwelling house, vessel or railway car.

Other forms of larceny are Petit Larceny.

The value of an article may either appear on its face, or if it does not, then the market value of what is taken, not the value

which the owner had placed upon it, even though the thing was worth more to him than the market value.

1. If an evidence of debt, the amount to be collected :

For instance :

- “Jones gave his note to Brown for \$60.00; a person stealing such note from Brown would be guilty of Grand Larceny.
2. Any bond, certificate or other security having a market value, that market value is the value thereof.
  3. Any other kind of security or deed, the sum that might be recovered for the want thereof or the value of the property at stake.

For instance :

“Jones stole a promissory note valued at \$7,000, the larceny was of that amount.”

4. If the thing stolen be a passage, ticket for a boat, train, or the like, the amount that such ticket is usually sold for.
5. In other cases the market value of the thing stolen.

For instance :

“Jones stole an automobile for which Brown paid \$5.00, but which could be sold in the open market for \$500.00. The amount of the larceny is \$500.00.”

“Jones stole a ring from Brown which Brown valued at \$500.00, its market value being only \$5.00, the amount of the larceny is only \$5.00.”

In such case, however, the market value acted on by the police is the value placed on the article by the owner, that is, providing such value is within reason.

It is not larceny to take property openly to which a person thinks he is entitled when he is not. As a general rule a man cannot be charged with larceny for the taking of his own property.

Larceny in the first degree is the taking or appropriating of :

1. Property of any value, by taking it from the person of another in the night time; or,
2. Property of the value of more than twenty-five dollars, by taking it in the night time from any dwelling-house, vessel, or railway car; or,
3. Property of the value of more than five hundred dollars, in any manner whatever.

### Grand Larceny in Second Degree

A person is guilty of grand larceny in the second degree who, under circumstances not amounting to grand larceny in the first

degree, steals or unlawfully obtains or appropriates:

1. Property of the value of more than fifty dollars, but not exceeding five hundred dollars, in any manner whatever; or,
2. Property of any value, by taking it from the person of another; or,
3. A record of a court or officer, or a writing, instrument or record kept filed or deposited according to law, with, or in keeping of any public office or officer.

### Seizing Military Stores Belonging to the State

To steal stores or ammunition from an arsenal, armory, fort or encampment or to enter such places with that intent, is a felony punishable with ten years' imprisonment.

### Buying or Receiving Stolen Property

A receiver of stolen property is a person who knowing such property to be stolen, buys or receives it, or who corruptly for any money, property, reward or promise, or agreement, conceals, withholds, or aids in concealing or withholding such property.

To secure a conviction on such a charge, it is necessary to prove

1. That the property was stolen.
2. That the accused received it knowingly.
3. That he knew it had been stolen.

In the case of a junk dealer there is substituted for the third provision the condition that he did not make diligent inquiry.

A junk dealer, second hand dealer, or his agent, employee, or representative, is guilty of criminally receiving stolen goods, who buys or receives, *without making diligent inquiry that the persons selling have a lawful right to do so*, any

wire		
cable	used by or belong-	or any metal in
copper	ing to a railroad,	the form of ingots,
lead	telephone, gas or	ingot bars, wire
solder	electric light com-	bars, cakes, slabs,
iron or	pany.	billets or pigs.
brass		

If such articles were found in the possession of the junk or



second hand dealer, and he could not lawfully account for them it would be presumptive evidence that he knowingly received stolen property.

If the stolen property criminally received be valued at more than \$50.00, the person responsible is usually guilty of a felony, otherwise a misdemeanor.

A junk dealer, on buying any pigs of metal, gates or parts thereof, brass, copper, or wire car journals, is required to make out a full written statement of the purchase, have it signed by the seller and forward it to the Police Commissioner.

Guilty knowledge may be presumed from the following circumstances:

Examples:

Black is found carrying a bag containing silverware which had been stolen a short time before, and unable to account for its possession.

Black has stolen jewelry in his possession which he had purchased from young children.

Black has a stolen automobile in his possession—its color and motor number having been changed after he bought it.

Black has property in his possession which had been stolen from various persons, and he cannot lawfully account for it.

Black, a junkman, has stolen property in his possession, and had made no record of the purchase.

## FORGERY

Forgery implies:

1. The imitation of another's act.
2. Defrauding the other in consequence of the imitation.

Generally speaking there are three ways of committing forgery.

1. By fraudulently affixing another's name to an instrument.
2. By changing an instrument already made.
3. By making a fraudulent instrument over a genuine signature.

A person is guilty of forgery who to cheat and defraud, attempts to imitate the personal acts of another by the false making, or altering, of any writing which if genuine might render such other person liable to loss or damage of any kind.

The instrument forged may be a paper, a stamp, seal, coin or

anything the imitation of which would result in fraudulent gain. Possession of it with intent is criminal.

The crime is rarely ever obvious to a policeman, and his duty towards it generally does not go beyond arresting after a warrant.

Examples:

Brown—

1. Signed his own name to a check and got it cashed by falsely stating that it was signed by another person, also named Brown.
2. Stole money from his employer and covered up his thefts by making false entries in his employer's account books.
3. Had a check in his possession drawn by White, and with intent to defraud, raised the amount of the check.
4. Counterfeited United States money.
5. Had molds for the counterfeiting of money in his possession, unlawfully.
6. Knowingly passed counterfeit money (the passer adopts the making as his own).
7. Intending to defraud, signed White's name to an order for property without White's consent.

### Frauds and Cheats

Among the frauds perpetrated from time to time and to prevent which it was found necessary to make special laws were the following:

Conducting fake charitable organizations.

Collecting for fake charitable purposes.

Selling tickets for fake balls and entertainments.

Conducting mock auctions.

Beating hotels out of the cost of food, lodging and accommodation.

Depressing or booming stocks through fake messages of President or Governor.

Producing a pretended heir to a man who has just died.

Substituting a false child for the true one with intent to deceive.

Getting employment by false pretences.

Getting money by false pretences.

Impersonating public officials or employees for purposes of gain.

Using Army and Navy uniform for purposes of gain.

Falsely representing one's self as a policeman.

Falsely representing one's self to certain well known societies.

It is a felony to publish a false message of the President or the Governor; to procure a false heir, or substitute one child for another.

In the case of getting money through fake charity methods, it is a felony if the money is obtained upon the strength of a false token or writing purporting to be signed by an officer of a genuine organization, but only a misdemeanor if the money is obtained upon the strength of oral representation. In the other cases the act itself is a misdemeanor. It may develop into a felony depending upon the amount or intent of the fraud. Care should be taken to distinguish between the act done for the purpose of committing the fraud which is one crime while the results of that act may develop into a different and more serious crime of grand larceny.

### **Methods of Perpetrating Frauds**

Persons misrepresenting themselves as agents of known charitable organizations dress as clergymen or sisters of charity and by such false pretences beg from door to door, or enter offices where they say nothing, but rely upon their garb to carry them through. Since that is a felony the policeman can make an arrest whether he saw any misrepresentation made or not. The imposters are generally ex-convicts or other persons whose detection is not difficult once suspicion is aroused.

Sisters of Charity wear broad-toed shoes without toe cap, low heels and carry a rosary and cross on the left side suspended from the waist. They either walk in pairs or are accompanied by another woman or little girl. They do not enter saloons or resorts.

### **How Police Should Act**

When a policeman notices a person dressed in a sister's garb whom he suspects, he should look for these signs and if one or more of them is absent follow the woman up, hear her solicit alms, question her and if her answers are not satisfactory, arrest her, after communicating with the order she claims to represent if that be possible.

There are Protestant sisters of charity whose detection is not so easy owing to a non-standard garb and a non-fixed method of

procedure. They can, however, be detected by close questioning and an investigation of the order to which they allege to belong by calling up the place on the telephone while they are made to wait the result.

When persons dressed as clergymen tell a plausible story or begin to bluster the policeman should be the more suspicious and follow up his investigations. Genuine clergymen are only too willing as a rule to submit their story and themselves to any reasonable test. A fraud can be arrested on the felony charge.

### **Fake Charity Organizations**

The persons who organize fake charitable organizations, solicit subscriptions on commission, appropriate most of the proceeds to cover expenses and turn in a small residue are usually too clever in their mode of operations to justify a policeman in taking summary action. In such cases the proper procedure is to learn all that it is possible to learn of what they are doing and make a full report in order that it may be sent to the District Attorney for his action.

The fake ball tickets for pretended charity is an old and cheap swindle practiced by played-out confidence men and petty grafters. All that is needed is a few dollars to have tickets printed, a small hall rented, a committee to work the gullible a "sick brother" and a sob story. Their success depends upon how well they work this combination. Sometimes they keep within the law but inasmuch as they are always ready to overstep it if the necessity occurs, the policeman who learns of such operations should investigate and if there be any violations of the law not hesitate to make arrest. If the organization they assume to represent has no existence, or if there be an organization which has not given them authority and there be no sick brother the offence is a misdemeanor.

### **Mock Auctions**

Mock auctions mean the presence of bidders who are not bona fide buyers. They rest upon the knowledge that many persons do as they see others do, that men are stimulated by competition and the fever of bidding into giving more for an article than they would otherwise be inclined to. The law prohibiting such auctions holds it to be fraudulent to stimulate such bidding by persons who have no intention to buy. Hence the holding of a

mock auction is a misdemeanor. The law applies to the sale of personal property except ships but does not apply to real estate sales. It is a felony for a licensed auctioneer to obtain money or property from another, or to obtain the signature of another, the false making of which would be forgery through the sale of property by means of a false auction. Other offenses are misdemeanors.

Sec. 1991. Auction sales are to be held during daytime, except in certain cases.

All sales of goods by public auction in the City of New York, by an auctioneer, are to be made in the daytime, between sunrise and sunset, excepting with the Mayor's permit.

1. Books and prints.
2. Goods sold in the original package, as imported, according to a printed catalogue, of which samples have been opened and exposed to public inspection at least one day previous to the sale.
3. Horses and live stock.
4. Fruit and other farm products.
5. Paintings, statuary, bronzes and other works of art and specimens of natural history, which shall have been on public exhibition in the City of New York for at least one day immediately preceding the time of sale.

### Hotel Bills

To run up a bill at a hotel and leave without paying it was an old way of obtaining free board and lodging. The person who cheats a hotel, boarding house or lodging house in that way now, or who surreptitiously removes his baggage without paying his bill commits a misdemeanor, and the hotel keeper who complains of such conduct should be advised to arrest the parties on his own responsibility.

### False Messages

Wall Street operators have frequently been cheated by the circulation of false messages from the President which had either a buoyant or a depressing effect on stocks. The putting in circulation of such messages is a felony. Wall Street, however, has often some difficulty in running down such messages, so that the commission of the crime is seldom obvious enough for a policeman to take action of his own initiative.

### Other Methods

Similar difficulties are associated with the running down of crimes involving pretended heirs, and substitution of children. The policeman's offices usually come into operation after a warrant has been issued.

The impersonation of police officers is done usually for the purpose of extortion. Firemen and inspectors are impersonated for the purpose of the more easily getting into houses to commit thefts. Badges are used for the same purposes. Officers of societies and orders are impersonated and the societies are used to impose upon the fraternal feelings of other members. These offences usually come to light through complaints and seldom call for original action by the police.

Fraud perpetrated by means of official papers, seals, etc., are felonies.

### False Impersonation

A person who falsely impersonates another, and, in such assumed character,

1. Marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of the latter; or,
2. Becomes bail or surety for a party in an action or special proceeding, civil or criminal, before a court or officer authorized to take bail; or,
3. Confesses a judgment; or,
4. Subscribes, verifies, publishes, acknowledges, or proves a written instrument, which by law may be recorded, with intent that it may be delivered or used as true; or,
5. Does any other act, in the course of any action or proceeding whereby if it were done by the person falsely impersonated, such person might in any event become liable to an action or special proceeding, civil or criminal, or to pay a sum of money, or to incur a charge, forfeiture, or penalty, or whereby any benefit might accrue to the offender, or to another person,

Is punishable by imprisonment in a State prison for not more than ten years.

In order to prevent a janitor, superintendent, or other person from monopolizing the trade of a tenement or apartment house

through control of the means of entrance or the like a law was passed making it a misdemeanor for such persons or the owner to accept money for giving another the privilege of selling to the tenants, ice, coal, food, etc. This is another law which, if violated will come to the attention of a policeman through complaint.

### Opening Letters

It is a misdemeanor to open another's sealed letter or to open or read a telegram or private papers or to publish the contents, knowing it to have been taken without authority, or to publish a dead person's private papers without authority, or to get and publish the contents of a message by telephone or telegraph obtained through connivance with an employee of the company.

### Civil Rights

To refuse to receive and entertain a guest or to refuse to carry a passenger is a misdemeanor when committed by an inn keeper or a common carrier of passengers, or their agents when the refusal is without just cause or excuse.

Inn keepers, theatre and amusement owners and teachers and officers of common schools, public institutions of learning and cemetery associations cannot exclude a citizen on account of race, color, creed or previous condition of servitude. Neither can they be excluded from public employment except by committing a misdemeanor.

It is the same crime to deny, aid or incite another to deny another public employment or the full enjoyment of any of the accommodations, advantages, facilities and privileges of any hotel, inn, tavern, restaurant, public conveyance on land or water, theatre or other place of public resort or amusement because of race, creed or color.

The same offence is committed by the owner or manager, etc., of a building, park or the like open to the public generally at stated periods or otherwise who discriminates against any person or class of persons in the price charge for admission.

Persons wearing the uniform of the Army, Navy, Marine Corps or Revenue Cutter Service of the United States cannot be excluded from equal enjoyment of any accommodations of the foregoing kind on account of the uniform they wear. To exclude them is a misdemeanor.

## CHAPTER X

### SOCIAL CRIMES

The social crimes where so-called morality in its widest sense is offended include:

1. Sex offences of nearly all kinds.
2. Gambling.
3. Use of drugs and narcotics.
4. Offences against the Sabbath laws.
5. Offences against the regulation of the sale of intoxicants.

#### Abduction

The passion to gratify the sex relation is the motive in all sex crimes. It is that which distinguishes abduction from kidnaping. In abduction the passion is not realized; it is the motive which prompts the act. When it is realized a more serious crime is committed.

The acts constituting abduction may be the taking, employing, harboring, using, procuring, or causing any of them to be done, inveigling, enticing or detaining.

The persons who may be the subject of abduction are:

1. Women under eighteen, even for marriage without parent's or guardian's consent.
2. Women over eighteen of previous chaste character, inveigled or enticed into any place with the assigned motive.
3. Women over eighteen whether of previous chaste character or not when the intent is to use force.

The persons who may be guilty of abduction are parents, husbands or other persons.

Parents or guardians who consent to the taking of their daughter, under eighteen; husbands who marry intending to consummate the marriage with women under eighteen without the parents' consent, and others who do any of the acts mentioned above with the sex intent are guilty. Conviction, however, can-



not be secured on the uncorroborated testimony of the woman.

A man living with a woman as husband and wife when she is under eighteen is liable to arrest even if he be her husband when the parents' consent was not obtained.

Abduction really means the carrying away by fraud, persuasion or open violence.

When the sex relation is consummated the crime is generally rape.

Examples:

Brown could be charged with abduction under the following conditions:

He is a hotel clerk, and let a room to a man accompanied by a woman under eighteen years of age, not his wife, he having reason to know that they were not married.

He and a woman under eighteen to whom he is not married, live in a furnished room as man and wife.

He married a woman under the age of eighteen years, and her parents want him arrested because he did not obtain their consent.

He, with evil intent, put an advertisement in the newspaper for a stenographer, locked the door of his office on a young "Miss" who entered to seek the position, and threatened to keep her a prisoner unless she consented to submit to him.

### Abortion

Abortion is accomplished by medicines or instruments. The persons guilty are either the person herself or one who prescribes, supplies, uses or administers. The intent is to procure a miscarriage. The crime is not committed when the intent is to save the life of the child or woman. The crime is committed by others than the victims when the acts are done even though the woman was not pregnant. It is also committed when intent is present even though the medicine is harmless.

The attention of policemen is drawn to these cases, usually by physicians called in who believe that **their patient is the victim** of an abortion. In such cases the policeman should not make arrest except upon the positive statement of the physician that such a crime had been committed.

When such positive statement is made the policeman should arrest every person whom the woman incriminates in her statement as having done anything to counsel or assist in the opera-

tion with guilty knowledge of its purpose. It is one of the cases where dying declarations should be taken.

### Adultery

When two persons cohabit, either one of whom is married to another, adultery, a misdemeanor is committed. The testimony of either is not enough to convict and arrests should be made only on a warrant.

### Bigamy

A person who marries while the wife or husband is living is guilty of bigamy, a felony.

This does not apply:

1. To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her within that time to be living, and believed by him or her to be dead; or,
2. To a person whose former marriage has been pronounced void, or annulled, or dissolved by the judgment of a court of competent jurisdiction for a cause other than his or her adultery; or,
3. To a person who, being divorced for his or her adultery, has received from the court permission to marry again; or,
4. To a person whose former husband or wife has been sentenced to imprisonment for life.

A person who knowingly enters into a bigamous marriage with another is guilty of a felony.

Mere absence for five years when there is knowledge or reason to believe the man or woman is alive is not reason enough to justify a second marriage. Neither can a person marry without committing bigamy until the final decree of divorce or separation is signed.

A marriage is incestuous, void and a felony when contracted by persons of nearer relationship than first cousins whether legitimate or illegitimate. Uncles and nieces could be married before 1893.

A man can marry his stepdaughter after his wife's death.

### Indecency

Indecency refers to acts that excite lewd, sensual or immoral

desires. It includes all exhibitions of the nude; paintings of the nude; articles, prints, plays. It applies to the immediate actor; the manager or person in control; the person in possession who intends to pass articles along to others, who gives paints away, posts them or puts them on exhibition in any way. The crime is a misdemeanor.

In detail the law punishes the following:

A person who in any capacity aids in the production of any obscene, indecent, immoral, or impure drama, play, exhibition, show, or entertainment, or who, having charge or control of a building or enclosure, knowingly permits such immoral entertainment to be given therein, is guilty of a misdemeanor.

### **Obscene Prints**

A person who has in his possession, with intent to sell, lend, give away or show, or who sells, or offers for sale, lends, gives away, shows or advertises any obscene print or article, or in any manner manufactures, prepares, publishes, or prints any such obscene print or article, or who advertises, or gives information, as to where or how obscene prints or articles can be obtained, or purchased, or who has in his possession any slot machine, or mechanical contrivance, with intent to show, or does show, any impure pictures of a nude female, or any other obscene, indecent, or immoral picture of any kind, is guilty of a misdemeanor.

A person who prints, utters, publishes, sells, lends, gives or shows, or has in his possession, with intent to sell, lend, give away, or show, or otherwise offers for sale, loan, gift, or distribution, any printed paper devoted to the publication and principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures or stories of deeds of bloodshed, lust or crime, is guilty of a misdemeanor.

### **Indecent Prints, Pictures and Articles**

A person who pastes, posts, paints or exhibits or causes or permits to be pasted, posted, painted or exhibited, any obscene or immodest picture upon any billboard, wall, or fence, or in or upon any public place, is guilty of a misdemeanor.

A person who sells, or offers to sell, lends or gives away, or exhibits, or has in his possession with intent to sell, lend, give away or exhibit, any instrument, article or receipt, drug or medicine for the prevention of conception, or for causing un-

lawful abortion, or represents that any such instrument, article, receipt, drug or medicine can be so used, or applied, or who manufactures such an article, is guilty of a misdemeanor.

A person who deposits or causes to be deposited in any post-office within the State, or places in charge of a common carrier for transportation, any obscene print or article, is guilty of a misdemeanor.

The question of indecency is affected by conditions of time, place and authorship. The works of Fielding and Rabalais, if published in this age would be suppressed as indecent, so would many others, which depict real conditions in their times.

The paintings of great masters, if imitated, in many cases, would be considered indecent. Art is not indecent when merely considered as art. Nude figures are indecent when only the nudity is considered. Again figures perfectly proper in an art museum, where persons go to consider art might be indecent when exhibited in a saloon.

Books perfectly proper in a medical college, might be highly immoral in a girl's academy. To be more pointed, some of the expressions necessarily used in this book would be perfectly shocking in a novel printed for the use of young ladies.

Police have, therefore, to be careful before arresting in many cases for indecency, as they are not judges of art or literature. When either is concerned, the case should be left to the society and to a magistrate.

### **Unlawfully Marrying**

A minister or magistrate is guilty of a misdemeanor who solemnizes a marriage when either of the parties is known to him to be under the age of legal consent, an idiot or insane, or where a legal impediment exists; a person not authorized by law to perform marriage ceremonies who does so with intent to deceive the parties is guilty of a misdemeanor. A person who assumes without authority to grant a divorce, in writing, purporting to divorce husband and wife and permitting them or either of them to lawfully marry again, is guilty of a misdemeanor.

### **Marriage by Force**

A person who by force, menace or duress, compels a woman against her will to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment for a term not ex-

ceeding ten years, or by a fine of not more than one thousand dollars, or by both.

### Impersonation

A person who falsely impersonates another, and, in such assumed character:

- I. Marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of the latter

Is punishable by imprisonment in a State prison for not more than ten years.

A woman who lives with a married man and falsely holds herself out as his wife does not come within the provisions of this section.

### RAPE

Rape is a felony. It is committed on a woman not one's wife against her will or consent; when she is physically or mentally unable to resist; when her resistance is overcome by force or fear of injury; when her resistance is overcome by stupor or weakness of mind; when she does not know the nature of the act and he knows she does not know; when she is in the custody of the law; when she is under eighteen even consenting.

Examples:

Brown had sexual relations with a female not his wife:

Who, at the time was a prisoner.

Who was reluctant, but unable to resist, because she at the time was in a stupor from alcohol.

With her consent, she at the time being a prostitute, but under eighteen years of age.

With her consent, but against her desire, she consenting only because he threatened to throw her out of a rapidly moving automobile.

Who resisted to the extent of her ability and had the utmost reluctance to the act.

It is seldom that the crime is laid to force. In some eighty per cent. of the cases where this crime is charged the female is under eighteen; parents have discovered the girl's misconduct or she has got into trouble or has become jealous. The arrest may be made upon her complaint but other circumstances must be adduced in order to bring about a conviction. A variety of

circumstances, however, may suffice such as their having lived together, occupied the same room, or admissions made by the man. The age of the girl must be proved by official records if they are obtainable; otherwise by the best evidence to be had.

### **Methods of Assaulting Women**

Cases have come up where women have complained of being invited upon joy rides and while in lonely sections assaulted either through force or by being threatened with bodily harm and then abandoned.

If a complaint of this kind is made and the offender is unknown, the policeman investigating it should make inquiry as to the type of automobile and any distinguishing marks noticed on it. He should obtain as distinctive a description of the perpetrator as possible, being particular to question the complainant as to whether she tore his clothing or scratched him during the struggle. He should note any bruises, or scratches that show on the complainant's face, or hands as well as all marks of the struggle that appear on her clothing and the clothing held as evidence. He should request her to submit to a medical examination, and make note of any evidence found by the physician. He should visit the scene with the complainant and make a thorough search there for evidence and witnesses who may have seen the accused. If the complainant met the accused at a cabaret, etc., he should accompany her to such place in search of him and make discreet inquiry of waiters or others as to his identity.

If the perpetrator be arrested, his body and clothing should be subjected to a minute scrutiny, for any evidence of the crime, particularly hairs from the victim's body adhering to his clothing. His home should be searched for discarded clothing, or other evidence.

All clothing to be used as evidence should be taken from the perpetrator and safeguarded.

### **Assaults Upon Little Girls**

Assaults upon little girls are sometimes made with acquiescence, sometimes through the use of force. When the child acquiesces she has usually been influenced by presents, candy, or treats into believing the man is friendly. Frequently the crime goes undetected for a long time.

When force is used the child has first been taken into a cellar, dark hall or out-of-the-way place and there assaulted. It is in these cases that murder is committed from the fear that the child will inform.

The persons who commit this sort of crime are generally ignorant libertine foreigners, mental defectives or boys of the neighborhood. The Children's Society should at once be called into such cases. Various kinds of evidence should be looked for by the police; corroboration of the child's statements in any particular; appearance of clothes, evidence of the presence of the perpetrator and the child in the place specified, finger-prints, stains, marks and anything which had any bearing upon the subject should be collected.

### Seduction

There are two kinds of representations that a man can make to a woman which if followed by her acquiescence makes the crime seduction and a felony. They are

Promise of marriage.

Fraudulent representation that they are already married. The woman must be unmarried and of previous chaste character, and the promise must be absolute, not conditional such as a promise to marry if the woman got in trouble as a result of the relationship.

A woman can be seduced but once. Subsequent marriage before judgment of conviction or the lapse of two years is a bar to indictment. Corroborative testimony is necessary to conviction. It may be circumstantial.

The master of an American vessel who, during the voyage seduces a woman, is guilty under the Federal statutes. The methods used may have been promise of marriage, threats, authority, solicitation or gifts.

### Vagrants

Prostitution is the giving of her body by a woman for hire. Soliciting by man or woman for the purposes of prostitution is vagrancy.

Vagrants are liable to conviction for disorderly conduct.

The following are vagrants, under section 887, Code of Criminal Procedure:

A person

1. Who offers to commit prostitution, or,

2. Who offers to secure a female for the purpose of prostitution or for any other lewd or indecent act; or,
3. Who loiters in, or near, any thoroughfare or public, or private place, for the purpose of inducing, enticing, or procuring another to commit lewdness, fornication, or any other indecent act, or,
4. Who in any manner induces, entices or procures a person who is in any thoroughfare, or public, or private place, to commit any such acts; or,
5. Who is a common prostitute who has no lawful employment whereby to maintain herself.

Under the Tenement House Law, a person is guilty of Vagrancy who:

1. Solicits another to enter a house of prostitution or a room in a tenement house or any part thereof for the purpose of prostitution; or,
2. Indecently exposes the person for the purpose of prostitution or other indecency; or,
3. Commits prostitution in a tenement house or any part thereof; or,
4. Knowingly resides in a place of prostitution, assignation or ill-fame of any description in a tenement house; or,
5. Keeps or maintains a house of prostitution, assignation or ill-fame of any description in a tenement house, and upon conviction is liable to be committed to the county jail for a term not exceeding six months. The procedure in such case is the same as that provided by law for other cases of vagrancy.

A tenement house is deemed to have been used for the purpose specified in the last two sections with the permission of the owner, agent and lessee thereof in the following cases:

1. If the summary proceedings for the removal of the tenants of the tenement house, or of so much thereof as is unlawfully used, have not been commenced within five days after notice of such unlawful use, served by the department charged with the enforcement of this chapter in the manner prescribed by law for the service of notices and orders in relation to tenement houses; or having been commenced, are not in good faith diligently prosecuted to final determination.
2. If there be two or more convictions in the same tenement house within a period of six months either under section one hundred and fifty of the tenement house law or under



section eleven hundred and forty-six of the penal law.

In an action to collect a penalty or for other punishment the evil repute in which a tenement was held by neighbors is presumptive knowledge that the owner knew of it. Inasmuch, however, as presumption may be rebutted, a policeman should not rely upon reputation, but try to bring home knowledge through direct information furnished him.

The keeping of a disorderly house even though not a tenement is a misdemeanor. A conviction breaks the lease of the person convicted, and the owner who does not break such lease and enter upon the premises is guilty of a misdemeanor if the condition continue. To rent or lease a building for that purpose or having reason to believe it will be so used is a misdemeanor. The keeping of such a house is also a public nuisance, but in order to establish a public nuisance at least three persons must join in the complaint about its being disorderly.

It is a violation of the Hotel Law to:

- (a) Let rooms to prostitutes or for the purpose of prostitution;
- (b) Let the same room to more than one party of one or more persons between 9 p. m. and 6 a. m.;
- (c) Let rooms to persons unless they sign the register in the public office;
- (d) Rent rooms to persons who do not sign their names in the presence of the manager or clerk;
- (e) Knowingly rent rooms to persons who sign fictitious names.

Persons in charge of hotels licensed to sell liquor must permit them to be inspected between 9 a. m. and 6 p. m., or any other time when open for business by:

- (a) Building Inspectors;
- (b) Peace Officers;
- (c) The Mayor, or any person authorized by him;
- (d) Excise Inspectors.

The evidence needed by a policeman to warrant him in arresting a woman on the street for soliciting would be

1. If he heard himself or another solicited by her;
2. If he knew her to have been convicted before and sees her stop several men in quick succession and apparently solicit them.
3. When he suspects the woman to be a prostitute and sees her stop and apparently solicit a number of men in quick succession.

In the last case the woman should first be driven away, the men she solicited should be questioned; if she continues she should be arrested.

### **Disorderly House—Evidence**

Some art is necessary in collecting and securing evidence in disorderly house cases.

The policeman assigned to such duty should endeavor to learn the password, countersign, etc., used by the patrons to gain admission and use them to obtain admission. On entering, he should endeavor to secure evidence against the madam, maid, or other person by asking for a particular girl, or by bargaining with such person, or in her presence, on the price to be paid to the girl selected. The policeman should not solicit the girl he selects, or commit a wrongful act.

When it is not practicable for more than one policeman to enter at the one time, the necessary corroborative evidence may be secured by one policeman remaining on the outside when the other enters, the policeman on the outside noting the time that the other policeman entered and the time he came out.

When sufficient evidence is obtained, the woman who exposed herself and the keeper of the disorderly house may be arrested without a warrant, or the evidence may be presented to a magistrate and a warrant requested.

If the magistrate issue a warrant the premises should be entered, the warrant executed and women for whom the warrant had been issued arrested.

### **Tenement House Prostitution**

To get evidence against a house of prostitution, entrance may be obtained and the person in charge connected with the violation in the manner above described. The female who offered to commit the act with the policeman, and all persons residing in, or having charge of the apartment where the act is to be committed, or who aids or abets should be arrested on a charge of vagrancy; the owner proceeded against if the evidence be sufficient; a certificate that the building is a tenement should be obtained from the Tenement House Department. Such cases are reported weekly by the Police Department to the Tenement House Department.

### Disorderly Saloons, Cabarets, Etc.

When a saloon is suspected a couple of policemen are assigned for the purpose of obtaining evidence. If they hear or see persons therein using indecent or profane language, committing obscene acts, or women solciting men and the proprietor, manager or employees fail to take immediate action to correct such conditions, they report such facts to their Commanding Officer and under his direction apply to Magistrate for a warrant.

NOTE: In order to prove that the disorder complained of is continuous, usually several visits are made to a suspected place before a warrant is applied for.

Evidence against disorderly hotels is usually obtained by policemen acting in pairs who successively permit a woman to solicit them and bring them to the hotel, taking care to let the clerk in charge see that the purpose in each case is immoral. Another method pursued is to keep the place under observation for a few days, note any woman that enters at different times with different men, enter her bedroom, and question her as to her relationship towards her companion, and if the evidence warrants it, arrest her and the hotel clerk, or present the case to a Magistrate for a warrant. If there be not enough evidence to warrant proceedings under the hotel law, efforts should be made to obtain evidence of some other violation of law under which the hotel man can be prosecuted.

There are houses where the women do not receive men, but are called up, a girl asked for, and in response is sent to a designated place. It is hard to get evidence against such places. By listening on the telephone and watching for the girl to go to the designated place, sometimes the evidence to convict is obtained.

To permit immoral persons habitually to frequent a place renders the persons conducting or in charge of the place liable as a disorderly person.

A woman associating with thieves or immoral persons or vicious companions, habitually drunk or diseased and suffering from debaucheries can be committed by a magistrate to an institution where she will get medical aid to restore her to health.

### Suspicious Disorderly Houses or Apartments

1. If an arrest has been made for violation of the laws relative to prostitution or maintenance of a public nuisance.
2. If the premises are frequented almost exclusively by men,

and women are observed therein having no apparent occupation other than that of prostitution.

3. If inspection of the premises be refused, and the reputation of the premises be that prostitution is being carried on.

### **Disorderly Hotels or Bed Houses**

1. If an arrest has been made for prostitution or maintenance of a public nuisance.

2. If known street prostitutes frequent the premises.

3. If a majority of the couples entering the place remain only a short time and do not carry baggage.

### **Disorderly Saloons, Restaurants, Etc.**

1. If prostitutes resort there apparently with the knowledge of the licensee or an employee, solicit men, and take them from the premises apparently for the purpose of prostitution.

2. If males and females congregate and use indecent or profane language, or conduct themselves in an obscene manner, apparently with the knowledge of the licensee or any employee, and immediate action is not taken by them to correct the condition.

### **Gambling**

1. If an arrest has been made for gambling.

2. If information be received that gambling is being carried on, whether the proprietor or his agent is directly operating the game, or is profiting indirectly by sharing in the proceeds, or by renting the room or any of the material used in the operation of the game.

3. If gambling paraphernalia be found, such as roulette wheels, faro and crap layouts, telephones, racing charts or sheets, and the police have information that they are being used for gambling purposes.

4. If inspection of the premises be refused, and the reputation is that gambling is conducted there.

### **Service of Liability Notice**

When it is suspected that the law relating to public morals is violated in a certain premise, or if an arrest has been made for such a violation, the Commanding Officer of the Precinct,

when directed to do so by the Inspector of the District, serves or causes the owner of such premises to be served with liability notice.

When a policeman is sent to serve such notice, an entry of the fact and a brief synopsis of the violation for which it is to be served should be made in the Blotter. After service has been effected, the time of service and the name of the person served should be entered.

The policeman directed to serve a liability notice should exercise great care that he serve it on the person it is intended for. Some owners evade the law by having a person receive such notice, who falsely represents himself as the person it is intended for.

If it be not possible to locate the owner in person, a registered letter should be directed to him and his signature in receipt identified and offered in court as proof of service.

If the suspected disorderly premises be owned by a corporation, service of liability notice should be made on an officer of the corporation.

The owner of a suspected disorderly house is required to eject the persons complained of within five (5) days after receiving a liability notice. Failing to do so, and upon conviction of the person complained of, the owner can be prosecuted for abetting such violation. In case the violation be of the Tenement House Law, he may also be sued civilly by the Tenement House Department for a penalty of one thousand (\$1,000.00) dollars.

If there be two or more convictions in the same tenement house, within a period of six (6) months, either under Section 150 of the Tenement House Law, or under Section 1146 of the Penal Law, such fact is proof of responsibility of the owner, agent, or lessee, even though no liability notice had been served.

### **Safeguarding Raided Premises**

After a premise is raided for a violation of the law relating to public morals, the District Inspector may assign a patrolman thereto, for the purpose of safeguarding the evidence and preventing a continuance of the nuisance.

### **Prostitution (Felony)**

A person is guilty of Compulsory Prostitution, who  
Imports a woman into this State or exports one from this  
State for immoral purposes ;

- Attempts to entice or procure a woman to come into this State or go from this State for any other immoral purpose;
- Places any female in a house of prostitution, or attempts to induce her to become an inmate of such a house;
- Compels or attempts to compel a woman to lead an immoral life;
- Receives money or other valuable thing for placing a woman in a house of prostitution or elsewhere, for the purpose of causing her to cohabit with any male person to whom she is not married;
- Pays any money or value to procure a woman for the purpose of placing her for an immoral purpose anywhere;
- Knowingly receives money or value for procuring and placing a female in the custody of another for immoral purposes;
- Holds or attempt to hold or detain a woman in an immoral resort for the purpose of compelling her by her service or labor to pay any debt, dues, or obligations incurred or said to have been incurred by her;
- Knowingly accepts, receives, or appropriates any money or other valuable thing, without consideration, from the proceeds or earnings of a prostitute;
- By force or fraud, persuades his own wife; or the wife of another person to lead a life of immorality.

A conviction for Compulsory Prostitution cannot be obtained on the testimony of the female, unsupported by other evidence.

Every male person who lives wholly or in part on the earnings of prostitution, or who in any public place solicits for immoral purposes, is guilty of a misdemeanor. A male person who lives with or is habitually in the company of a prostitute and has no visible means of support, is presumed to be guilty.

### **Alien Prostitutes (Federal Law)**

A person is guilty of a felony who imports any alien into the United States:

1. For the purpose of prostitution.
2. For any immoral purpose.
3. Holds an alien prostitute after her importation for the purpose of prostitution.
4. Maintains, controls or employs an alien prostitute after importation, for the purpose of prostitution.

An alien may be deported:

1. If she or he manage a house of prostitution in the United States.
2. If she reside in a house of prostitution in the United States.
3. If he or she rent property for the purpose of prostitution.
4. If he or she protect, or promise to protect, prostitutes from arrest.
5. If he or she receive or share in the earnings of a prostitute.
6. If he or she within 5 years after entering the United States commit an offense involving moral turpitude.

An alien who, after being deported for any of the above offenses, again enters or attempts to enter the United States, is guilty of a misdemeanor.

The following are the provisions of the ordinances relative to massage institutes and operators:

## **MASSAGE INSTITUTES AND OPERATORS**

### **Definitions; Character; Institutes**

A person who applies manual or mechanical massage or similar treatment to the human trunk or limbs is deemed to be intended within the terms of the ordinance, a massage operator, but no person comprehended within the provisions of section 219 of the Sanitary Code, entitled nurses, or section 73 of the Public Health Law, relating to osteopathy, is deemed to be intended within the provisions of this ordinance.

Any place in which two or more massage operators give treatment is deemed to be intended within the terms of the ordinance a massage establishment or institute. No establishment incorporated as a hospital or sanitarium or comprehended under section 226 of the Sanitary Code, entitled hospitals, or section 340 of the Sanitary Code, relating to bathing establishments, is deemed to be within the provisions of this ordinance.

Massage places and operators are licensed by the Commissioner of Licenses. He has the power to revoke the license not only for violations of the law but in case an operator treats another of the opposite sex without a physician's permit who is limited to authorize not more than ten treatments. If, however, such treatments are given in the residence of the patient, the

office of a physician, or in a hospital or sanitarium the number is not limited to ten.

### Gambling

Gambling is one of the social crimes which keeps the police ever in trouble. Persons concerned in gambling may be felons, misdemeanants or guilty of no crime according to circumstances. The felons are the common gamblers, broadly speaking, the men who run the game or those who directly manage it for them. Misdemeanants are sometimes aiders and abettors who do not directly get the profit but indirectly benefit, such as the owner of a building who lets it to a man who hires it out for gambling, touts, betters on horses as a business, sellers of lottery tickets and of slot machines, and keepers of places where they are sold or kept.

Non-criminals are the "suckers" who play against the house, or persons indulging in a friendly game where there is no "house" and all compete on even terms.

Against Brown and Jones playing a friendly game of poker where nobody was getting a rake-off, a crime could not be charged, but if Brown was getting a "rake-off" for permitting the game to be played in his house, he would be a common gambler, but Jones would not.

A common gambler is the owner, agent or superintendent of a place who permits gambling to be carried on there, or does any of the following:

Hires the place or allows it to be used for gambling.

Controls a gaming table or apparatus and allows it to be used for gambling.

Acts as game-keeper, player or dealer in any gambling game.

Endorses a book or document to enable others to sell lottery policies.

Keeps a place for playing policy or aids or abets the game of policy.

Sells or offers a document evidential of a bet, wager or insurance on the drawing of numbers of a lottery, public or private.

When a gambling house is raided and gambling paraphernalia taken as evidence, the names and addresses of persons present should be secured, if possible for the District Attorney, who can summon them as witnesses. They cannot, however, be compelled to identify themselves.



## POLICY A FELONY

The game of policy is a swindle where the poor and ignorant are cheated out of their pennies. It is played by betting that certain numbers from 1 to 78 will come in a drawing in an order named.

A person is a Common Gambler who conducts or knowingly keeps a place where such a game is conducted; or, Who aids in conducting such a game. Possession of policy slips is presumptive of unlawful use.

To call this a gambling game is misnomer, because the persons who conduct it are "sure thing gamblers," the player's chance of winning being non-existent.

The game is usually conducted as follows:

The backer employs agents and assigns them to tenement sections.

These agents advertise themselves to prospective patrons.

The patron bets on certain numbers, the agent records the numbers on manifold sheets, forwards one of the sheets, or telephones the plays to the backer.

The backer computes all the numbers played through all his agencies and gives out as winning numbers those showing most profit to himself.

The agent, upon notification of the winning numbers, pays those who played them.

### Italian Policy

The drawing in this game is supposed to take place once a week in Italy. The numbers run from 1 to 86.

The player plays numbers to appear in a certain order after one or all of the eight Italian States, printed on the policy ticket. If they win they are paid after the drawing is alleged to take place in Italy. This, like American policy, is a "fake." The backers of it usually reside in some Italian section of the city where the drawing takes place, and like the American game, is a "sure thing" chance for the gambler.

### Chinese Policy

Is somewhat similar to American policy except that the numbers on tickets are in Chinese Characters.

As all the above forms of policy are felonies, every person

concerned should be arrested and all things used in carrying on the game seized as evidence.

In making arrests for policy, it is always well to surround premises where the game is conducted. A thorough search should then be made, especially of desks and drawers. Persons found on the premises should be frisked, those on whom policy tickets are found, and those whom it is reasonable to suppose were either conducting the game, or aiding it arrested. Sometimes the policy slips found are simply written numbers on ordinary paper. These are sufficient to warrant an arrest. In order to secure a conviction some competent policeman should be present in court to testify that the slips were policy slips and that, to his knowledge, persons had been convicted for possessing similar slips.

The owner of a building where policy playing is conducted is served with a liability notice in the manner described under Common Gambler.

Any private person who has knowledge that a policy game is carried on in a certain premises can serve a liability notice on the owner the same as if a policeman.

### **Pool Selling and Bookmaking**

A person is guilty of a misdemeanor who takes bets as a business

1. In any contest of speed, skill or endurance of man or animal.
2. On the result of any political nomination or election.
3. On any unknown or contingent event.

Or who keeps a place where such bets are made.

To accept an incidental bet on the races is not gambling. To take the bets of all comers, as a practice or business is gambling, even though no record be made.

Examples:

White, not a professional gamester, accepted a bet from his friends, Jones and Smith, that High-flyer would win a certain race. No crime.

Black, a "known hand book man," accepted bets from Jones and Smith, that High-flyer would win a certain race. Gambling.

### **Getting Evidence Against Poolrooms**

When a complaint or information is received that a pool-

room is being conducted in certain premises, the policemen handling the case should:

Keep the place under observation for a few days, noting the number of persons who entered or left, the time they did so, and their names and addresses, if known;

Obtain entrance in the best way at hand, as by forming acquaintance with one of the patrons and being introduced by him to the doorkeeper.

Upon entering, observe particularly all persons engaged in the carrying on of the poolroom, such as telephone operators, sheet writers, cashiers, announcers, clerks, etc., and make a secret memorandum of everything said and done by them of value as evidence; note the description of unknown persons.

Note the names of the horses posted, the location of the tracks, the bets they made and the bets they heard others making.

At least two policemen should corroborate each other.

After the necessary evidence is obtained it is either submitted to a Magistrate for a warrant or an arrest made without a warrant. Upon an arrest, all racing sheets, charts, pay slips, or other paraphernalia that may be used as evidence in the case should be seized. Telephones used in carrying on the business should be taken as evidence. Before removing telephones, however, the Wire Chief of the telephone company should be notified of the reason for the removal, and given the telephone number of such as are removed.

The names and addresses of all persons in the poolroom and not arrested should be obtained. Such persons should be questioned as to the reason for their presence and their answers noted. The Inspector of the District should be notified immediately of the arrest so that he may cause a policeman to be stationed in the poolroom to prevent future violations of the law there.

NOTE: If it be impracticable to gain entrance to a particular premise where a poolroom is being maintained, the necessary evidence may sometimes be obtained by listening on a telephone, making note of conversations, but this kind of evidence is admitted in such cases only when the speaker is identified by his voice.

## Handbook Men

A policeman who suspects that a particular person is making

a handbook, should carefully observe such person's actions. If he see the man in conversation with one likely to be a customer he should endeavor to overhear the conversation and note if any money or memorandum be passed from one to the other.

He should try to get evidence by placing a bet. The money bet by the policeman should first be marked.

If a policeman obtain the necessary evidence against a handbook man, either by placing a bet or by overhearing him accept a bet from another, he should arrest him, being careful not to give him an opportunity to destroy racing slips, or evidence that may be on his person. When searched in the station house, all racing slips, or other such evidence found on him must be carefully safeguarded. A handbook man found loitering on a public street, to the annoyance of passersby, may be summoned for a violation of a corporation ordinance.

## Lottery

Is the distribution of property by chance among persons who have paid, or agreed to pay, a valuable consideration for such chance, whether the distribution be called lottery, prize drawing or any other such name.

The contriver is guilty of a felony.

It was once a scheme by which kings raised money to pay their expenses and countries and States sanctioned it as a means of raising funds ordinarily raised by taxes.

Sometimes no written or printed tickets are used, the raffle or lottery numbers being placed in a book and the person paying for a chance, simply selects a number and writes his name opposite it. A person selling chances in this way is just as guilty as if he sold the tickets.

The same rule would apply to cards sometimes hung up in barber shops or saloons. A certain sum is paid for a chance to punch a hole in a card. The lucky get cigars or other kinds of merchandise. The person selling such chances is guilty of selling lottery tickets.

The rule applies to such contrivances as wheel of fortune and to wheels where they sell slats with numbers on them, when, after spinning the wheel, the person holding the slat with the lucky numbers is entitled to a box of candy or other trifle.

Such contrivances as throwing rings over canes, over duck's necks, or the like, are considered games of skill rather than games of chance, but some such as Japanese pool tables found

at seaside resorts, are on the dividing line. When there is a doubt as to whether the game is one of skill, or chance, a summary arrest should not be made, but the facts presented to a Magistrate and a warrant applied for.

Where there is no doubt, a summary arrest can be made and the evidence of the lottery, such as books, tickets, property raffled and the like seized.

Keeping a place where lottery tickets are sold or selling tickets or chances is a misdemeanor.

For instance:

“Jones, a barber, has lottery cards in his store and Brown, his employee, sells chances to customers.” Jones is guilty of keeping a place where lottery tickets are sold (misdemeanor) and Brown, his employee, guilty of selling lottery tickets (misdemeanor).

Where lottery tickets are sold, the person selling them is guilty of crime, and the person controlling such place, who knowingly permits their sale is guilty. This means a place where the sale of tickets is carried on as a business and not as an incident.

A person who advertises a lottery, whether such lottery is held within or without the State is guilty of a misdemeanor.

### **Slot Machines**

Slot machines that violate the law are mechanical devices equipped with contrivances which determine what chances one has for getting something in return for the money he inserts.

In every such machine there is an element of chance that tempts both children and adults. As a consequence it not only forms the gambling habit, but enters into unfair competition with the automatic vending machine which is a public convenience.

The selling, leasing or unlawful possession of a gambling slot machine is a misdemeanor, in addition it is a violation of the liquor tax law to maintain it in a saloon.

### **Action by Policemen in Suppressing Gambling**

When gambling is conducted in a building it is difficult for a uniformed policeman to obtain legal evidence, consequently he should report all the facts in his possession to his Commanding Officer, particularly the names and addresses of all persons who complain of such condition. He should be observant while on post and report what he sees to his Commanding Officer.

Policemen should be suspicious of all houses where blinds are constantly drawn, front door closed, number of men seen to enter and leave during the hours when races are being run, or late at night, when other forms of gambling are likely to be indulged in.

Policemen should make summary arrests for street gambling such as crap shooting and charge disorderly conduct.

### **Liability Notice**

If a person be arrested for keeping and maintaining a gambling house, or poolroom, in certain premises, or if it be reasonable to suppose that unlawful gambling is being carried on there the Commanding Officer of the Precinct where such premises are located, when ordered to do so by the Commanding Officer of the District, serves a liability notice on the owner, agent or lessee and must within five days after the receipt of notice eject the person complained of. If he fails to do so, and a conviction be afterwards obtained, such owner, etc., is deemed criminally liable. The notice affords presumptive evidence of knowledge.

### **Bucket Shops**

A person, firm or corporation, acting in his own right, or as agent of another, who makes or offers to make any contract respecting the purchase or sale of any security or commodity wherein both parties intend that such contract shall be terminated when the market quotation of prices for such security or commodity reach a certain figure, without intending a bona fide purchase or sale is guilty of a felony.

### **Written Statement to Be Furnished; Presumption**

Brokers must furnish, upon written demand to a customer, or principal for whom they have executed orders for the actual purchase or sale of securities or commodities, either for immediate or future delivery, a written statement containing the names of the persons from whom such property was bought, or to whom it has been sold, the time when, place where, the amount of, and the price at which the same was either bought or sold. If such brokers refuse or neglect to furnish such statement within forty-eight hours after demand, refusal shall be prima facie evidence that purchase or sale was made in violation of this article.

## CHAPTER XI

### MISCELLANEOUS OFFENCES

#### Narcotics

The manufacture, keeping, sale, distribution and use of narcotics and habit-forming drugs are regulated by the Federal, State and local laws. The Federal law is known as the Harrison law and the local law as section 126 of the Sanitary Code.

The State law has been amended from time to time, but the laws of 1918 creating a department of drug control supercedes all previous laws that contain any provisions in conflict with it.

The Harrison law is designed to prevent inter-state traffic in the drug. Its provisions are enforced by the Federal officials, and the only duties the police have in connection with its violation, is to report to the Federal officials such conditions as they may find which transgressed such law.

The general intent of all three enactments are similar. Since the State law is thorough enough to cover all but a few of the conditions that can arise and since the Sanitary Code cannot conflict with it, while the Federal law will reach only such outsiders as the State law cannot touch, it follows that the police should get thoroughly acquainted with the State law rather than with the Federal law. Attempts to get acquainted with both enactments are likely to produce confusions of thought.

All three laws have been passed to combat the growing evil of the use of narcotics, an evil which was unknown in this country a generation ago; a habit to which the Chinese, the Spanish war, the colored man migrating from the South and the cure-all quacks of the nineties have all contributed.

The conditions enumerated and discussed concern the State law. The department in control is in charge of a Commissioner, called the Commissioner of Narcotic Drug Control who can make rules and regulations that have the force and effect of law.

No manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or private hospital, sanitarium, or institution maintained, however conducted, can purchase, receive, sell, distribute, prescribe, administer, or dispense cocaine, or opium or its derivatives, unless prior thereto registered with the department and possessing a certificate authorizing him to carry on such business.

### **A Manufacturer to Sell or Distribute Cocaine and Opium, or Its Derivatives Within This State**

Must register with the department and get a certificate of authority; keep a record of all drugs manufactured, sold or distributed within the State, containing the date of each sale, or distribution, the name and amount of the drug sold or distributed, the name and address of each person to whom sold or distributed, and report as often as required, to the department.

### **A Wholesaler of Such Drugs**

Must be registered with the department and have a certificate of authority.

Keep a record of all drugs purchased or received within the State containing the date of each purchase or receipt, the name and address of the person from whom, and the name and quantity of the drug purchased or received.

Keep a like record of all drugs sold for use or distribution within the State, the date, name, amount and form of each such drug sold or distributed, and the name and address of each person to whom sold or distributed.

Make report to the department as often as required.

### **An Apothecary**

Must:

Keep a record of all cocaine, opium, or its derivatives, purchased or received by him containing the date of each purchase or receipt, name and address of each person from whom and the name and quantity of each such drug purchased or received.

A record of the amount sold at wholesale, or disposed of on



official order blanks, the amount used in the preparation of remedies and how disposed of, the gross amount dispensed upon prescriptions.

Report as often as required to the department the information contained in such records, with the amount of each drug on hand.

Dispense upon an unofficial prescription blank, signed by a physician with the name, age and address of the physician, the person for whom and the date when issued, provided such prescription does not contain more than five grains of cocaine, thirty grains of opium, six grains of codeine, four grains of morphine or two grains of heroin; upon a like prescription drugs in excess of such respective quantities if it be stated upon the prescription that it is to be used in the treatment of a surgical case, or a disease, other than drug addiction. Each such original prescription must be kept in a separate file for two years and not refilled, provided that a prescription which does not contain more than the lawful quantity need not be separately filed. If such prescription call for an exempt preparation or remedy prepared in accordance with the "U. S. P.," "N. F.," or other recognized or established formula, usually carried in stock by a dealer and sold without a prescription, it need not be separately filed and may, upon request, be refilled.

Dispense upon prescription in writing by a physician containing his office address and the name, age and address of the person for whom and the date when issued, within four days from such date, within or in excess of the quantities hereinbefore mentioned, if such prescription be written upon a serially numbered official prescription blank delivered to him in duplicate, provided he keep one of said duplicates in a separate file for a period of two years and within twenty-four hours, mail the other to the department; such prescription must not be refilled.

Dispense such drugs upon the prescription of a veterinarian containing his office address and the name and address of the owner of the animal for which the drug is prescribed, provided he keep the prescription on file for two years and not refill it.

Whenever an apothecary pursuant to the prescription written upon an official prescription blank dispenses such drug he shall affix to the container a label stating, in English, the

name and address of the physician prescribing, his own name and address, and the date when, and the name and address of the person for whom and the name and quantity of such drug dispensed and contained in the container.

### A Physician

A physician in the lawful practice of his profession may in good faith prescribe:

Upon an unofficial prescription blank not more than five grains of cocaine, thirty grains of opium, six grains of codeine, four grains of morphine, or two grains of heroin.

Issue a prescription upon an unofficial prescription blank for drugs in excess of such quantities, as may reasonably be required in the treatment of a surgical case, or a disease other than drug addiction, if such fact be stated upon the prescription. Every other prescription for any of such drugs must be written upon an official prescription blank in triplicate, signed by him, and containing in legible English or Latin, the name and amount of the drug prescribed, the name, age and address of the person for whom and the date when the prescription is issued.

Deliver the original and one other of such triplicate prescriptions to an apothecary and retain the other copy on file for a period of two years.

Administer or dispense to a patient whom he is treating, not to exceed two grains of cocaine, fifteen grains of opium, three grains of codeine, two grains of morphine, one-fourth grain of heroin.

Dispense while absent from his office in personal attendance upon a patient whom he is treating, to be taken in his absence, not to exceed fifteen grains of opium, three grains of codeine, two grains of morphine, or one-fourth grain of heroin.

If he otherwise administer or dispense any of such drugs, he must fill out official physician's dispensing blank in duplicate, keep the original for at least two years and mail the copy to the department within twenty-four hours.

On dispensing any such drug on an official prescription blank, he must label the container in the manner described under Apothecary, keep a proper record of all such drugs purchased, received or dispensed by him, and make a report to the Department of Drug Control as often as required, setting forth the information contained in such record.

### **A Veterinarian**

Must register with the Department and have written authority to prescribe or administer such drugs. He may possess such drugs in such quantities as he requires in the practice of his profession and administer or dispense them in the course of his professional practice, and prescribe any of such drugs but not for use by a human being.

Each prescription issued must be signed by him and contain in legible English the name and amount of the drug prescribed, the name and address of the owner of the animal for which, and the date when the prescription is issued.

He must keep a proper record of all such drugs purchased, received or dispensed by him, and report to the department as often as required the usual information.

### **A Dentist**

Must register with the Department and be authorized to use such drugs in the practice of his profession.

Possess these drugs in such quantities as he may require for administering in the course of his professional practice.

Administer to persons under his immediate treatment, but only in quantities necessary.

Keep proper record of all such drugs purchased or received by him and make a report to the department when asked.

### **Possession of Drugs by Consumers**

A person for whom cocaine, opium or its derivatives has been dispensed by an apothecary or physician, for the dispensing of which no label is required on the container, and the owner of an animal for which any of such drugs have been dispensed by a veterinarian or an apothecary upon the prescription of a veterinarian may lawfully possess the same. It may lawfully be possessed by a person for whom any of such drugs have been dispensed by an apothecary or physician for the dispensing of which a label is required to be affixed to the container, in the container delivered to him by the apothecary or physician and upon which the label signed by the apothecary or physician is affixed. The amount of the drug not to exceed that stated upon the label.

### Official Order Blanks

A hospital, sanitarium or other institution in which persons are treated for disability or disease, or inebriety, or drug addiction, or a wholesale apothecary, physician, dentist, or veterinarian, may possess cocaine, or opium or its derivatives only after he has obtained it from the department of drug control, or upon a written order upon an official order blank to one authorized to sell it filled out in triplicate. The person given the order retains one copy for at least two years and sends the other two to the person to whom the order is given, who retains one for two years and forthwith upon filing the order, mails the other to the department.

### Preparations and Remedies

A person may manufacture, sell, dispense, or possess preparations and remedies not otherwise prohibited by law which contain—if opium not more than two grains, if codeine not more than one grain, if morphine not more than one-fourth of a grain, or if heroin not more than one-eighth of a grain in one fluid or avoirdupois ounce; also liniments, ointments and other preparations suitable for external use only, provided that such remedies or preparations are not sold, kept or manufactured for the purpose of evading the provisions of this article.

### Hypodermic Syringes Can Be Possessed Only

By a dealer in surgical instruments, apothecary, physician, dentist or veterinarian or nurse attendant or interne of a hospital, sanitarium, or institution in which persons are treated for disability or disease, unless such possession is authorized by the certificate of a physician issued within the period of one year.

### Exemptions from Restrictions

The provisions of this article restricting the possession of cocaine or opium or its derivatives, do not apply to common carriers, warehousemen or their employees engaged in lawful transportation or storage of such drugs nor to public officers or employees while engaged in the performance

of their official duties, nor to temporary incidental possession on the part of employees or agents of persons lawfully entitled to possession.

Drug addicts are both clever and cunning. Such qualities are also possessed by the fiends who profit by the illegal sale of such drugs.

To cope with them it is not sufficient for a policeman to know the drug law; he should also know how to detect violators.

### **Some of the Ways in Which Outlawed Drugs Are Obtained**

Tempted by the big profit that can be obtained through selling these drugs to unscrupulous dealers, or to unfortunate habitues, seafaring men and others smuggle them into this country by ship or across the border from Canada, Mexico or nearby States, or they are stolen by employees of druggists, manufacturers or dealers, or they are received from other States and countries by parcel post, mail and express.

### **To Cover Up Illegal Sales**

Dealers falsify their books and records; hold out drugs from prescriptions or orders lawfully received; or

Act in concert with unscrupulous doctors, dentists or veterinarians, who give them prescriptions for fictitious persons.

### **How Illicit Dealers and Habitues Dispose of Drugs**

In disposing of the drugs, the dealer, his agents or sub-agents, often co-operate and assign to themselves special territories throughout the city, sometimes employing carriers, so that if caught no evidence can be found on their persons. They often find it convenient to "plant" a package in some prearranged place, such as in a hallway, under a stove, in the roadway in an apparently discarded cigarette box thrown in the gutter close to the curb; behind a loose brick in a wall, or in a furnished room, hired for that purpose.

### **How Such Drugs Are Carried or Possessed by Habitues**

So many ingenious hiding places have been discovered that it is impracticable to enumerate all of them. Some of these places are:

- (a) Tied under beds to the bed springs.
- (b) In the sleeves of old coats hanging on the wall.
- (c) In portieres, water pipes, under carpets, in telephone boxes, corners of tables, secret panels of walls, heels of shoes, hat racks, hanging out of windows tied to clothes lines, in books and magazines, etc.
- (d) When carried on the person drugs have been found in the end of hat pins, in secret pockets in the clothing, in the hat band, in the watch case, match box, etc.

### **How the Habitués May Be Recognized**

There are several methods used by "fiends" in taking drugs, principally:

- Sniffing.
- Hypodermic injections.
- Smoking.
- Taking through the mouth.

### **Sniffers**

They can usually be recognized by a redness or swelling of the partition of the nostril, or by ulcerations thereon, or in the case of long continued use, the partition becomes perforated.

### **Hypodermic Users**

The arms and legs of hypodermic users are usually covered with a rash from the needle pricks, or abscesses may be found.

### **Smokers and Eaters**

They can usually be recognized by their dry, sallow skin and a peculiar glistening look in their eyes.

### **Symptoms Presented by Drug Addicts**

Drug addicts when in need of the drug may often present the following symptoms:

- (a) Water running from nose and eyes.
- (b) Yawning and sneezing frequently.
- (c) Seemingly itching all over and constantly rubbing arms and legs.
- (d) Pupils dilated.

If a policeman sees a person whom he believes to be an addict on the street, and presents such symptoms, he should keep him under observation and he will usually, in a short time, see him go walking rapidly to the dealer who is his source of supply. Trailing after him, the policeman should put himself in a position to see the drug and money passed by the addict and the dealer, arrest both before they have opportunity to place either the money or drug in their pockets, and hold both the money and drug as evidence, unless the sale be made by a licensed druggist in pursuance of a physician's prescription.

When a detective has evidence that drugs have been illegally disposed of in a particular premise he should endeavor to find out how habitues identify themselves to the dealer when purchasing them and use like methods to get into the dealer's confidence and to gain entrance to the premises. After getting the necessary evidence he should arrest the dealer, search the premises for all evidence of illegal sales, seize all drugs found, also any evidence of illegal sales, such as sealing wax, seals, deck papers and the like, marking them as evidence. He should by question, establish the ownership of the apartment and of drugs found therein, etc., for the purpose of connecting him with any evidence found.

Drug addicts may be committed by Magistrates to institutions for their cure. Some addicts request policemen to arrest them so that they may be committed. It is lawful for a policeman to make such an arrest and he should charge the addict with vagrancy.

A drug addict may apply to a local board of health for commitment to a hospital and, if the hospital consents, the addict may be received on a commitment by the local board of health, as if the commitment were made by a Magistrate. A local board of health may also prescribe for and furnish drugs to addicts pending treatment.

### **Procedure in Obtaining Evidence Against Registered Dealers**

Every person licensed to deal in opium, cocaine or its derivatives must file with the Department of Narcotic Drug Control as often as required a detailed statement showing the amount of drugs on hand on date of such report. No person may keep, sell or dispense any such drugs unless licensed by such department. All records and reports or copies thereof required to be kept by any person handling drugs under the provisions of this chapter must be kept for two years before being destroyed.

When a doctor, druggist, manufacturer, or registered dealer is suspected of illegal sales of narcotics, the policeman should visit the premises, accompanied, if practicable, by a chemist, and

- (a) Establish ownership of party in charge.  
Registration required by law.  
Whether licensed in the State.
- (b) Examine records of purchases.  
Sales or other dispositions.  
Records of amount on hand on date of last report preceding visit.
- (c) Tabulate purchases from date of last report preceding visit.  
Quantity disposed of in the same time and  
Amount on hand at date of visit.

If any discrepancies be discovered between the records of the amount of such narcotic drugs on hand the person registered may be arrested and the records held as evidence. Drugs found on the premises, in excess of the amount allowed by law, should be seized and marked as evidence.

### Definitions

1. Anesthetic: An agent that deadens sensibility.
2. Cannabis indica: A narcotic principally extracted from hemp.
3. Chloral: A narcotic liquid; obtained at first by the action of chlorine upon alcohol.
4. Chloroform: A volatile fluid; used in surgery to induce insensibility.
5. Coca (leaves): A narcotic; the dried leaf of a plant found in Peru.
6. Cocaine: A drug derived from the coca leaf.
7. Coedine: An alkaloid obtained from opium.
8. Ether: A liquid produced by the distillation of alcohol with sulphuric acid.
9. Heroin: A drug derived from opium.
10. Laudanum: A drug derived from opium.
11. Morphine: A vegetable alkaloid; extracted from opium.
12. Narcotics: A medicine which relieves pain, produces sleep and in excess even death.
13. Opium: The dried juice of the capsules of the white poppy, a stimulant, narcotic poison, used in medicine



to soothe pain and inflammation; smoked as an intoxicant.

## GENERAL LAWS RELATING TO DRUGS, DOCTORS AND VETERINARY SURGEONS

### Careless Distribution of Medicines, Drugs and Chemicals

Any person, firm or corporation who distributes, or causes to be distributed, any free or trial samples of any medicine, drug, chemical or chemical compound, by leaving the same exposed upon the ground, sidewalk, porch, doorway, in letter boxes, or in any other manner, that children may become possessed of is guilty of a misdemeanor, punishable by a fine not exceeding twenty-five dollars for each offense; but this section shall not apply to the direct delivery of any such article to an adult.

The Sanitary Code prohibits the sale or giving away of opium, morphine, chloral or cannabis indica unless upon the prescription of a doctor, dentist or veterinarian, unless when used for external applications. So far as chloral and cannabis indica are concerned it supplements the State law.

Persons found on premises where opium is smoked could be arrested and punished under section 1533 of the Penal Law, if there to smoke; so could the occupants. Those who were actually smoking or had the drug in their possession could be arrested under the Narcotics Law. Persons innocently on the premises could not be punished.

Possession of stupor-producing drugs with intent to administer them unlawfully is a felony, and furtive possession is presumptive evidence of intent. This would include chloral, morphine, laudanum, heroin, opium, cocaine, coedine as narcotics and chloroform and ether as anesthetics. To prove crime it must be shown that the possessor was not a physician, that the narcotics were stupor-producing and that he had the intent to administer them.

### Public Nuisance

A public nuisance means that the public is injured or annoyed. It does not mean the injury or annoyance of an individual. The public may mean any considerable number of persons. It takes

at least three to be any considerable number. The public can also mean the general public without defining any particular individuals belonging to it.

A public nuisance is defined as a crime against the order and economy of the State. Order means according to prescribed arrangement; economy means without waste. A public nuisance, therefore, disorganizes and wastes.

A public nuisance means an unlawful act or omission. The same act or omission if occurring under circumstances not unlawful would not be a public nuisance.

The thing affected by a public nuisance is the health, comfort, safety or repose of a considerable number. The way in which they are affected is by being annoyed, injured or endangered. The general public can be offended by indecency flaunted generally.

The general public can be affected when a public passageway is obstructed. The public passageway may be a lake, river, bay, stream, canal basin dredged at public expense or a street, park, square or highway. The general public can be affected by an unsafe condition. The condition must render a considerable number insecure in life or the use of property.

When a crank is annoyed by a condition, the condition is not necessarily a public nuisance. Even a large number of persons may be annoyed, as by a crematory without its being a public nuisance if its maintenance is not unlawful.

Examples:

Brown maintains a building for the purpose of committing and performing unlawful abortions therein.

Brown keeps a house of prostitution.

Brown keeps a place of public resort, and permits persons therein to use indecent language and to commit acts of indecency.

Brown, a grocer, places skids from the stoop of his store across the sidewalk to a wooden horse, over which he conveys goods from his store to trucks in the street, thereby obstructing the sidewalk several hours each day.

Brown, who manages a factory, keeps a door locked, bolted or fastened therein, during working hours, in violation of the labor law.

Brown keeps a place which persons frequent to smoke opium.

Brown, who owns a building, has a sign displayed thereon,

so placed and adjusted that it is likely to fall into the street and injure a person.

Brown, as a practice, permits singing and dancing in his loft after 11 P. M.

### Disgraceful Practices

Some games and exhibitions formerly permitted have been made misdemeanors. Such is the case with the game of throwing balls at a negro's head, or jumping from a great height into a body of water. So is an act holding a race up to contempt and ridicule.

### KIDNAPPING

Kidnapping was originally the forcible carrying away of a child. It was extended to mean the carrying off of a man, woman or child from its own country and sending it into another. Between it and abduction and false imprisonment there is no real difference that a policeman need care about.

When an adult is concerned the intent is to imprison him within the State, send him out of the State, sell him as a slave or hold him to service against his will. When he is without the State and brought in and secreted in this State, kidnapping is committed.

When a child is the subject the intent is to keep it or conceal it from its parents, to extort money for its return or to steal something from its person.

The manner of kidnapping is by seizing, taking, inveigling, leading, enticing or by use of force or fraud. The crime is a very serious felony which may be punished by fifty years' imprisonment.

There is a crime classed as a misdemeanor which consists in assisting to escape, persons confined in an asylum or institution, enticing them away, offering them a home or offering to marry them. It is also a misdemeanor to harbor such escaped inmates without the consent of the board of managers.

#### Examples :

Brown procured the intoxication of White, a sailor, and without his consent, took him on board a ship and compelled him to serve thereon.

Brown arrested White in this State and took him to another State without authority of law.

Brown inveigled Jones from this State and sold his services without his consent to a person in another State.

Brown enticed Jones's child to leave home and held such child for ransom.

Brown induced a woman to leave this State on the promise of obtaining her employment in another State and placed her in a house of prostitution. (Also guilty of Compulsory Prostitution.)

Brown is divorced from his wife. She has been awarded the custody of their fifteen-year-old child by the court. Brown entices the child to leave his divorced wife and to reside with him.

### Children

A child should be distinguished from a minor. A child is any person under sixteen years, a minor is a person under twenty-one. Childhood and minority indicate that they are below the age of full responsibility for their acts and that adults are charged with a greater sense of responsibility in their dealings with them. There are a few instances when the age of eighteen is made the dividing line.

A child under seven cannot commit crime; a child under twelve is presumed to be incapable of committing crime unless the presumption be removed by evidence; a child under sixteen is entitled to have its mental, physical, moral and material welfare looked after by others. When he offends except for homicide the offense is not called crime but juvenile delinquency.

A person under eighteen may not be sold tobacco nor liquor for himself or others; a person under twenty-one cannot make nor be bound by a contract.

Inasmuch as children are not permitted under the law to do many things that adults may do, they are sometimes taken into custody for things that would not be offenses if committed by adults. Such children are mostly to be held under the charge of Improper Guardianship. There are a few exceptions.

### Procedure

When a child is taken into custody for any cause its parents or the Children's Society or both should be notified. Either one is to take charge of the child, pending a hearing, depending upon the circumstances. The child is not to be confined in a cell. The

recognizance of parents when parents are not at fault and they are responsible persons is accepted for the child's appearance. The hearing takes place in the Children's Court, a court specially organized to hear cases of juvenile delinquency and improper guardianship.

For their proper mental, moral, physical and material development children are entitled to get an education and training, proper nourishment and clothing, proper housing and guardianship.

### **How Endangered**

A child may be demoralized through amusements; through the commercial transactions it engages in; through its association; through its employment; through the places it is allowed to frequent. Generally speaking, a child is entitled to receive schooling until it is sixteen. It is permitted to leave when it has obtained a certificate of certain proficiency, such as graduation from a grammar school or has reached the seventh grade studies before sixteen.

### **Amusement Places Restricted to Children**

The amusement places forbidden to children under penalty to the person permitting them to enter and stay are public dance halls, public bowling alleys, concert halls, theatres, moving picture places, public pool and billiard rooms and public skating rinks. To such places, however, the child may go if accompanied by a parent or by one who acts as guardian. He is not to remain in a barroom under any conditions nor to bowl nor play pool in a public place even with his parent. Drinking or remaining in a barroom is forbidden to a person until he has reached the age of eighteen.

Since the reason for restricting the use of amusement places to children is on account of the danger to their morals, it follows that amusements under the auspices of a church or welfare society, are not in any manner subject to the ordinary restrictions.

### **A Child's Business Restricted**

The commercial transactions which adults may not engage in with children are the buying and selling of intoxicating liquors, the selling of tobacco to a child; the selling to it of firearms or dangerous toy or air guns; buying from it by a pawnbroker or

giving it a loan on articles; buying from it by a junk or second-hand dealer.

### Children's Associations

Demoralizing associations or conditions are forbidden to children, as well as conduct that is demoralizing. These are living in a state of destitution, being exposed, neglected; being without home or responsible person to care for them; being disorderly or ungovernable, frequenting the company of thieves or vicious persons, begging, picking rags, cigar butts or the like and practising truancy.

### Employment

The kind of employment that is either injurious or demoralizing and therefore unlawful is that of gymnast, rope walker, rider, rag picker, contortionist, beggar, acrobat, wrestler or peddler.

The kind of employment injurious to the health or physical development of the child is working in a factory, a hotel, restaurant, mercantile establishment, business or telegraph office or as a messenger or distributor of merchandise, under fourteen, or between fourteen and sixteen unless working papers from the Health Department has been secured in accordance with the provisions of the Child Labor Law.

Employment in theatrical or moving picture work is denied to children unless with the written consent of the Mayor. Again this does not apply to church theatricals or those under an uplift society.

Occupation that would be dangerous to life and limb is forbidden to children such as working at dangerous machinery where they might get disabled. The Labor Department specifies the kind of work in factories that is dangerous to children. Employment before 8 A. M. and after 5 P. M. and in messenger work after 6 P. M. is forbidden.

Boys under twelve and girls under sixteen are not allowed to sell newspapers. Between 12 and 14 boys may sell with permission from the Board of Education if they are attending school, but not after 8 P. M. nor before 6 A. M. Boys from 14 to 16 may deliver papers over prescribed routes between 3 and 6:30 P. M. and 5:30 and 8 A. M., and boys 12 to 14 from 3 to 5:30 P. M. under a permit.

### Deserting Children

The parent or guardian of a child under fourteen who deserts it in any place with the intention to wholly abandon it is liable to imprisonment for seven years.

The parent or guardian who abandons a destitute child under sixteen and fails to provide for it is guilty of a felony. There must have been a *leaving* and a *failure to provide* to constitute this crime. To omit to properly provide for the child without leaving it is a misdemeanor. A permit to keep a child's boarding house or a maternity hospital must be secured from the Board of Health.

*Children should never be arrested when the condition can otherwise be corrected.*

### MALICIOUS MISCHIEF

Malicious mischief includes both an act of mischief and a malicious intent. Since malice is a necessary part of the crime it must be shown on the trial to secure a conviction.

Malicious mischief is either a felony or misdemeanor according to the amount of damage done, the possibilities of injury arising from the act and the character of the property injured.

It is a felony to show a false light before a train, or to alter, extinguish, or remove a light or signal because of the possibilities of injury to life that might result from such an act.

A person who wilfully and unlawfully does any of the following is guilty of a felony for similar reasons.

1. Damages a building by explosives.
2. Sets fire to growing grain, grass or timber of another.
3. Sets fire to forest lands owned by the State, or another.
4. Injures or removes a buoy or beacon from State waters.
5. Injures or removes a monument for designating the boundary of city, State, village, farm or lot of land.
6. Injures or taps a line of telegraph, telephone or cable.
7. Damages or destroys a public bridge or highway.
8. Damages or destroys a public gas or water main.
9. Damages or destroys a public sewer or drain.
10. Damages or destroys with intent to destroy and render useless, tools or machinery of another, used in trade or husbandry.
11. Injures or damages a house of worship or any part thereof, or any article therein for use in religious services.

12. Injures or destroys any book or other article on exhibition in a public museum or library for the information or instruction of the public.
13. Injures or damages the real or personal property of another of the value of more than \$250.00.
14. Injures or damages the returns of a public election if appointed to deliver them, or takes them away from a messenger with intent to prevent their delivery, or injures, destroys or mutilates them in any other manner.
15. Wilfully displaces, loosens, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert or embankment connected with any railway; or attempts to wreck or destroy by any means any car or train while it is standing or moving on a railroad track; or any obstruction on a railroad track; or,
16. Displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or other motor power of a railroad operated by electricity; or,
17. Throws a missile or discharges a firearm at a train, car, vehicle or locomotive, which is on a railroad track.

The acts of malicious mischief which are misdemeanors involve less property and less possibility of damage. A person is guilty of misdemeanor who

1. Injures or destroys the real or personal property of another to the extent of \$250.00 or less.
2. Displaces; injures or removes a milestone, danger sign, or signal sign, guidepost or sign, or direction thereon.
3. Paints, prints, or affixes a commercial advertisement on any object which is the property of another, without obtaining written consent, or places such advertisement on a tree, fence, stump, pole, mileboard, stone, signal, guide sign, guidepost within the limits of a public highway.
4. Sends a false alarm of fire.
5. Opens a fire hydrant, except to extinguish a fire, and then only when authorized.
6. Injures a fire hydrant.
7. Interferes with a fire alarm telegraph system.
8. Enters an orchard or fruit garden with the intent to steal fruit.
9. Cuts down a tree standing on the lands of another or on the property of the State or city (also covered by Park Ordinance).



10. Intrudes or places a shanty or other building on any lot of another without his consent.
11. Places a shanty or other erection within the boundaries of a highway or public street (also covered by City Ordinance).
12. Drives along the highway a wild and dangerous animal or a vehicle or engine propelled by steam, except on tracks, unless such animal or vehicle is preceded by a person one-eighth of a mile ahead to warn persons. (Relative to animals is covered by Sanitary Code.)
13. Trespasses on any State rifle range.
14. Cuts, damages or destroys the anchorage or moorings of a vessel.
15. Places any advertisement on the U. S. Flag or ensign, or the Flag or ensign of the State.
16. Sells merchandise on which the U. S. Flag or ensign or State flag or ensign is used as an advertisement.  
(Note—This subdivision does not apply to acts permitted by the Federal laws or to the placing of such flags, when not intended as an advertisement, on a diploma, certificate of appointment to office, ornamental picture, stationery used in private correspondence, article of jewelry, or newspaper, or periodical.)
17. Publicly multilates, destroys, or casts contempt on the U. S. Flag, or State Flag, either by words or acts.
18. Connects with gas mains or electric wires without authority.
19. Refuses to deliver gas meter to corporation, company or person owning it on demand, or selling it.
20. Turns on steam to heat building when lawfully shut off by person controlling it.
21. Throws or causes to be thrown in a public highway, any glass, nails, tacks, thorns or other substance that might injure automobile tires or horses' feet.
22. Kills, wounds or traps any bird or game within a public burying ground, pleasure ground or park, or takes its eggs from there.

In deciding whether or not a case is one of malicious mischief, the policeman should ask himself:

1. Was the act done intentionally?
2. Did the person who did the act have a lawful right to do so?

## RAILWAY LAWS

A person is guilty of misdemeanor :

1. Who rides on any engine or any passenger car, baggage car, express car, freight car, wood car or any other car of any railroad company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or, with intention of not paying therefor.
2. Who gets on any car or train while in motion, for the purpose of obtaining transportation thereon as a passenger.
3. Who wilfully obstructs, hinders or delays the passage of any car lawfully running upon any steam, or horse, or street railway.
4. Who, not being connected with or employed upon the railroad, walks upon or along any railroad track or tracks or right of way, except where and when necessary to cross the track or tracks or right of way where they are laid across or along the streets or highways.

## SABBATH LAWS

### Day of Rest

Sunday, the Christian Sabbath, is observed as a day of rest and all useful works are forbidden on that day. The general exception consists of works of necessity and charity. Some of the exceptions, however illustrate convenience rather than necessity as in the case of barber shops which keep open till 1 P. M.

Sale and barter are prohibited, except that articles of food can be sold, served or delivered before 10 A. M., but uncooked flesh meats are not to be sold or delivered during the day; meals to be eaten on the premises can be sold at all times and caterers can do likewise; cooked and prepared foods can be sold and delivered by delicatessen dealers before 10 A. M. and between 4 and 7:30 P. M., and tobacco, milk, eggs, ice, soda water, fruit, flowers, confectionery, newspapers, gas, oil, tires, medical and surgical instruments can be sold at all times, but not in a place where liquor is sold.

Parades and processions are forbidden except: Funeral processions, religious processions to and from a place of worship; Naval and Military and Police and Fire Department movements; patriotic processions on the Sunday before Memorial Day.

Music at parades is forbidden except at military funerals or those of a U. S. soldier, sailor or marine, or member of a veteran corps, regular or militia; member of a secret fraternal society, or of an association of employees of the National, State or City Government. It is also permitted at patriotic processions on the Sunday before Decoration Day.

Theatrical performances are prohibited as well as exhibitions and acrobatic performances, except music, singing, lectures, recitations and addresses which are educational or instructive. Moving pictures are permitted under the laws of 1919.

Sports on Sunday are generally prohibited including hunting, shooting, racing and the professional sports to which admission is charged. The Legislature of 1919, however, gave to the local municipality or other political portion of the State, the right to grant or withhold permission to play baseball on Sunday even with the charge of an admission fee. Such localities can also determine the hours within which the game may be played, due regard to be paid to non-interference with repose or religious worship.

The two things to which the people above all else are entitled is the right to enjoy repose and to engage in worship without being interfered with. For that reason it is permissible to play certain games such as tennis in places not near a church when it would not be permissible to play in the vicinity of a church at or about the time persons were worshipping.

Repose means general repose and for that reason the repose of three or more persons would constitute a reason for stopping a game which would not be stopped if only one person objected. In this instance, as in the case of a public nuisance it is not the repose of a crank that constitutes the offense, but that of a considerable number of persons.

Civil processes cannot be served on Sundays. Criminal processes in serious cases, in cases of breaches of the peace or where a breach is apprehended or in minor cases where there is a direction from the court can be served.

### Election Crimes

The police are to protect electors on election and primary day and assist the election officers to preserve the peace and enforce the law.

A vast number of crimes can be committed in connection with

the holding of elections. These crimes are committed by two classes :

1. The electors.
2. The election officers and public officers.

When the act is one which directly tends to deprive a person of a vote who has the right to vote or let a person vote who has not, the offense is generally a felony when committed by an election officer. When the act is one which does not directly affect the result but is violative of a regulation for the orderly and honest conduct of the election, it is a misdemeanour when committed by the same officers, as a general rule.

When committed by an elector the crime to be a felony must be an act directly tending towards the giving of a fraudulent vote or directly affecting the result. Indirect and incidental acts that merely interfere but do not directly offset a result are misdemeanours.

At primary elections acts are misdemeanours which at general elections are felonies. The taking of a false oath is perjury.

One is guilty of a felony who

1. Registers, or attempts to register, as an elector in more than one place.
2. Registers, or attempts to register as an elector, knowing that he will not be a qualified voter in the district on the day of election.
3. Registers, or attempts to register as an elector under any other name than his own.
4. Knowingly gives a false residence when registering.
5. Knowingly permits, aids, abets, procures, commands, or advises another to commit any of the foregoing acts.
6. Wilfully suppresses, alters, destroys, or mutilates any signed challenge affidavits or official copies thereof.
7. Being a clerk, or member of the Registry Board, wilfully refuses, or neglects to perform any duty in connection with the registration imposed by law upon him; or who commits any fraud in the performances of his duties.
8. Being an Inspector, or other person, wilfully incorporates, or causes to be incorporated, any false statement in any challenge affidavit.
9. Takes a false oath before the Board of Election Inspectors.
10. Wilfully alters, mutilates, destroys or removes from the place of registry the public copy of registration.

A person is guilty of a felony who:

1. Being a public officer, omits, refuses, or neglects to perform an act required of him by the Election Law, or refuses to permit the doing of any act authorized thereby (unless otherwise provided by law).
2. Forges, or falsely makes the official endorsement of any ballot.
3. Having charge of official ballots, destroys, conceals, or suppresses them, except provided by law.
4. Knowingly votes, or attempts to vote, when not qualified.
5. Procures, aids, assists, counsels, or advises a person to vote, who is not qualified.
6. Votes, or attempts to vote, more than once at the same election.
7. Votes, or attempts to vote, in any other name than his own.
8. Votes, or attempts to vote, from a place where he does not make his place of stay.
9. Being an inhabitant of another State, or county, votes, or attempts to vote, in this State.
10. Being an Inspector, or Poll Clerk, intentionally makes, or attempts to make, a false canvass of the ballots, or any false statement of the results of canvass, or attempts to induce an Election Inspector, or Poll Clerk, to do so.
11. Pays any money, or gives any other valuable consideration to a voter, either directly, or indirectly, or promises to do so, for the purpose of influencing his vote, or to cause him to refrain from voting.
12. Being a voter, receives or agrees to receive, any money, or other valuable consideration, to influence his vote, or to refrain from voting.
13. Wilfully and unlawfully mutilates or destroys election returns.
14. Being an Election Inspector, refuses to permit watchers voters, or challengers to exercise their rights as such.

A person is guilty of a misdemeanor who:

1. Refuses to permit his employees entitled to vote, the privilege of attending the polling place to do so.
2. Neglects, or refuses, to deliver official ballots to Inspectors of election, being charged with the duty of doing so.
3. Being an election officer, or watcher, reveals to another person the name of a candidate for which a voter has voted, or unfolds a ballot before the closing of the polls,

- or places a mark on a ballot by which it can be identified.
4. Electioneers on election day, in any public manner within one hundred (100) feet of the polls, or in a building, or room, within one hundred (100) feet thereof.
  5. Unlawfully goes within guard rail, or being unlawfully there, refuses to leave after being ordered to do so by an Election Inspector, or other proper authority.
  6. Unlawfully removes an official ballot from polling place before closing of polls.
  7. Displays any political banner, poster, or placard, in, or upon any polling booth, except those provided by law.
  5. Being an Inspector of Election, knowingly and wilfully permits a person to vote not entitled to do so.
  9. Wilfully and unlawfully enters a polling booth with a voter, or remains in a polling booth with a voter, or opens the door of a polling booth while a voter is there.
  10. Being a voter, knowingly permits any person to be in voting booth with him, except as provided by law.
  11. Having lawfully entered polling booth with voter, reveals how he voted, or tries to induce him to vote any particular ballot.
  12. Shows any ballot after it has been voted, so as to reveal contents, or requests another person to do so, except as provided by law.
  13. Places any mark on his ballot for the purpose of having it identified as his.
  14. Receives an official ballot from any person other than the Ballot Clerk.
  15. Not being a Ballot Clerk, delivers an official ballot to a voter.
  16. Not being an Inspector of Election, receives an official ballot from a voter.
  17. Wilfully disobeys any lawful commands of the Election Inspectors.
  18. Being an employer, pays his employee in a pay envelope on which there is a political motto, containing threats, calculated to influence the vote of such employee.
  19. Being an officer, or an employee of the State, uses his official influence to compel other employees to pay political assessments.
  20. Wilfully defaces or injures a voting booth, or compartment, or removes any supplies therefrom.

21. Before closing of the polls, wilfully defaces, or destroys lists of candidates to be voted for, which are posted in accordance with law.
22. Before the closing of the polls, wilfully removes any of the official cards containing instruction for voters.

NOTE.—A person who commits any of the above misdemeanors as a second offense is guilty of a felony.

It is a misdemeanor for a Police Commissioner, or a member of the Police Force:

1. To use his official power or authority in aid of or against any political party or association, or to threaten to use such power or authority.
2. To reward or punish any citizen on account of his political affiliation, or to threaten to do so.
3. To retire, promote, transfer or appoint, reward, or punish a member of the Police Force, on account of his political opinion, or actions.
4. To contribute any money to, or solicit the contribution of any money for any political club, or associations, or for any political fund.
5. To join, or become a member of any political club, or association.

A person who is the owner of premises contracted for or used as a polling place shall not make any political contribution to any political party (violation a misdemeanor).

A policeman, an election officer or a private person who refuses to assist the Superintendent of Elections or his deputies in the enforcement of the law when called upon is guilty of a felony.

An Inspector of Election can authorize in writing the arrest of one who is disorderly or creating a disturbance. Before arresting him the policeman should give him the opportunity to vote.

The qualifications of voters is a matter investigated by the police.

1. Must be a citizen and twenty-one (21) years of age.
2. Must have been an inhabitant of the State for at least one year prior to election.
3. Must be a resident of the county for four (4) months prior to election.
4. Must be a resident of the Election District thirty (30) days prior to election day.
5. Must have registered.

6. If a naturalized citizen, must have been naturalized ninety (90) days prior to time of election, at least, or if a citizen by marriage must have been an inhabitant of the U. S. for at least five years prior to such day.

## PAWNBROKERS

Three kinds of business regulated by law on account of the facilities they afford for wrong doing are pawnbrokers, second-hand dealing and junk dealing. Pawnbroking is the lending or advancing of money on personal property pledged as security. Three kinds of pawnbroking are authorized by law.

1. Loaning money, on deposit or pledge of tangible personal property.
2. Buying personal property on condition of selling it back at a stipulated price.
3. Loaning money on furniture stored in a storage warehouse conducted by the lender.

Pawnbrokers are licensed by the License Department and file a bond of \$10,000. It is a misdemeanor to conduct the business or charge interest above the legal rate without a license.

Books containing a description of the goods pledged, amount loaned, time, rate of interest and name and address of person pawning must be kept by the pawnbroker. At the time of pledging there must be given to the pawner a memorandum or note containing the substance of the entry.

The holder of such memorandum is presumed to be the person entitled to redeem and the pawnbroker must deliver such article to the person presenting it, on payment of principal and interest.

Should the ticket be lost or mislaid, the pawner should at once apply to the pawnbroker, to permit him to examine the books, and on finding the entry for said ticket, note or memorandum, and upon giving to the pawnbroker an exact description of the article pawned, the pawnbroker will issue a second, or stop ticket.

In case the pawner neglect to so apply and examine the books and receive such memorandum, the pawnbroker will be bound to deliver the pledge to any person producing such ticket for the redemption thereof.

This article is not to be construed as in any manner limiting, or affecting the pawnbroker's common law liability in cases where



goods are stolen, or other legal defects of title exist in the pledged.

### Examination of Pawnbrokers Books

Section 317, of the Greater New York Charter, in effect states that:

The Police Commissioner, his deputies, Inspectors and Captains of Police and persons acting by their orders have power to examine the books of any pawnbroker, his clerk or clerks, if they deem it necessary, in search of stolen property, and any person having in his possession a pawnbroker's ticket, when accompanied by a policeman or by an order from any of the foregoing officials will be allowed to examine the property purporting to be pawned by such ticket. No property is to be removed from the possession of any pawnbroker without the process required by the existing laws of this State, or the laws and ordinances of the city regulating pawnbrokers. A refusal or neglect to comply with the provisions of this section on the part of any pawnbroker, his clerk or clerks will be deemed a misdemeanor.

The interest a pawnbroker may charge and no more is three per centum per month, or any fraction of a month, for the first six months, and two per centum per month for each month succeeding, upon any loan not exceeding one hundred dollars; two per centum per month for the first six months and one per centum per month for each succeeding month, on any loan exceeding the sum of one hundred dollars.

A pawnbroker cannot buy second-hand material nor engage in any second-hand business. He must keep the goods pledged for a year, sell by public auction by a licensed auctioneer and turn over the excess realized from the sale to the original owner. The time of sale has to be advertised in at least two daily papers of the city for six days designated by the Commissioner of Licenses and containing the terms of the sale.

The Commissioner of License can fine a pawnbroker, or suspend his license or recommend its revocation to the Mayor. The pawnbroker is required to report to the Police Commissioner information on blanks whenever demanded containing a description of all goods, articles, or things pawned or pledged, in the course of business during the days specified in such notice, stating the number of the pawn tickets issued therefor, the amounts loaned thereon, and such identifying marks as may be on the goods pawned. If such notice from the Police Commissioner so

prescribes, such pawnbroker must from that time and until he is notified to discontinue keep and furnish on blank forms a general description of every person depositing such pledges, sex, color and apparent age.

It is a misdemeanor for a pawnbroker to refuse or omit to exhibit on demand stolen goods to the owner thereof or his agent during business hours. To sell before the time to redeem has expired, to refuse to disclose the name of a purchaser or the price paid for an article is a misdemeanor. The hours during which he may conduct business are from 7 A. M. till 6 P. M., week days, except Saturdays when he can keep open till midnight.

When a uniformed policeman discovers an article in a pawnshop alleged to be lost or stolen, he should note the pledge number and place a stop on it. He should then report the case to the detective division, through the desk officer. The detective assigned to the case examines such pledge and finding it to be, or having reasonable grounds to believe it to be lost or stolen, places what is known as a "STOP TICKET" on it.

This ticket is filled out as per the captions, and signed by the pawnbroker or dealer. The stub is left with the pawnbroker, or dealer, and the ticket, with the signature of the broker, or dealer, is returned to the Lost Property Bureau of the Police Department.

When a stop ticket is to be removed, a ticket, known as "Removal of Stop" is filled out and presented to the broker, or dealer, who returns the stub left with him at the time the stop was placed on the article.

A Stop is placed upon an article for the purpose of preventing the pawnbroker from disposing of such article, until the detective is satisfied that the property will be returned to its rightful owner.

Pawnbrokers are required to send to the Bureau of Lost Property daily before 11 A. M., a list of articles as are specified by such Bureau received by them in pledge or pawn.

When a watch is pawned, a card is made out by the pawnbroker and forwarded to the Lost Property Bureau.

## MOTOR VEHICLE LAW

All vehicles propelled by other than muscular power are MOTOR VEHICLES within the meaning of the Motor Vehicle Law regulating them except the following:

1. Police patrol wagons.

2. Public or private ambulances for sick or injured persons.
3. Fire wagons and engines.
4. Traction engines.
5. Road rollers.
6. Vehicles which run only on rails or tracks.
7. Vehicles owned by the U. S. Army or Navy.
8. Motor bicycles or motorcycles.
9. United States mail wagons.

As the above named vehicles are not motor vehicles within the meaning of the law, they are not required to be registered.

Some such vehicles display a registration number, as it makes their identification easy, and as any vehicle used for State or City purposes can get registered free of charge, the registration numbers are put on as a matter of convenience.

In the case of exempted ambulances, they must be employed only as such, and not in any commercial capacity. In the case of private ambulances, they must carry a distinguishing sign, otherwise the policeman could issue a summons. The offender would not be convicted could he show that the vehicle was only used as an ambulance.

**Police Department.**—Motor driven vehicles, other than patrol wagons, are motor vehicles within the meaning of the law. They have to display a registration number (obtained free of charge).

**If Driven by a Civilian.**—As a substantial part of his employment, he must be licensed as a chauffeur.

### Classes Licensed.

Three classes of persons are licensed to run motor vehicles. They are those employed directly to drive a vehicle; those who drive for hire and those who, employed in another capacity, drive vehicles as a substantial part of their employment. Private chauffeurs, taxi-cab drivers and automobile salesmen would be examples of each in the order named.

A chauffeur must be licensed, wear an authorized badge and should carry his licensed card with his photograph attached with him while driving. To operate without a badge, or a fictitious one, or to lend his license card or badge to another renders him liable to be summoned to court.

Operators must be licensed if they operate for ten days in a county wholly within a city. They must be over 18 to get a

**NOTE:** Unlicensed operators, residents of the city, may operate therein, only with a permit and then not more than 30 days.

license, not working as an employee or for hire; carry their license card, not use another's nor permit his own card to be used by another and renew it annually.

Owners and operators from other States or a foreign country need not be licensed but must wear the insignia of authority of their own State or country. They get the same privileges that New Yorkers receive in the States from which they came.

Manufacturers or dealers register with the Secretary of State every vehicle they intend to operate, get four duplicate plates which are not to be used for hire or pleasure. The purchaser operates on the strength of one of these plates until he gets his own, not longer than five days. His own must be applied for within twenty-four hours after getting the vehicle. When he gets his own he returns the dealer's. When he sells his machine the purchaser can operate on the seller's license for ten days. A person to whom a machine is leased or loaned can operate on the owner's license for thirty days. A person under eighteen is not allowed to operate a car unless the owner or a licensed chauffeur is in the car.

Fifteen miles an hour within the city and thirty miles in the country is the rate of speed permitted with the following exceptions:

School streets between 8 A. M. and 4 P. M. on school days, 10 miles.

Streets restricted by Police Commissioner, 8 miles.

Approaching bridges, 10 miles.

Crossing Brooklyn Bridge, 8 miles.

Crossing any other bridge, 15 miles.

Turning corners, 4 miles.

In outlying and sparsely settled sections of City, 25 miles.

Crossing from garage or other building across the sidewalk, not faster than a horse walks.

A rate of speed between 15 and 20 miles an hour in ordinary sections of the city is prima facie evidence of speeding.

A policeman may issue a summons, but the defendant would not be convicted if he could show that such speeding did not endanger any person.

Over 20 miles per hour—no such defense could be offered.

If an owner is present in a vehicle when the chauffeur is speeding he is equally responsible and could be summoned.

To judge the speed of vehicles in parts of the city where 20 blocks constitute a mile, the vehicle should be timed from the center line of one block to the center line of the next and the

number of seconds it took divided into 180, which will give the rate of speed per hour.

A careless or wreckless rate of speed cannot be maintained under any conditions. In a dense crowd two miles an hour might violate the speed laws.

After sunset and before sunrise two white lights in front visible 300 feet and a red light in rear must be carried. The rear light is to shine white on the number plate which should be visible for fifty feet; two-ton motor trucks limited to 15 miles an hour, front lights visible 200 feet and rear light 100 feet away.

It is a felony for the driver of a motor vehicle who has an accident or collision where persons or vehicles are damaged to leave the scene without identifying himself to the injured, to a policeman, the police station or the nearest judicial officer. To escape the felony it must be done at once, not as the result of learning that identity has been or is likely to be discovered.

It is a misdemeanor to operate a motor vehicle while drunk, and a felony if a second offense.

Sound signals to give warning must be carried on all motor cars. They are not to be used unnecessarily.

Dense, heavy and continuous smoke from motor vehicles violates the ordinances. Inasmuch as this is sometimes difficult to remedy, policemen have to use care and judgment in enforcement.

When a restive animal is met on the highway the motor vehicle must be stopped on a signal and remain stopped till the animal passes. To leave a motor vehicle unattended on a ferry is a misdemeanor. The operator must be within easy access.

To knowingly and unlawfully have a motor vehicle from which the manufacturer's serial number or other identifying mark has been removed is committing a misdemeanor.

### **Stopping Motor Vehicles When Passing Restive Animals**

Drivers are required to stop when signalled to by the person in charge of restive animals, and required to remain standing until the driver has an opportunity to get away.

A person who violates any of the provisions of the Motor Vehicle Law is guilty of a misdemeanor—except leaving the scene of an accident, etc., which is a felony.

### **Penal Law Violations Relative to Motor Vehicles**

Unlawfully taking or using a motor vehicle without the

owner's consent is grand or petit larceny, according to the value of the vehicle. A prisoner charged with such violation should be taken to a magistrate's court.

### **Motor Vehicles on Ferryboats**

A chauffeur or operator in charge of a motor vehicle who leaves it unattended at any time when it is being carried on any ferryboat operating in this State, or between this State and another State, and from or to a city of five hundred thousand inhabitants or over, is guilty of a misdemeanor. Within the meaning of this section, a motor vehicle is left unattended unless the chauffeur or operator in charge is on or immediately near such motor vehicle and at a place which affords easy and immediate access to the operating, guiding and braking appliances.

### **Defacing Identification Mark on Motor Vehicles**

A person who knowingly buys, sells, receives, disposes of, conceals or knowingly has in his possession any motor vehicle, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealment or misrepresenting the identity of the motor vehicle, is guilty of a misdemeanor.

### **Motorcycle**

No person under 16 years of age can operate a motorcycle.

Every owner of a motorcycle must:

Register with the Secretary of State and display on such motorcycle the number plate in rear thereof; non-resident owners excepted.

Comply with the speed regulations in the City of New York.

Be provided with adequate brakes and signal devices.

Show between sunset and sunrise a light or lights so placed as to be seen from the front, rear and each side, and of sufficient illuminating power to be visible at a distance of 100 feet (ordinance).

### **Substance of the Motorcycle Law Relative to Lights**

From one-half hour after sunset until one-half hour before

sunrise, motorcycles must:

Display white lights in front visible at a distance of 200 feet, with passenger; or if without such passenger, etc., one light.

Display a light in rear to show red and illuminate the number plate rendering the numerals thereon visible at a distance of 50 feet.

Operators of motorcycles injuring persons or damaging property must do any one of the following things:

- (a) Identify themselves to the person injured or in charge of the property damaged.
- (b) Identify themselves to a policeman in the vicinity.
- (c) Report the fact to the nearest police station house.
- (d) Report the fact to the nearest judicial officer, or commit a felony.

### **Animals**

Every living thing except a human being is an animal under the law. Animals are protected by law from abuse, and violations of the law affecting them are misdemeanors in all cases except one. That is the poisoning of domestic horses, mules or cattle which is a felony.

Man has been known to cause vicious animals to fight for his own gratification; to torture or cause pain to animals for his own benefit, advantage or gratification; to deprive animals of food and drink through neglect; to treat them cruelly in using them; to keep them impounded without sustenance; to transport them for long distances without unloading; to run them in a way to cause injury; to leave them exposed when disabled, and finally to abandon them to die. All these things are misdemeanors under the law when the impounding is more than twelve and the exposure more than three hours.

Men have also been known to use animals in such a way as to jeopardize persons; to sell or expose animals with glanders and infectious diseases; to sell the milk of cows housed in unhealthy places; to sell the food and milk of cows diseased; to drive uncontrollable animals on sidewalks; to suffer vicious dogs and diseased and dangerous domestic cattle to be at large; to "doctor" for sale horses and animals which are ready to die; to sell horses at public auction which it would be cruel to work. These offenses are now misdemeanors.

When horses, sheep, cattle or swine are held longer than 28 consecutive hours without food or water in transportation, any person may enter without trespass, feed or water them and charge the expense to the owner.

The sanitary code provides for the quick removal of dead or injured animals, the confinement of dogs suspected of rabies or of being bitten by other dogs, until examined by an inspector; the notification of the department in case an animal is suffering from a contagious disease, or a dog has bitten a person.

A citizen cannot let a dog run unmuzzled at large; dry in public, the bedding of animals; place an untagged dead horse in the public street; fill in land with dead animals; drive a horse on the sidewalk; bring into the city animals which have been exposed to infectious diseases; interfere with dead or sick animals in the street without the consent of the police or health inspector; remove animals which died from infectious disease without a permit or convey animals tied by the feet or bound down by the neck.

In the City of New York a permit is required from the Board of Health to keep cows, or to keep pigeons, sheep, swine, goats, chickens, geese, ducks or fowls, except in the farming sections, or to keep dogs or other small animals for sale.

A permit is required from the Police Commissioner to lead or drive cattle through the streets, except over a designated route to a slaughter house.

The law is enforced jointly by the police and the Society for the Prevention of Cruelty to Animals. The police must make arrests or serve summonses when they see the law violated; officers of the society may do so.

A policeman can kill an animal under the following conditions:

1. If it be a large, vicious and there is imminent danger of its injuring a person, or is rabid.
2. With the written authorization of the owner or his agent if it be injured or sick.
3. If it be wholly abandoned in a public place and sick beyond recovery.
4. If it be injured beyond recovery in a public place and not removed within three hours after the owner has been notified.

In the two latter cases the policeman must get two citizens to act as witnesses to the necessity of killing. An officer of the S. P. C. A. may kill an animal which is sick beyond recovery or suffering pain and not properly cared for.



A Department of Health Inspector may destroy any animal in the public welfare's interest which has an infectious disease, or any animal in any public place, within the built up portion of the city, injured or diseased beyond recovery and not being properly cared for, if not removed within one hour after it came to his notice.

### Exhibitions

It is a misdemeanor for the proprietor or manager of a place to allow an acrobatic performer to give exhibitions on a trapeze without a net or safety appliance; to give exhibitions of skill in throwing a knife at or towards another; or to discharge a fire-arm at another person or to allow contestants in a bicycle race to continue for more than twelve hours out of each twenty-four or to permit surf bathing on a pay beach without life boats or life saving apparatus.

### QUESTIONS

How would you act:

- (a) If notified by telephone at 2 A. M. that there were burglars in a private house whose owners were not in the city and that they had an automobile in the block. You have two policemen to help you.
- (b) If when you went there you saw the men escape and enter a house opposite while the chauffeur of the automobile escaped.
- (c) If the occupants of the house into which they went refused to respond to your demands for an entrance. Give reasons for your action.

When the case of a young girl who is missing is reported to the police what general duty is imposed upon the police in regard to that report? What difficulties lie in their way as to the making an investigation; what may they do and not do in their prosecution of a search? What facts would help or hinder them in the course of such an investigation?

• Mention all the circumstances under which a person may be abducted.

What help should you give a domestic, armed with a summons for a former employer who failed to pay wages for which he is civilly liable to arrest, who complained to you that she was afraid to serve summons on account of the employer's bad temper?

What investigations would you make to ascertain the identity of two gangs who engaged in a pistol fight from automobiles in the street, while the people were so scared that nobody seemed to get anything but parts of the numbers of the automobiles?

### **Animal**

What is an animal under the Penal Law? Give five general heads under which crimes against animals can be classified. What crimes against animals are felonies and what not? Apart from the criminal procedure what may be done by policemen and private persons for the protection of animals against cruelty?

### **Arson**

What elements must be present to make a crime one of arson? What kinds of buildings or properties must be concerned? Name the various ways in which the crime may be committed. What are the full duties of a policeman who detects a fire under conditions that lead him to believe it to have been started criminally?

### **Assault**

What condition of mind must exist in the aggressor to make assault a felony? Name five specific acts which if committed would make assault a felony and give reasons. (General statements will not be accepted.) When is violence towards another no crime?

### **Burglary**

If informed that a house on your post had been entered in the daytime and a small quantity of property taken, and you had reasons to believe you knew the thief, what investigations would you make to determine whether or not you could arrest him without a warrant; what facts would lead you to believe you could make such an arrest and what not?

A burglary occurred last night at 18 West 72nd Street. A woman who keeps a furnished room house on your post overheard snatches of conversation among two of her roomers, which leads her to believe they committed the crime. She tells you about it, says they are now in their room and asks you to arrest them.

Give precisely the instructions you would give the woman concerning what she had to do before you could arrest them, and describe your own duty in the premises.

### Abandonment and Children.

What two conditions must be present to justify a charge of abandonment? What do the following ages in minors indicate when taken in connection with crime by or against them: 18, 16, 14, 12 and 7? Classify under six separate heads the ways in which children may be offended against and crime committed. What permits are given and by whom in connection with the care of children and what is the purpose of requiring them? What is meant by an incorrigible child and what can be done to remedy the incorrigibility? What is an ungovernable child?

### Strike

While on strike duty a man approached you and said he was one of those on strike because Jones had stolen his tools, Smith had threatened to do him up, Scott had threatened to have him boycotted and Brown had beaten him. He had had no food for himself or his family and wanted to go back to work but could not because the place was picketed by Smith, Brown, Jones and Scott. What advice, assistance and protection would you give him at that time and what else would you do in connection with his case?

If informed that during a strike a committee was engaged in writing anonymous, threatening letters to weak-kneed strikers, strike breakers and employers what would you and what could the department do to break up the practise, arrest and convict the offenders?

### Homicide, Riot, Bribery

Give a comprehensive enumeration of all the offenses classified under the provisions of the law forbidding *bribery*. Give five separate and distinct ways involving five separate and distinct kinds of officials or others in which a person may be guilty of the offense of giving or receiving a bribe, specifying the grade of each crime. Give five ways in which a police officer may be guilty of bribery.

Mention the four kinds of homicide and classify them as to

the degree or absence of crime involved in each and giving an appropriate example of each.

What is a riot?

What an unlawful assembly? How are they distinguished?

What is the police to do to prevent a riot?

Who is to aid them if called?

What are the penalties for refusal?

Give the circumstances under which force can be used, and those where force is not permissible.

### GENERAL QUESTIONS

For what crimes are persons extraditable (a) from State to State, (b) from a foreign country? What is the method of procedure followed? What procedure is provided when a person charged with an extraditable offense is to be arrested, and when after being arrested he sets up the claim that he never committed the crime, was not in the State where it had been committed at the time of the commission and is not the person mentioned in the papers?

A policeman is informed that A is now in the act of writing a letter demanding the paymnet of a certain sum under threat of killing the person threatened. In substantiation B, the informant, shows scraps of a letter which A wrote and threw away. The policeman knows that A is in the habit of walking out and depositing mail at a certain hour when he will not be on duty.

What can the policeman do? What ought he to do in such a case to prevent a crime and arrest the criminal?

A is confronted with this situation:

He wishes to marry. He has been maintaining meretricious relations with a young woman. She threatens to inform his fiance unless he pays her a sum of money for which she will return his letters. He agrees to pay and B is employed as a go-between. B gets some letters for him but says that the girl claims to have lost the others. The girl writes A she only got part of the money promised by B, he saying he would bring the remainder later. It turns out B held out on both parties and now threatens A with exposure, the girl too is threatening.

Explain what crime if any both are guilty of. Give full reasons.

A, a stranger to the city, sits down in a public square, and stands his \$25 gold-headed cane against his leg while he reads

the war news. B, a gentleman of leisure, comes along, admires the cane and picks it up. A grabbed for it, but B backed off and threatened that if A opened his mouth to make a "holler" till B escapes, B would beat out his brains with the cane. A was afraid and let B get away. To a policeman who came along, A told his story. The cop, from the description, was reasonably certain of B's identity. He also had a strong belief that B could be found in a certain resort where he might have sold the cane to a hanger-out there. The resort is not on the cop's beat. Explain what the policeman could and should do if the stranger is in a hurry to leave the city.

Apart from any legal definition, show how *lottery* amounts to a public nuisance. If assigned to look up a complaint that a lottery authorized by the Government of Venezuela was conducted in this city, mention all the different ways in which you would assume that the law could be violated, and the circumstances in each case which would justify an arrest. Enumerate at least ten separate acts that would amount to a public nuisance, separating the felonies from the misdemeanors.

What is a public nuisance?

How may a person generally be guilty of a public nuisance?

What is the difference between public nuisances and private nuisances?

You meet a girl of twelve on the street carrying a can of beer and stop her. She says her father lost his job a month before, left home to search for one and has never returned or been heard from. Her mother was in the habit of going out washing and leaving no food in the house. The janitor used the child to carry beer all day, and mind the baby.

Mention all the ways in which this child has been offended against, the persons who are the offenders, the duties of the policeman, and the provisions which the law makes for this child's protection.

Classify such acts as may be committed in the City of New York under the head of malicious mischief:

(a) As felonies;

(b) As misdemeanors.

If informed that two dogs were then in a certain barn ready to engage in a fight, that the spectators are assembling and the fight will take place in half an hour, that the doors are locked and nobody is being admitted unless known or vouched for, that nothing is visible from the outside, except through a small one-pane window in the rear which apparently has been overlooked,

and through which the dogs and the people may be seen. The dogs are on leash ready for action.

Explain what you should do and how you should proceed, the nature of the violation, what should be done with the persons present as well as with the dogs both before and after trial.

Enumerate all the ways in which a person may violate the Penal Law in his treatment of animals, specifying such as are felonies and those misdemeanors.

Violations of the election law (not the primary) are either felonies or misdemeanors. Draw a broad distinction between the character of such acts as are felonies and such as are misdemeanors.

(a) When the offender is an official or a person charged with the enforcement or carrying out of the law;

(b) When the offender is a person not so charged.

Give five examples of felonies and five of misdemeanors, both in (a) and (b).

What in general would be the duty of a police officer on duty at the polls in the event of any violation of the election law being committed?

What misdemeanor renders the convicted ineligible for office?

A clergyman having trouble with part of his congregation asked to have a policeman detailed at services. One of the ringleaders rose deliberately in the middle of the minister's discourse and walked down the aisle and out. There was a regulation against leaving during services.

Another ringleader let out a loud guffau at one part of the sermon and the usher invited him to leave which he refused.

A third person pretended to sleep and began to snore.

The Church authorities demand their arrest on the charge of conspiracy to interrupt the services.

What should the policeman do? If he did make arrests what should the lieutenant do? Discuss the case with the law in view.

Suppose that while blasting on a vacant lot a shot was fired which broke several windows in houses in the immediate neighborhood, injured several persons living in these houses, and caused several horses to run away. You are within a block of the place where the blast went off, and arrive in time to see several workmen lying on the ground injured, and two others who appeared to be running away. Tell all you would do under the circumstances, and the order in which you would do them.

What prohibitions are provided against danger to persons through the exercise of dangerous acrobatics or sporting contests?

You had been a member of the Boiler Squad, and were assigned to patrol duty because of a dispute with a deputy commissioner who wanted you to pass a man whom you considered incompetent. You then wrote a letter to a Board of Engineers explaining why you had been transferred. The letter gave an entirely correct statement of facts. Nothing in it was falsely colored and your object was solely to set yourself right with your fellow members as an engineer.

Is that insubordination?

What defense would you put up if charged with insubordination and conduct unbecoming an officer?

Would prosecution lie and if so what would be the charge in each of the following cases:

A pretending he had letters from B in Canada asking for workmen to be sent him persuades C to go to Canada as he explained afterwards "to be rid of him." There was no work there and A knew it for B's letter told him so.

A pretending that a place was open for B as a governess in the West Indies sent her to C who wanted her as a mistress which A knew.

A switchman boasts that he has left his switch unturned and that the three o'clock train was probably now in the ditch. You overhear him and take him into custody. It transpires that while it was his duty to turn the switch his absence from post was discovered and the act done by another workman. What would be your duty on discovering this, and why?

Suppose you halt an automobile for recklessly running down a pedestrian and making no effort to give aid. The chauffeur hands you a card reading "Alfredo Gomez, Brazilian Embassy." What would you do?

What would you do if the card read "Fred Clarke, British Consulate." Explain.

Suppose an old woman complained to you that she was friendless and penniless without relatives, except a grandchild, in this city, who was wealthy. What advice would you give her?

Explain the similarity between vagrant and tramp and the ways in which they differ. How is each to be determined? What penalty or penalties attach to being vagrants and tramps?

What is an habitual criminal? What is the penalty attached to being an habitual criminal? How does it affect his trial?

State briefly the functions of the Grand Jury. Manner of its selection.

You receive a telephone message to the following effect:

A, about to leave on the Penn., is suspected of having killed a man in Connecticut. A body of the man supposed to have been killed has been found in a pool of water where he had drowned.

B informs you he heard a person being murdered in a tenement house, and gives a circumstantial account of how the victim's body was nailed in a box and carted away in dead of night.

C informs you he heard an identified man resolve to himself to kill another and to work out a complete plan as to how it should be done.

D delivers to you a prisoner whom he arrested for beating his messenger boy. D did not see the beating, but the boy, who was cut badly about the head, accused him, and the man did not deny it.

E, an officer from another State, wants to deliver into your custody a prisoner arrested here for embezzlement in the other State, on a warrant issued there. He followed him to the railroad pier, and had no time for anything else here. This prisoner is passive.

Should an arrest be made? Explain the law in each case.

A policeman is informed by a woman that she had overheard A threaten that on the first opportunity he would blow the head off B, that he had provided himself with a gun and had given every evidence of an intention to do B grievous bodily harm.

What is the policeman's full duty?

Upon what theory does he proceed to act?

What is the duty of the courts,

(a) In case the charge is not denied?

(b) In case there is a denial.

Explain fully.

Suppose an officer is given a warrant to execute against A, employed with five others in a sash factory on the river front far uptown. When A and his associates see the officer they barricade themselves, refuse him admittance and jeer at him from the window. The officer fears if he leaves the place, A will escape across the river. There is a train of freight cars on a siding on which there are three or four men. These are the only persons nearby.

Explain the officer's duty, his powers and responsibilities in the case, the offense and penalty connected with those in the factory, and the duty of the railroad men, with penalties for refusal.

Suppose a domestic servant showed you a summons for John



Jones, a citizen, who she said owed her \$15 wages. It was stamped with the usual "subject to arrest" and the girl said she was afraid to serve the summons, what should you do?

How would you distinguish between a felonious assault and a simple assault in order to comply with the law in the making of an arrest? Explain all the distinctions.

John Smith disappears from his home mysteriously. Two days after his disappearance, the dead body of a man was discovered beside the railroad so mangled and disfigured that identification was not made. The clothes of the dead man were, however, identified as those of Smith. Soon after Bill Brown tells the police of having seen two men carry a body to the place where that mentioned was found, and deposit it there just before a train passed. These facts were developed on investigation. Smith's wife was carrying on a liaison with Jones, and Smith knew something of it. Smith told friends he was going where he could never be found. Jones, infatuated with Smith's wife disappeared on the night the body was found.

Formulate two theories as a solution of the case, and show what evidence would be needed to establish them.

What different classes of persons are likely to be guilty of violating the law regulating the sale of cocaine? What is the grade of crime which each may commit?

Having reason to believe that A was in possession of cocaine in violation of law, you are about to arrest him when he tells you he had a physician's prescription which authorizes him to have the drugs in his possession. What examination would you make, and what points would you look into to make certain that a crime had or had not been committed before taking action?

Suppose the complaint was to the effect that the law was being violated by a wholesale druggist in the selling of such drugs to a retailer? What points should be looked into?

## CHAPTER XII

### Ordinances

Ordinances, like rules and regulations, change constantly. There are certain features of them which, however, do not change and these features should be kept in mind. When they are kept in mind it is easy to find out if details in regard to them have changed. There are at least half a dozen rules in regard to ordinances which ought to be kept in mind constantly—the two distinctive classes into which they are divided, the occasions when the duty of enforcement is all on the police and the occasions when it is only partly on them; the limitations imposed upon the city in regard to regulating business and professions, the reasons for licensing private uses of the streets and sidewalks and finally the necessity for ordinances at all when the State has the power to make laws to regulate everything that needs regulation.

### ORDINANCES—HOW PASSED AND ENFORCED

It is made the duty of policemen of all grades to enforce ordinances as well as laws.

Ordinances are made by the Board of Aldermen to supplement the laws passed by the Legislature. They are necessary because of the multitude of matters that need regulation in a congested city like New York—conditions not found in the country.

All ordinances, however, do not call for the ordinary police enforcement. Many of them are enforced by special inspectors from different departments. The violation of some of them is in the nature of a crime, in others a civil offense for which a penalty only is prescribed which the Corporation Counsel can collect by civil action.

A policeman is an officer of the law. He is specially charged with the prevention of crime, and where ordinances exist whose violation is a crime, the matter comes directly within a policeman's duty—provided the matter comes directly to his attention

or he is specially charged by his superiors to give attention to it.

Police of all grades are generally charged with the enforcement of ordinances, but because the activities of a patrolman are more limited than those of a captain in charge of a precinct, for instance, it may happen that a captain has particular duties to perform in connection with the violation of an ordinance which the patrolman has not, even though both be charged generally with the enforcement of all laws and ordinances. In other words, the specific duty with which a patrolman is charged comes ahead of something else with which he is only generally charged.

For example: A policeman charged with the violation of traffic might see a store keeper violate ordinances which it would be the duty of a man on patrol to correct. The traffic man would attend to his work of regulating traffic and leave the storekeeper to the man on patrol.

The policeman sometimes owes the duty of co-operating with other departments in the enforcement of ordinances. In such cases his duty is not so exacting as in others where the duty of enforcement belongs entirely to the police.

In order to know what ordinances a policeman must enforce actively and what not, he should first be guided by the nature of the offense. Is it a crime or is a penalty to be collected? With the first class he has either direct or indirect connection; with the second class only so far as he may be charged by his department, not so much as a policeman as an employee of the corporation of the City of New York.

Next, is the violation one that comes directly before him or is it hidden in buildings or otherwise? With the first class he has direct duties, with the second only indirect.

Again does the nature of the violation make it necessary to have technical or expert knowledge for its detection? If so it is generally not the duty of a policeman to enforce it.

For example: If a person were brought into court for having his theatre imperfectly ventilated or his tenement imperfectly lighted, the person presenting such a case before a magistrate would require to have expert knowledge as to ventilation or tenement house building laws, which knowledge might lie outside the domain of a policeman's knowledge; therefore inspectors with special knowledge of these subjects are employed by the municipality to look after such cases and detect such violations. Such inspectors are in the Tenement House Department, Fire Prevention Bureau, Building, Health and License Departments.

### Enforcement of License Condition

Policemen are intimately associated with matters requiring a license. *Licenses are granted either because the licensee is getting a concession from the city or his business needs regulation because it jeopardizes morals or personal safety.* The License Department keeps inspectors charged specifically with the enforcement of the law, but the multitude of ways in which the law may be evaded can be apparent only to the patrolman in touch with conditions. These are constantly changing.

A second-hand dealer must keep a record of purchases in detail, buy only at the designated place of business, not from a minor, apprentice or servant or suspect or at all between 6 P. M. and 7 A. M. Besides he must keep his goods for a week except a few articles of household furniture, etc., and in case lost goods are advertised corresponding to some in his possession, he must report the matter in writing to the Police Commissioner.

A junk dealer is regulated and his junk cart must be marked as such. His business is to be carried on at a designated place, and the restrictions on him are somewhat similar to those imposed on second-hand dealers. Junk boats were abolished during the war at the request of the Navy Department owing to the amount of thieving connected with them. They may not ever be licensed again.

As the adjustments of disputes between public cartmen or their patrons is left to the officer in charge of the station the policeman must know something about their charges but not in detail.

What regulations govern street musicians and itinerant musicians should be part of a policeman's knowledge.

It should be remembered that violations of ordinances at their worst are only minor offenses, and violators of them should not be subjected to unnecessary hardship in answering to such violations.

### Ticket Speculators

The ticket speculators' problem was so vexatious that an Ordinance was adopted by the Board of Aldermen in December, 1918, after consultation with the District Attorney and Corporation Counsel, which permits the sale of tickets by speculators under certain conditions and restrictions. Tickets may be sold from offices at a profit of not more than 50 cents over the face

value of each ticket. A licensee may sell from several offices provided he names such offices in his application for a license to the Department of Licenses. The fee is \$250 for a license which covers all his offices. No sales can take place outside these offices. This Ordinance applies to all amusements (including all theatres) over which the Department of Licenses has jurisdiction.

### Amusements

Keep in mind the rule enunciated that neither the State nor the City has the right to arbitrarily regulate business unless that there is opportunity for fraud or where it is of such a nature that technical or educational knowledge is required in order to carry it on, or there is jeopardy to life and limb. The city undertakes to regulate amusements as a business and that is because of the opportunities they afford for moral degradation.

Amusements may be divided into four classes, viz.: amusements of the stage, common shows, dance halls and acrobatic performances.

Police are concerned only with seeing that the performances are clean, that children under sixteen years are not admitted unaccompanied by guardians or parents.

To understand what a common show is fancy yourself walking down through the Bowery in Coney Island looking to the right and left, looking at "shoot the chutes," and the various other contrivances such as ferris wheels. A license has to be obtained before any one of these can be carried on and all that the police is required to know is that the owner is licensed before he is allowed to conduct his business.

With acrobatic performances and the like policemen have little to do. With dance halls when an application is made for a license to conduct one it is referred to the Police Department. The Commissioner sends the application to the Captain of the Precinct to investigate the character of the neighborhood, the character of the applicant, persons who frequent the place, their nationality, whether or not liquor is sold, whether any prosecutions or convictions have been had and various other matters. These are all to be embodied in a report and sent to the Commissioner of Licenses with a recommendation that a license is to be granted or refused. It is also to be remembered that unguarded children under sixteen are not to be admitted to dance halls, bowling alleys, billiard rooms and that the police are to see

that this provision of the ordinances is carried out and that children are not to be employed in places of amusement unless they get a permit from the Mayor. There are exceptions to this rule. The exceptions are: Performances under the auspices of religious or charitable organizations or any organizations of an uplift character, or where a performance of any kind is being given under their auspices. Then can children not only attend them, but they can also take part in the performance without permission. This illustrates the general rule that amusements are restricted only when likely to be surrounded by demoralizing influences and the influences surrounding performances of these societies are not only not immoral but expected to be highly moral.

The evidence of such violations is collected by the Department of Licenses or by semi-public bodies like neighborhood associations and the Society for the Prevention of Cruelty to Children. The requirement governing the admission of minors is in the penal code and applies to all places of public amusement. The violation is common in motion picture places.

Most of the duty which the police have to perform is performed on the street. Any violations of the ordinances occurring on the street must therefore occur *openly and notoriously* to them. With these violations policemen are expected to be especially familiar. Very many of the ordinances have to do with the unauthorized use of the street by private individuals. It must be remembered that *the City owns the street from building line to building line.*

### Explosives, Etc.

While some if not most of the duties concerned with the enforcement of the explosives law is vested in the fire department, yet it is the duty of a policeman whenever he sees a violation of that law occurring openly and notoriously on the public streets to take suitable action. In this connection it is well to remember that violations occurring on the waters of New York require a policeman to take the same action as if the occurrence had taken place on the streets of New York. It is therefore the business of every policeman to know the nature and kind of explosives that can be carried through the public streets, the time of year when they may not be carried, the time of day when they must be carried, the character of the persons who must be

in charge, the character of the wagon, the streets that they are to pass through, the amount to be transported. Similar provisions apply to the waters around the Harbor of the City. Jurisdiction on the harbor extends to the high water line on the Jersey side.

In the same manner if an accident were to occur, the policeman must take action. The action he takes is determined by the law, by the evidence and the results of the investigation he makes to place the blame for any damages. He must protect life and he must make arrests, if necessary. Hence if an important casualty occur as the result of sending off of a premature blast it is the duty of the policeman to make various kinds of investigations. In order to do this, he must know the conditions which the blaster should comply with, because if these conditions have not been complied with there is a possibility that a serious crime has been committed.

Policemen ought to know the conditions under which fire-arms may be kept so as to advise citizens who may ask them about it.

Fire hydrants of the city demand particular attention and protection from interference; it is the duty of the police to protect them. They must not be opened by citizens without a permit; they must not be obstructed for a distance of ten feet on either side either by accumulations of snow or ice, refuse or other matters. The building of fires must be prevented within 15 feet.

The fire alarm telegraph system has also to be protected in order that false alarms of fire be not sent in. The violations that would come to the attention of the police in this respect have to do with obstructions, imitations, kite-flying and the like which would obstruct the sending of messages. Poles may not be duplicated or other poles like them built in the near neighborhood. No advertisements may be placed upon them.

Violations that would come to the attention of the police in this respect call for the taking of one of four kinds of action, viz.: arrest, the serving of a summons, admonition and warning, advice or instruction, depending upon the circumstances and surrounding conditions.

As has been noted the State can make restrictions on business activities or professions only when certain skill or education is needed to protect life or where there are opportunities for fraud. The businesses most conspicuously regulated are dealing in junk, dealing in second-hand goods or running the business of a pawn

broker and the restrictions regarding these three are very similar, varying only in some slight details. They give opportunities for the concealment of fraud. Policemen should know the general restrictions that apply to all three of them as well as those that apply to only two or one. Generally the restrictions have to do with the manner of purchasing, the keeping of records, supervision, the persons that may be traded with, the care that has to be exercised when goods are reported as stolen by the police and the articles that may not be dealt in at all.

Hackmen are licensed both because they use city property, viz.: the streets and because otherwise they offer opportunities for fraud and crime. Hotel keepers and others that heretofore had a monopoly of the use of the public streets for hacks now have it no longer. All hack owners who obtain a license have equal opportunities in the streets. They must, however, comply with certain regulations as to the parts of the city occupied, the way in which they may solicit and not solicit, the places they may stand and the number that may stand there, the signs that are to be displayed inside and outside the hack, the means they may take to protect themselves against irresponsible hirers and the things they must do in case anybody disputes the amount of the fare.

On the Police Department is imposed the duty to see that these ordinances are lived up to, and the desk officer has the duty of settling any disputes in regard to fares. Hence the necessity of having every policeman thoroughly familiar with every provision of the hack regulating ordinance. These are constantly changing in details.

As has been said *the streets of the city belong to the public*. The public is entitled to the free and unrestricted use of them. *It is only, therefore when the public can be better served that private persons have the right to carry on private business in the street*. Before any such use of them can be made, however, a permit or a license must be obtained. This use must also be regulated so that the public may not suffer. Franchises apply to the use of the real estate in the streets given over to public service corporations for a consideration paid the city and also in consideration of their performing the obligation they contracted for.

Franchises are granted by the Board of Estimate for a period of years.

It is with the question of licenses that the police have mostly to deal. A permit is a kind of license. A license is mostly but not always for a longer time, generally for a stated period and



sometimes carries with it a property interest that may be disposed of, under certain conditions. The line between licenses and permits is not well defined. They overlap. It is the business of the police to know the kinds of business that may be carried on in the public streets, the restrictions that are imposed, the time of day when they can be carried on and so forth; the streets that must be avoided; the institutions that must not be annoyed; private buildings that must be avoided; things that must not be done at night; the reasons why they may not be done; the protection that certain institutions are to receive; who has the power to protect them; the kind of protection they get; the duty imposed on the police to enforce these ordinances and regulate these businesses. The details of these vary from time to time.

The reason why the city can grant a license should not be forgotten:

1. A concession is granted by the city and charged for.
2. The business needs to be regulated.

A business should be regulated:

1. When it offers opportunities for fraud.
2. When it is liable to jeopardize morals.
3. When it makes life and limb unsafe.

Parks are very important to the city. Special ordinances are made for their protection. Generally speaking these ordinances enumerate restrictions as to the uses that may be made either of the roadways or of the park proper, the uses that may not be made and to the restrictions that apply to the flowers and the trees.

Parks are designed to look beautiful, to contribute to the pleasure, good health and recreation of the public. Trees and shrubs and plants, if not well kept, lawns not constantly watered will not look green or pleasing or cheerful.

CHAPTER XIII  
QUESTIONS ON ORDINANCES

1. In what public places (a) may advertising matter not be placed? (b) What parties only can conduct public worship in the street? (c) When can a lounge be made to move on?

2. What constitutes unnecessary noises in the public streets? Who must be injured before the ordinances are violated and how? What institutions get special protection? What is the nature of that protection?

3. Specify the encumbrances which are to be removed by the street cleaning department and those that may be removed by the Borough President. Give the rules of the road as to age limit of driver, lights to be carried, right of way, method of turning, speed, signals, standing at curb, and obstruction of traffic as provided by the ordinances.

4. What are the objections to keeping animals without restrictions in New York City? What health destroying matter is not permitted in the public streets? Who has charge of the duty of enforcing these ordinances? What have the police to do with those things?

5. Before a person may encumber a street or sidewalk what must he do? For what purpose may the street be encumbered? In what manner and to what extent, under whose supervision? Under what conditions can stands be on the sidewalk and under elevator stairs? Give restrictions. What vehicles may not be left in the public street; what are the restrictions. What departments enforce these ordinances? What is the police duty in regard to such enforcement?

1. What is meant by the "building line" on a street? What by the stoop line? To whom does the place included between these two lines belong? Under what circumstances can projections extend beyond the building line? Enumerate generally the kinds of projections which may extend beyond the building line and give the rule governing such projections, the departments that regulate them and the duty of a policeman on post who sees a structure being projected.

2. Whenever the owner of a building undertakes to erect or alter a four-story building, what duty is imposed upon the policeman on post for the protection of the general public against accidents, and the adjoining building from collapse?

3. To whom do the streets belong? On what theory are certain parties permitted to use the public streets under restrictions? What uses can be made of the space between the building line and stoop lines? Under what restrictions? State generally and specifically the uses that owners can make of the fronts of their buildings, and the conditions to be complied with in making use of such privileges? What private uses can the road-bed of public streets be put to? What conditions must a person making use of the privilege to occupy a public street for business comply with before he can begin to use it? What restrictions are imposed upon him afterwards in respect to (a) the streets he may occupy (b) the business he may conduct (c) the hours he can use them (d) the incidental conditions he must look out for? What departments are charged with the duty of enforcing these conditions and how are the duties divided?

4. The Princess Helene flying the English flag is anchored in the bay; the Dupont Powder Co. sends a cargo of gun cotton and nitro glycerine by way of the Pennsylvania Railroad. Owing to congestion in Jersey City it is sent through the tunnel at night and back again without consulting the city authorities. Several tons are loaded on lighters and carried to the ship; one lighter has loaded her cargo another is tied to the steamship and the third is standing ready to load, when you learn what has taken place. What laws have been violated, by whom and in what particulars? Give the appropriate police action.

5. Before a blasting operation is undertaken what sort of person must be put in charge, what must he do and not do, before and after each charge? At what hours may he not blast? What acts if committed by a blaster would justify action by the police? What sort of action?

1. What kind of firearms can a citizen keep or carry without a permit? What must he do to keep or carry a sawed-off musket, revolver, fowling piece to shoot with? Can an alien keep or carry firearms? If so, under what circumstances? What offense is committed in the violation of this law? What is a toy pistol as defined by the ordinance?

2. What should you do if you saw a citizen attach a hose to a fire hydrant and sprinkle his lawn? Remove snow from the sidewalk and pile it twelve feet from a fire hydrant? A boy

open a fire alarm box? A boy fly a kite alongside a telephone wire, two boys build bonfires, one on the street 15 feet from the fire hydrant, the other on a lot ten feet on the other side? Explain.

3. What should you do if you saw a store newly opened on your post with the sign old gold and silver bought and sold here? If, when you made inquiries, you saw a man who spoke to you in Yiddish and showed a book with Yiddish entries; if you learned that the place was a sort of general store, where goods were taken on pledge and junk dealt in, that the proprietor was a philanthropist who charged his customers only ten per cent a year on pledged articles, was honest and paid good prices for his purchases; assume all this to be true, discuss the case and state your duty.

4. Where only may hack stands be located? Who can prevent the location of a stand? Who must be carried and who may not? What signs must be displayed inside and outside? How may drivers solicit and where not? What are the rates? Who settles disputes and how?

5. Name ten acts which if performed on the roadways of parks would violate the ordinances, and ten others which if committed elsewhere would be violations.

6. Having in mind solely the protection of the public from accident what things are individuals prohibited from doing on the streets and sidewalks of the city.

7. What parties are charged with the duty of protecting the public from the inconvenience of falling snow? What part of this duty is assigned to each? What duty has the police to perform? What is the manner of its performance? What discretion has the police?

### Questions and Answers (Licenses)

Q. Can you mention the articles which persons can sell at second-hand without requiring a Second-hand Dealer's License?

A. Pianos, books, magazines, rugs, tapestries, burlaps, paintings, drawings, etchings and engravings and the first purchase or sale of imported second-hand articles.

Q. What records are a Second-hand Dealer required to keep?

A. He must keep a book recording every purchase and sale; a description of each article purchased or sold, with any numbers, monograms, or distinguishing marks thereon; the name, address, and general description of each purchaser or seller; the date and

hour of purchase or sale; and in the case of a pawnticket, the full description of the article as it appears on the ticket, with the ticket number.

Q. What is a Second-hand Dealer required to furnish to the Police Commissioner?

A. When served with a written notice to do so, he shall report on blank forms a copy of records of purchases and sales for the period certified in the notice. He must give all necessary information concerning goods dealt in by him to the police.

### Junk Dealers

Q. What restrictions does the Code of Ordinances place upon a Junk Dealer?

A. It prohibits him (1) from dealing in junk without having procured a license from the Department of Licenses—fee \$20 and a bond of \$250; (2) from carrying on business at any place other than the place designated in the license; (3) from buying goods from a minor, servant, or apprentice, or from any person between the hours of 6 P. M. and 7 A. M., or (4) from being a pawnbroker or second-hand dealer.

Q. What does the Code of Ordinances require a Junk Dealer to do in regard to keeping records?

A. It requires him to keep a book recording every purchase and describing every article purchased, with the name, address and general description of the person from whom the purchase was made; if the articles were purchased from a scow, coal-boat, lighter, tug, or other marine vessel to record its name and the name and address of the owner, and to keep these records open to inspection of the police and inspectors of licenses and to furnish reports to the police when required.

Q. What else is licensed in connection with junk dealing besides a junk shop?

A. Junk carts—\$5 each. Every junk cart must show on the outside the words "Junk Cart," and no person shall collect junk except by these means.

Q. What is meant by junk?

A. Old rope, old iron, copper, tin, or lead, rags, slush, old paper, brass, rubber, bagging or empty bottles.

Q. Must an auctioneer have a second-hand dealer's license when he auctions second-hand goods?

A. If he sells his own goods, yes; if he sells goods for somebody else, no; in this case his auctioneer's license being sufficient.

Q. Can a blind person sell goods or newspapers or play musical instruments without a license?

A. He can if a citizen of the United States, receive a license free of charge from the Mayor to peddle or vend.

Q. What may a veteran sell which would require a license from the Department if he were not a veteran and under what conditions can he sell?

A. A veteran of the Civil or Spanish war may get a permit from the County Clerk of his county to peddle, vend, or sell by auction his own goods or merchandise. This authority is given under Art. 4 of the Business Law of the State. But the veteran cannot keep a stand on the sidewalk without a license.

This privilege is now extended to veterans of the World War.

NOTE.—This privilege is now extended to veterans of the World War and widows of all such veterans if they reside in New York State. Under the State law a veteran can get a free license from the County Clerk of his county to peddle anywhere and he is not interfered with unless he comes in conflict with some local restriction. But so many soldiers returned from Europe are engaged in peddling that some new local regulation may become necessary.

### Pawnbrokers

Q. Who licenses and regulates pawnbrokers, and what restrictions does the licensing impose?

A. Pawnbrokers are licensed by the Department of Licenses, and charges against them are heard by the Commissioner of Licenses. They are licensed under the General Business Law of the State. The license fee is \$500, and a bond of \$10,000 is required. Pawnbrokers must keep entries of all transactions. The rate of interest is limited to 3 per cent. a month or fraction of a month, for the first 6 months, and 2 per cent. for each succeeding month for any loan under \$100, but 1 per cent. less for any loan over \$100.

A pawnbroker cannot purchase any second-hand furniture, metals, clothing, or any other article; cannot in fact be a second-hand dealer. He must keep all pledged goods one year before selling, and all such sales shall be published, and be at public auction conducted by a licensed auctioneer. Hours are restricted, etc.

### Second-Hand Dealers, Etc.

Old clothes men, by a recent amendment, are now licensed

as Second-hand Dealers although they have no fixed place of business. Their licenses bear their home address and their fee is \$5. All dealers in clothing consequently get a license for \$5 although the regular S. H. D. license is \$15.

Q. What information should a police captain or police inspector give when he is required to report on an application for a dance hall license, which application is made to the Department of Licenses and referred to the Police Commissioner for his report?

A. He should report on the proximity of the liquor saloon, if liquor is sold on the premises, whether the hall is rented for public or private dances, the manner of charging for admission, the nationalities and character of the persons patronizing the dance hall, the general reputation of the place, the records (from the arrest record) if any, as to arrests and convictions either in relation to the conduct of the premises, or the record of the persons conducting the hall, and a general recommendation (in case of the Inspector of Police) as to whether or not the license should be granted.

Q. Mention the restrictions or prohibitions placed upon a person or firm licensed as a Second-hand Dealer—the things that, under the ordinance, he is not allowed to do.

A. Second hand dealers cannot buy goods from a minor, apprentice, or servant, knowing him to be such; cannot buy them between 6 P. M. and 7 A. M.; cannot sell small articles unless he has had them in his possession a week; not engage in business as a pawnbroker or junk dealer, nor can such second-hand dealer use pawnbrokers' signs or lead people to believe he is a pawnbroker.

The following matters have been called to your attention officially; if they constitute violations of the law state in what respect they do and state the action you should take in each case:

(a) A man informs you that John Doe deals in second-hand automobile tires and has no license as a second-hand dealer. You call at John Doe's store and he tells you that he sells new tires and occasionally accepts a second-hand tire in part payment for a new tire and that in any event these second-hand tires being accepted by him in exchange for new ones, the ordinance making an exception in the case of exchanges of merchandise, no license is necessary in his case.

(b) You are informed by a citizen, and you find it a fact, that a man has just opened a store for the sale of second-hand books; and that he is selling them without a license. You pur-

chase a book which he admits to be second-hand.

(c) A hat dealer collects old hats by purchase and otherwise, sends them to a factory, has them renovated, re-banded and entirely remade. He sells them as factory "seconds." He has no license as a second-hand dealer.

(d) A jeweler advertises a sale of second-hand Swiss watches, a large shipment of which he has just received from Switzerland. He has no license as a second-hand dealer.

(a) Up to a recent period this man would be summoned to court for failure to have a license. But under a late ruling of the Corporation Counsel this method of exchange is not regarded as transactions which come under the ordinance.

(b) Books exempted.

(c) Summons to court. They are second-hand hats.

(d) Exempted.

Give answers to the following questions based upon the new ordinance licensing and regulating Massage Institutions and Operators now in force:

(a) State the objects of the law, the purpose for which it was enacted, and the provisions made for its enforcement.

(b) Name the classes of establishments and persons who are specifically excluded from its regulation.

(c) What is the principal prohibition placed upon massage operators who are duly licensed under this ordinance?

(d) If you are informed that a woman known to be a nurse is operating as a Masseuse without having a license what steps would you take to discover whether or not she is violating the law?

(e) What is required by the law to show that a place where massage can be given legally is a duly licensed place?

(a) Object is to prevent disorderly houses being conducted under the guise of massage parlors and to permit police supervision over all such licensed places. Massage to be practised only by qualified and licensed masseurs. The general purpose is the suppression of disorderly houses. The Police Department and the Department of Licenses have jurisdiction over massage places within the rules and regulations laid down by the Board of Aldermen and such future amendment to these rules as may be enacted by the Board of Aldermen.

(b) Hospitals, sanitariums and bathing establishments (such



as Turkish bath establishments) are specifically exempted. Barber shops which give facial massage only are not included. Nurses and osteopaths are exempted from the necessity of being licensed and such persons as chiropractics, who do not actually give massage, can be exempted.

(c) No operator can treat a person of the opposite sex, except on the signed order of a licensed physician, and this order shall state the number of treatments, but the number of treatments may be exceeded if given in the residence of the patient, the office of a physician or in a hospital or sanitarium.

(d) I would require evidence that she was a graduate nurse and if she could not prove the possession of a certificate showing she was registered as such and also engaged in the profession of nursing. I would hold that she was practising massage without a license. Of course evidence of this would be required to bring about a conviction.

(e) The law requires that each operator and institute display a sign having the words "Licensed Masseur," "Licensed Masseuse," or "Licensed Massage Institute," as the case may be. Every operator must be 21 years of age or over and must present satisfactory references, which must be verified before the license is issued.

### LICENSE (Continued)

Q. What is the difference between a licensed express and a licensed public cart?

A. The express license is used by the owners of vehicles which carry packages and parcels throughout the city for pay; the public cart license is issued to those who cart goods by the load. The express license is \$5, and the public cart license is from \$2 to \$5; that is, public carts drawn by horses have a \$2 license, and motor driven carts require a \$5 license.

Q. What does the Code of Ordinances provide in reference to the charges which may be levied for the transportation of goods by both expressmen and public carts?

A. In the case of expressmen there is a fixed rate for deliveries for each piece of baggage, namely, 40 cents a piece for 5 miles; 55 cents for 10 miles. and 75 cents for 15 miles; but, if the expressman delivers goods from one borough to another, one-half these rates may be charged in addition. This, however, is the legal rate. Special terms can be made between the expressman and the customer if they so desire.

In the case of public cartmen, the charges are usually agreed upon in advance, in which case it is the duty of the licensed cartman to furnish a written memorandum signed by both parties. But where there is no agreement of this nature a schedule of prices is provided in the ordinances: viz., \$1.25 an hour for a one-horse vehicle; \$1.50 an hour for a two-horse vehicle; \$1.75 an hour for a small motor truck, and \$2.50 an hour for a large motor truck. A charge of 50 cents an hour for each man employed not more than three in addition to the driver is allowed. If a piano is included in the load, there may be an additional charge of \$1.50, and if a piano is transported separately a charge of \$3 for three miles can be made, and 50 cents for each additional mile. Additional charges are allowed for hoisting pianos.

Disputes as to charges by a public cartman are to be adjusted by the police officer in charge of the nearest police station, and if the parties do not agree to his decision, a sufficient amount of the load to secure payment is taken to the nearest storage warehouse and a statement of the case sent to the Department of Licenses for adjustment.

Q. Can you mention any restriction placed on the owner of an express wagon that is not placed on the owner of a public cart?

A. Every express wagon driver must have a license as such, paying \$1 a year for the same, and his application for a license must be endorsed by two reputable citizens before it is granted. An expressman employing an unlicensed driver can be sued for \$10 penalty for each offense. Every expressman must give a bond of \$100 for each express wagon in use. This is not required in the case of owners of public carts.

Q. What does the Code of Ordinances require to show that licensed express wagons and licensed public carts are public carriers?

A. It requires each express wagon to have the words "Express" or the abbreviation "Exp." on both exterior sides of the wagon. Public carts shall have similar signs (the words "Public Cart") and each vehicle shall have the license number.

Q. What is a dirt cart as described in the Code of Ordinances, and what is required in the operation of one?

A. Any vehicle transporting dirt, sand, gravel, clay, ashes, garbage, rubbish, or paving stones is deemed to be a dirt cart. But, according to the ordinance, if it has the owner's name and address in letters and figures three inches high it is not deemed to be a dirt cart. It must be licensed (fee \$1) and have a tight

box at least 18 inches high and securely covered when loaded, so that the contents shall not scatter.

Q. What does the Code of Ordinances provide in relation to hoisting articles of any kind on the outside of buildings?

A. It provides that person conducting the hoisting operation must have a license, either a general or special license. The general license covers the hoisting operations of a firm anywhere within the city for a term of one year, and costs \$25. A special hoist license covers the particular job or transaction. In every instance where hoisting is carried on there must be *two* danger signs placed on the sidewalk.

Q. What does the law require of a licensed public porter who carries baggage; that is, what are the things he must comply with as laid down in the Code of Ordinances?

A. He must (1) wear a badge bearing the words "Public Porter" and the number of his license; (2) he must carry or wheel the articles himself and not turn them over to anyone else for transportation; (3) he must act as porter for anyone who asks him to do so unless he is actually engaged by some one else beforehand or unless the distance be more than 2 miles; (4) he is not to charge more than 25 cents for transporting any article for a distance of less than half a mile, if it is carried by hand, nor more than 50 cents if it is carried by a wheel-barrow or hand-cart, but if the distance is over half a mile, one-half of these rates in addition may be charged, and one-half for each  $\frac{1}{2}$  mile.

Q. What persons can act as porters without being licensed or without being amenable to this ordinance?

A. Employees of hotels and boarding houses, provided they transport baggage to and from those hotels and boarding houses only, and provided they have signs to indicate that this is the fact.

Q. What other licensed persons must wear badges showing themselves to be licensed by the City of New York?

A. Hackmen, peddlers, and operators of junk carts.

Q. What sort of awnings are permissible in the city?

A. Drop awnings without vertical supports, not to extend beyond 6 feet from the house line and which shall be at least 6 feet in the clear above the sidewalk. Awnings without side coverings may be maintained for temporary use in inclement weather only, and these may be supported by upright posts of iron not exceeding 8 inches in diameter, but awnings with side coverings, or in good weather require a permit from the Borough President.

Q. Name the regulations as to stands under elevated stairways.

A. Each "L" stand must contain the reservation on the license that the railway company can make any repairs to the stairway it sees fit, without any claim for damages on part of the owner of the stand. No stand can be wider than the stairs, and it cannot extend along the sidewalk to a greater distance than a point where under the surface of the stairs is not over 7 feet from the level of the sidewalk.

The license fee for this stand is \$10, although stoop line stand licenses for the sale of newspapers are \$5. But candy, tobacco and soda water cost \$5 each extra; fruit, \$10 extra.

Each stand must be painted the color of the stairs, and no advertisement may be painted on the stand.

Q. Can stand licenses be transferred from one person to another?

A. No; the license immediately ceases upon transfer, but a licensee may have his license transferred to another location with the consent of the Commissioner of Licenses and provided the property owner or lessee at the new location also consents. This provision is printed on the license.

Q. In case of an accident to a truck, cart, or wagon, in which the vehicle is disabled, how long is the owner allowed to remove it?

A. A reasonable time, not exceeding 3 hours.

Q. What department removes all unharnessed vehicles in the public streets?

A. The Department of Street Cleaning maintains yards for that purpose, and causes their removal.

Complaint is made to you by a citizen as follows: "I arrived from Buffalo this morning, checked my trunk and suit case at the Grand Central Depot, presented the checks for same to a licensed expressman whose place of business is at Third Avenue and 42nd Street, requesting that he deliver the trunk and suit case in a hurry to the Hotel McAlpin. He said all his drivers were engaged but as a favor to me he would telephone a near-by livery stable and hire a driver. He did so and delivered the trunk and suit case within two hours. He asked \$3, which I refused to pay as being extortionate. He refuses to deliver my articles and holds them for non-payment of charges." Now, what action do you take under these circumstances?

A. I would advise the complainant to pay the fees demanded, get his baggage and then request him to make a complaint to the

Department of Licenses to the effect that the expressman, having failed to make an agreement beforehand as to the charges in the case of a special delivery, should refund any charge above the legal rate, namely, 40 cents per piece within a limit of five miles. I would then investigate the case for the purpose of finding out the name of the driver, find out whether or not he was licensed as an express driver, and if not would make C. O. complaint.

## CHAPTER XIV

### RULES

Rules and regulations change in their details, but certain features of them remain fixed and permanent.

There will always be posts, but the number and kind of them will change. A policeman should be able to give the kind and number of them always.

General and departmental orders will probably continue to be permanent and apply to the whole department while special orders will apply to individuals and relate to such things as appointments and dismissals. There will also be orders that apply to commands and be limited in their application; telephone orders for quick action and circulars containing instructions to the force.

#### Commanding Officers

The Commanding Officer of a precinct will continue as at present to have supervision over the men and their work generally as well as the conditions of his precinct. He will have general, special and particular duties; have to keep in touch with his precinct when absent so that he can be readily located and communicated with in case of emergency, have certain assignments to make, be responsible for the peculiar fitness of men on patrol on certain posts and for

Conditions of precinct;

Enforcement of law;

Preservation of the peace;

Protection of Life and Property;

Good Order, Efficiency, Discipline, Particular duties of men as at present.

#### Desk Officers

Desk officers will continue to be the clerical men who keep official records that are necessary and make them promptly and accurately, stay behind the desk unless in case of urgent personal necessity or on police business, be responsible for what takes

place behind the desk; keep track of the men, report absentees, inspect memorandum books; inspect supplies and keep a record of them; call attention of the captain to unusual occurrences or important messages and supervise the searching and keeping of prisoners brought to the station.

### Sergeants

Sergeants will always continue to have immediate supervision of the work of patrolmen, be called upon to assist and instruct them in their duties; investigate and report absences from patrol according to methods which may vary from time to time; take charge of outgoing platoons and be the connecting link between the officer of patrol and the station house to which they report. The routine method of performing these duties may change.

### Patrolmen

Patrolmen will always be expected to go directly and promptly to their posts, examine them for acts of lawlessness; stay on them till relieved and quit only for police reasons or personal necessity, when precautions will have to be taken by them to show they are not faking which precautions may vary in their method. They will always be expected to try doors and investigate suspicious persons and circumstances.

Patrolmen will always be expected to give their whole time to the department, take orders from superiors, treat the department business as confidential, be alert and observing while on patrol and not as a rule:

- Drink, smoke, gamble;
- Carry packages;
- Sit in R. R. car in uniform;
- Solicit passes;
- Influence business;
- Advise redemption of pawned articles;
- Alter equipment;

*Under the conditions imposed at present.*

The following things now required of policemen will probably continue to be permanent:

- Be respectful. Report sanitary matters.
- Use police signal boxes. Keep memo. book.
- Be cautious in detecting crime. Mark evidence.
- Request analysis.

Keep rules up to date.  
 Pay bed women promptly.  
 Answer telephone by formula.  
 Use proper signals.  
 Report suspicious places.  
 Report useful information.  
 Salute properly. Salute at proper times.  
 Faithful in attendance, diligent in performance of duty.

### Attendants

Attendants will continue to be responsible for the performances of work about the station, such as attending to fires and lights, looking after prisoners and the condition of the cells, raising the flag, etc.

### Matrons

The duties of matrons will be to take care of women and children, protect them from any kind of harm that might otherwise come to them, make searches, keep their own rooms and co-operate with the children's society.

### Property

The following outline now indicates the manner in which property owned by or coming into the hands of the police is disposed of. Most of the procedure is permanent in its character. It is to be used only to help call up details.

Bureau of Supplies—Acquires, maintains, sells, accounts for all property.

Commanding Officers Responsible for—Orderly arrangement, sanitary condition of buildings, furniture, equipment, care, use, serviceability of department property.

Limitations of Use—Official purposes, designated member purpose.

Things Forbidden—Altering, changing, replacing.

Property Clerk (General Duties)—Safe keeping, disposition, record of all property in custody.

Patrolman Delivers to Desk Officer—Lost, stolen, abandoned, unclaimed, recovered, evidential property.

Proceeds of Raid—Inventoried, disposed of.

Animals—Lost, strayed, stolen—Livery auction.



Property Perishable—Captain Sells.

Receipts by Patrolman—Property found and delivered to him.

Dead Men's Property—Next of kin or Property Clerk.

Property—Stolen or evidential, Property Clerk.

Weekly Reports—To Property Clerk.

For Court Use—Subpoena, order of Desk Officer.

Return of—Property or receipt.

Identification of Stolen Property—In officer's presence—Push carts; Bureau of Incumbrance.

Explosives or Combustibles—Bureau of Combustibles.

Lost or Found Property—Division of Lost Property.

The care of equipment, the cleaning and lubrication of bicycles by cycle and motorcycle men; the care in the use of horses by mounted men; the care of booths by booth men and of the patrol wagons by patrol drivers while in use will continue to call for some sort of attention from their respective users.

The captain will continue perhaps, to have the right to excuse men from reserve on urgent personal necessity. Leaves of absences will always be limited, and emergency leaves in which the captain exercises discretion necessary, but the amount of discretion may change from time to time. On the changes it is necessary to keep posted.

### Aided Cases

Cases not involving arrests now called aided and accident cases will always be handled and require attention different from that given to cases of arrests. There will be sick and injured needing ambulances and medical attention, missing and unidentified persons to be reported and looked up; insane persons needing hospital attention, dead bodies to be reported, calling for descriptions, particulars, search at the proper time; inquiries about missing persons, parents of lost children to locate; foundlings to dispose of and investigate before or after sending to the Charities Department.

### Vehicles

Every accident involving vehicles will always call for thorough inquiry, examination and investigation to determine who was at fault. The following outline of procedure is not likely to be changed materially:

Evidence of Negligence—Make arrest.

Conflicting (No Evidence)—Magistrate, report.

Serious Accidents by Non-residents—Arrest.

Slight Injuries and Negligence—Arrest. Inform person of right. Magistrate, witnesses.

Defective Mechanism—Detain vehicle; examination, evidence.

Mechanical Apparatus—Safeguard.

### Arrests

Arrests will always have to be made in accordance with law, the arrested must be treated humanely and get safe keeping; the arrests made known at the station and recorded where searches will have to be made. The patrol wagon will have to be called whenever the distance is long, the arrested are unable to walk or their condition is offensive to public decency.

### PROCEDURE AT DESK

When a person is arrested the procedure is to arraign him at the desk, make a charge, take and enter pedigree, search the prisoner and either lock him in a cell, send him to court or admit him to bail. The following outline indicates the present way which is more or less permanent:

Unconscious or Injured Prisoner—Not to station. Ambulance, hospital, search, receipt, certificate to Magistrate.

Unconscious Prisoner—No cell; ambulance, to hospital.

Sick Prisoner—Report to station; guard, ambulance, hospital.

Woman Nursing Baby—No cell. Maternity home or hospital.

Minors—Petty violations, warned, arrest only on persistence, summons, not with older prisoners.

Truants—Taken and delivered to school.

Juvenile Delinquency—Children's Court; Society.

Prisoners' Property—Five kinds.

Interviewing Prisoner—Five persons.

### Summonses

The method of accounting for summonses is likely to change. They are now obtained from the chief clerk in blank, with serial numbers and stubs. They are indexed, must be accounted for, reported if lost or damaged, filled by indelible pencil or ink and reported to the desk officer. The additional details in regard to them are subject to change.

## Complaints

Complaints will continue to be of two kinds—inside and outside. They will concern an improper act or omission; relate to the business of the department, members of it or conditions in relation to such. They will call for investigation, the remedying of an improper condition or the prevention of its recurrence.

Outside complaints will continue to be made by the complainants to the desk officer, probably be investigated by the Inspector and reported to the Police Commissioner with recommendations for dismissal or trial. Minor derelictions will probably continue to be disposed of by the District Inspector.

## Trials

Trials should always be conducted without unnecessary technicality, unreasonable delay or offensive speech or action on the part of anybody. Members will be subject to dismissal for violation of a rule of the department; disobedience of orders written or oral; cowardice; intoxication; insubordination; conduct unbecoming an officer; false official statements after conviction of crime, or for disorder or neglect to the prejudice of good order, efficiency and discipline according to the degree of the offense and the discretion of the Commissioner.

To borrow or lend from associates or to spend department money without proper permission will continue to be forbidden by rule.

## Health

The proper care of one's health, of equipment and uniform and bed linen will continue and conditions due to carelessness, viciousness or immorality and deceit in simulating sickness punishable on the report of the surgeon.

## QUESTIONS ON RULES

What is a commanding officer, as defined by the rules of the Police Department? How is the statute of a commanding officer determined? Describe fully.

Mention in detail the general responsibilities imposed by the rules of the Department on commanding officers, and how is a commanding officer made to understand the sense of this responsibility?

Mention seven duties specifically imposed by the Book of Rules upon members of the detective division, and show how the police force as a whole is required to cooperate with the detective force.

Suppose the captain, one lieutenant, two sergeants and five patrolmen wanted to leave the city for three days, all from the same precinct and all at the same time.

The captain and lieutenant are going to attend a fraternal convention; a sergeant and three patrolmen to attend an athletic meet; one patrolman is to attend his father's funeral, another his uncle's, and the other sergeant to look after personal business. Could they all go? If not, what preference should be given? What formalities by them and their superiors should be gone through before leaving? How is absence counted? What effect would it have on their annual vacations?

Suppose an insane person escaped from a private sanitarium and ran into the street, shouting and brandishing a knife. A citizen, in getting out of the way, stepped on an unfastened manhole cover, which overturned, causing him to fall and break his leg.

The injured man is pursued by the maniac and is protected by two citizens, who disarm the insane man. When a patrolman arrives, they are holding him. Two attendants from the sanitarium arrive and seize him to bring him back. A citizen offers to bring the injured man home in an automobile. What duties devolve on the patrolman? State everything he should do.

A patrolman finds an unconscious person on the street. As he discovers him, an excited woman rushes from a drug store and says her husband is the unconscious man; that they were together and he fell in a faint and she had telephoned for a doctor. The man is carried into the drug store. The patrolman telephones for an ambulance. The ambulance surgeon thinks the man shows symptoms of poisoning. While they were working over the victim, the woman disappeared. There is nothing on the man's person to identify him. What should be the full duty of the officer on patrol and the desk officer in regard to the matter?

While a patrolman is on post, a woman comes up to him and tells him that she is going to the house of John Jones at No. 398 W. 72nd St., to get satisfaction. She appears to be slightly intoxicated. He advises her to go home. She went on her way, however, and ten minutes later a boy tells him there is a woman

dying in the areaway at No. 398 West 72nd Street. When he reaches her she said "He did it." It was evident that the woman had fallen or been pushed from the stoop of the house. One of the citizens who gathered said she saw the woman ringing the door bell. What is the full duty of the patrolman and of his superiors in such a case?

What must be done

1. When a policeman finds a lost child which can talk?
2. When a policeman finds a lost child which cannot talk?
3. When a policeman discovers a foundling?
4. When a citizen discovers a foundling and calls the attention of the policeman to the find?
5. When inquiry is made at the police station regarding a girl of fourteen who is missing?

Explain the rule, "No person shall be arrested nor detained except as provided by law."

Mention the classes of officers affected by the rule which makes each member of the force responsible for the humane treatment and safekeeping of a prisoner in his custody, or who is detained in a building or part thereof over which he has supervision.

A child is killed by an automobile. The child was playing "cat" in the street. The chauffeur and passengers say he ran in front of the car, which was going only fifteen miles an hour, and the accident was unavoidable. Two citizens, however, say that the accident could have been avoided, had the chauffeur been careful or skilful. What is the full duty of a patrolman who arrives there immediately after the accident?

What procedure is followed by the Police Department when the driver of a United States mail wagon is charged with

- (a) A misdemeanor.
- (b) A felony.

A policeman finds an unconscious person on the street. Beside him is a bottle almost empty. In his pockets there are a revolver, a gold watch and some money; on his person some jewelry. State everything that the officer should do.

State the full duty of a desk officer (130-133) when a policeman arraigns a prisoner before the desk, whom the patrolman says he has reason to believe to be guilty of homicide and robbery. The grounds for his belief are that a certain man was robbed and murdered a few days before and the prisoner was found trying to pawn jewelry which corresponded in description to that stolen from the dead man.

A man charged with forgery and embezzlement in Ohio is alleged to be living at a certain house in your precinct. What is the full duty of your officers, upon the receipt of such information and afterwards;

(a) In case an arrest is made forthwith?

(b) In case an arrest cannot be made immediately?

What classes of prisoners may not be confined in cells upon arrest, and what should be done in each case?

Acting upon information he has received, an officer arrests a man and woman who had just bought a quantity of ether, which they had carried to a lot and had partly drunk. The officer's information was to the effect that they had agreed to commit suicide. After being locked up in a cell, both became ill.

Discuss the right of the policeman to make the arrest and tell the duty of the desk officer upon arraignment and afterwards, giving the various possibilities of such a case.

Explain the full duty of a desk officer in regard to prisoners locked up all night, before they are taken to court in the morning.

What purpose is the policeman's summons intended to serve?

In what classes of cases may the summons *not* be used?

What discretions are given to the officer furnished with one of these books?

What must he do after he has served a summons?

What elements must be present to constitute a "complaint" under the rules of the Police Department?

What procedure is followed in connection with

(a) A department complaint;

(b) A citizen's complaint?

Under what general conditions is a member of the force entitled to special department recognition?

What would be your duty as an inspector in case any of these circumstances was brought to your attention?

What does department recognition consist of, and for what acts is each grade of recognition awarded?

In order that an officer may be on duty at the desk at all times, and that the regular officer assigned may be held fully responsible, what rules have been made to govern such officer's conduct from the time he takes charge of the desk till he is relieved from such duty?

An inspector of a district is authorized to dispose of a minor dereliction. State briefly the advantages of such a rule and

enumerate five minor derelictions which might appropriately come under such a rule.

What general conduct must be observed by all concerned at the trial of a police officer and what particular procedure must be followed in the conduct of such a trial?

For what offenses generally may punishment be inflicted on a member of the force by the Police Commissioner, and what may such punishment consist of?

For what purposes may a member of the force incur a liability against the City of New York? If the bill is \$35, what should have been done first? What if the bill was \$60.00? What information must be furnished with such a bill to obtain its approval?

A deputy police commissioner strolling down the avenue meets the following members of the force. Which of them should salute and which not?

An inspector in uniform;

A captain in plain clothes;

A lieutenant in uniform;

A detective in plain clothes.

Suppose it was an inspector in uniform who walked down the avenue; what should these men do?

Suppose it was an inspector in plain clothes?

A sergeant on patrol is made responsible for the proper performance of patrol and other police duty by members of the force subject to his jurisdiction. State everything he is required to do by the rules in order to meet such responsibility.

What is a patrolman's first duty on arriving at his post? What responsibility is imposed on him?

What general circumstances may arise to warrant a patrolman leaving his post? When such circumstances do arise, what is the policeman to do in order to supply evidence of the existence of such conditions or circumstances?

What in general are the uses to which the memorandum of a patrolman is to be put? What value is it? How must it be kept?

During a walk over the post of Patrolman A you saw three men looking in a dark hallway; two young men and two girls seemingly under sixteen in another doorway; the patrolman talking to another man on the sidewalk; a torn-up pavement unlighted, and when you send a man to inquire from A where a public telephone is to be had he said he did not know. Discuss this case, showing the investigations you made, and give the

circumstances under which you would make charges against A, and those under which you would dispose of the case under authority of Rule 250.

Where and when may a policeman

Not smoke;

Not drink;

Not use profane language.

What is the duty of a patrolman under each of the following conditions?

A number of man-hole coverings blow off.

An automobile and street car collide, causing several casualties.

A murder has been committed.

A fire has broken out.

What persons and vehicles are admitted within fire lines?

Give one reason for each admission.

What is a policeman to do

(a) When a citizen complains of being unable to reach his home within the fire lines?

(b) When there are injured and unconscious persons on the street before ambulances have arrived?

(c) When firemen are overcome?

(d) When a fire attacks a building where there are human beings?

(e) When there are more persons to be rescued than the firemen can take care of?

(f) When persons wish to reach their offices after lines have been drawn at a parade?

Make out a return in tabular form, showing property in the station house at the last inventory, (b) property obtained since then and (c) property lost, worn out or disposed of and how. Make six entries in all.

It had come to your attention as a commanding officer that a member of your command was breaking the rule forbidding the influencing, or attempt to influence, the lawful business of another person. The thing was being done in a very clever and quiet manner, making it difficult to get at the bottom of the affair. Write a report to the Police Commissioner giving the nature of the information you received, the plans you laid and the success you had, with such recommendations as are fitting in the premises.



Suppose a patrolman found a diamond ring on his beat, picked up a quantity of silverware which burglars dropped when being pursued, and discovered a push cart with fruit apparently abandoned. What duty in regard to each devolves on

- (a) The patrolman;
- (b) The lieutenant at desk;
- (c) The captain;
- (d) The Police Department.

A suit which has been brought in a Municipal Court to recover damages from the city on account of injuries caused by a defective sidewalk is down for trial. The Assistant Corporation Counsel and the Counsel for the plaintiff both want to see the original record which they think contains evidence that the transcript does not show. The plaintiff serves you with a subpoena duces tecum just as a Deputy Assistant Corporation Counsel appears and asks to be shown the record. The other lawyer objects. Explain what you would do, why and what rules govern you.

What do you understand by the phrase "Due process of law?" Mention five circumstances under which transcripts of the blotter are to be furnished "under due process of law" and all others when the desk officer is required to read the blotter to the person seeking for information.

Assume the following conditions:

A public taxicab chauffeur brings two men to the station to settle a dispute about the fare. The men are from out of town. They alleged that the amount indicated by the Register was incorrect, and in substantiation they stated specifically the points from which they started and stopped. The chauffeur, while admitting this, said he had run into a political parade and one of the passengers had said "Let's watch it for a while." The driver waited for half an hour when the same passenger said "When are we going to get out of here, we will be late." In order to get away from the parade the driver had driven to another avenue and had gone nearly half a mile out of his way. The desk officer is trying to settle the dispute when you a Captain arrive. Write a report, giving a full description of the dispute, the law governing it and your own action.

Mention the precautions taken to prevent tampering with station house records in the methods of keeping such records themselves. Include therein:

The manner of opening and closing such records.

The order and manner of entries.

Ink, erasures and corrections.

Manner of closing entries.

Blank spaces.

Signatures.

Manner of keeping general and special orders.

Suppose the head of an anti-vice society who has sent many letters, telegrams and phone messages to Police Headquarters complaining of a disorderly resort kept by a former convict, wishes to bring charges against the police officials to the proper authorities, what records of the Police Department should he subpoena in case he wanted to prove the possession of knowledge by them not acted upon? In whose custody are such records kept?

Suppose the Police Commissioners wanted to make an investigation of a private complaint to the effect that there was lackness in discipline among members of several precincts, that the men were away too much on sick leave, that complaints were sidetracked and charges suppressed, and that all property taken from prisoners was not properly accounted for; in what books of record should an examination be made to help in the investigation of such a complaint?

Suppose the Police Commissioner wants to make an investigation to ascertain if the property of the Department is in an up-to-date condition and according to certain standards which he has determined upon, what records should he first examine in order to obtain an idea of its character so as to save a physical examination of each article?

Describe the station house blotter

(a) As to general things contained therein.

(b) As to particulars entered from time to time.

(c) As to the manner of keeping it, and by whom.

Write a report showing the advantages and disadvantages of allowing policemen to interview the Commissioner without having to make the request for an interview through official channels.

Certain facts respecting persons arrested and aided must be made record of in all cases and other facts in special cases.

(a) Mention the facts that are peculiar to all cases, and

(b) The facts which should be noted if the circumstances calling for their entry arose, with the accompanying circumstances.

What reports are desk officers and commanding officers re-

quired to make daily? What reports regularly when not daily? What reports irregularly? In what manner are reports furnished? What returns must also be made by the same men, and to whom?

How is an official communication of the Police Department distinguished from a non-official one?

In the making of an official communication what limitations are imposed on the maker as to

- (a) Subject;
- (b) Method of making;
- (c) Manner of address;
- (d) Manner of identifying a member of the force when referred to;
- (e) Manner of signature;
- (f) Manner of transmission and means by which route of transmission can be traced.
- (g) Any other things necessary.

Because of information you get, a squad of policemen is formed by you to prevent an alleged prize-fight from taking place at a certain road-house in your precinct. Because of what the promoters of the fight learn, the prize-fight is not pulled off there, but a couple hundred men repair to a barge moored in the river from which, because of a plan prearranged, you and your men are excluded. Further attempts to board the barge have been unsuccessful.

Write a report telling of:

The information you get;

The plans you made;

Why they miscarried or were frustrated;

All the efforts made by you;

What you learned;

What you recommend.

Suppose a policeman got sick on his beat and had to be carried to a drugstore, from which he is sent home in charge of a police surgeon, who considers the case a very serious one, and the disease probably contagious.

Explain the whole duty of the police surgeon and the patrolman from the time of the latter's collapse till he is fit to return to duty.

1. Assuming the disease was not contagious.
2. Assuming that it was.

Mention ten separate and distinct acts on the part of a patrolman, with an appropriate example in each case, which would

require a district surgeon to bring the matter to the attention of the Police Commissioner.

What special duty is imposed on a district surgeon in the case of a patrolman who has been sick.

- (a) For thirty days;
- (b) Has just been injured;
- (c) A policeman convalescent;
- (d) Is acting queerly.

Mention all the members of the force and all the circumstances under which they may appear for duty in civilian dress.

Explain, with appropriate examples, the rule that "a member of the force is personally responsible for the proper and authorized use of his uniform and equipment."

Explain why a member of the force must carry his shield at all times.

What uses are to be made of the shield? Of the shield number? To what uses are shields not to be put?

When a patrolman has had an article of equipment damaged or lost, what course of procedure has to be gone through to have it replaced,

- (a) In case the loss or damage occurred on account of proper performance of public duty?
- (b) In case it occurred otherwise than in the proper performance of such duty?

A member of the Department shall promptly obey all lawful orders of his superior officers. Pick out five instances where a policeman would be justified under this rule in disobeying the orders of a superior, orders to be such as might be mistakenly given.

Explain the meaning of the rule "A member of the Department shall be fit for duty when subject thereto," and show how the rule could be violated.

Explain what is meant by "confidential" in the rule requiring a member of the Department to treat as confidential the official business of the department with which he is acquainted. Give the reasons for the rule, with three examples to justify its existence. What exceptions to such rule are made?

Give six examples of the ways in which a member of the Department might ordinarily violate the rule requiring him to be respectful in his contact with others.

What general duty is imposed on a policeman who finds a person dead under circumstances that may point to the fact that a crime has been committed, and give all the things under

the circumstances that a policeman should do, and those which he should not do in order to observe the rule. Show, by an example, how the strict observance of such a rule may serve the ends of justice, while a non-observance of it might have the opposite effect.

What line of conduct must a policeman observe

- (a) While walking on the streets;
- (b) While riding in street cars;
- (c) While riding in carriages;
- (d) While riding horseback;
- (e) While riding bicycles;
- (f) While riding in autos.

If specially assigned to observe violations of the liquor tax law mention all the things

- (a) That a policeman should do,
- (b) All that he should not do in the performance of such a duty, and give a reason for each.

Suppose you were assigned in a populous precinct where a parade was scheduled in honor of a political personage. Five times as many persons as were expected turned out in sympathy and along the route were lined large numbers who perpetrated hostile acts. Write a report, telling what preparations had been made for handling the crowds and what additional things you had to do to preserve order and keep the peace.

### GENERAL QUESTIONS

A is a watchman in charge of several new buildings in course of erection. There is a quantity of wood outside the buildings. He comes on B, trying to steal the wood and attacks B with an iron pipe. B, an eighteen-year-old boy, tries to defend himself with a stick of wood, but trips and falls, hitting his head on the curb, which renders him unconscious. A is about to renew the attack, when C interferes, only to receive a blow from A which opens his scalp. C grapples with the watchman and knocks him down where he holds him until the police arrive. Explain the principle of law that governs such a case, who was subject to arrest and who not, with full reasons.

Suppose you were informed by a woman that she had overheard A threaten that on the first opportunity he would blow the head off B, that he had provided himself with a gun and had given every evidence of an intention to do B grievous bodily harm.

What is the policeman's full duty?

Upon what theory does he proceed to act?

What is the duty of the courts

(a) In case the charge is not denied?

(b) In case there is a denial?

Suppose a magistrate while on his way to court saw an altercation between a teamster and the chauffeur of a private auto, who accused the teamster of wantonly injuring the auto. The teamster left his wagon and assaulted the chauffeur with his fists; then after remounting his wagon gave vent to a stream of filthy, coarse and obscene language. There is no policeman in sight.

What is the power of the magistrate in such a case? What is his duty? Give the full procedure.

(Suppose the chauffeur appeared against the teamster?)

(b) Suppose he did not?

What courts have authority to compel offenders to keep the peace?

For how long?

What class of offenses is concerned in such cases?

What exceptions to such a class?

When is such an undertaking broken?

What are the penalties for breaking such an undertaking?

Suppose an officer is given a warrant to execute against A employed with five others in a sash factory on the river front, far uptown. When A and his associates see the officer they barricade themselves, refuse him admittance and jeer at him from the window. The officer fears if he leaves the place A will escape across the river. There is a train of freight cars on a siding on which there are three or four men. These are the only persons nearby. Explain the officer's duty, his powers and responsibilities in the case, the offense and penalty connected with those in the factory, and the duty of the railroad men, with penalties for refusal.

A, an insurance agent, collects several premiums varying in amount from \$9 to \$49, for which he fails to make an accounting. Then he skips the city and is located in Newburg, where he is employed. Give the full procedure that must be followed, both by the insurance company and by the police, from the time he is re-discovered up to the time of trial in order that he may be brought to justice.

In answer to a telephone call crying burglars on a cold night three policemen respond. As they reach the block three men

are seen to leave the house where the burglary was being committed, carrying bundles, and enter the front door of a house across the street. The police ring the bell, and not getting a prompt response, break in the door just as a man dashed out of the basement, is caught, shackled and chained to the areaway railing. In the vestibule an angry butler obstructs the police, but is brushed aside by the cops, who, entering and seeing a shadow cross the yard, shoot at it as a fleeing burglar, which it is not. One man is found. Being unable to find the other man, the police demand the opening of a vault-like compartment, but the butler is unwilling till they threaten to break it down, when he produced a key, with which the officer opens the compartment and enters. As he did the door sprung shut and locked him in. The butler says there is no other key. Nobody else is in the house. What is each one of the policemen to do? Have they been justified in all their acts? If not, where do they err? Explain.

A informs you that he caught B picking his pocket and arrested him. He denied that A had the right to arrest and refused to go along. Then he broke away from A and ran into a stable, closing and bolting the door. A was about to force the door when C arrived and told A to go about his business or he would punish him for destroying C's property. C was owner of the stable. A appeals to a policeman. Explain all the information the policeman should give A as to his powers and what assistance he should render to A.

## CHAPTER XV

### REPORTS

The purpose of a report is to test a man's ability to understand a subject and convey his knowledge in writing, whether he is to narrate a story, describe a condition, discuss a proposition or argue for or against a policy. Usually at least two of these things are required in the same report.

Reports are judged principally on account of the quality and quantity of the matter they contain, but to some extent on the manner of their construction and the quality of composition. While a knowledge of the subject matter is necessary to the writing of a good report, a knowledge of construction is necessary to the writing of a better one. Nobody, therefore, can expect the highest marks who neglects the fundamental requirements for composition.

The first attention is to be given to the heading containing a statement of the writer's address and the date of writing.

Wrong— January 1, 1919, New York City

Right— New York City, January 1, 1919.

The next thing in a report is the salutation and its position.

Wrong—Police Commissioner,  
New York City.

Sir:

Right— The Police Commissioner  
City of New York

Sir:

The next step is an introduction, the purpose of which is to convey to the person reading it an exact idea of the subject matter of the report he is going to make.

Wrong—I respectfully submit the following report for your consideration.

Right—In obedience to your orders is submitted a report of the manner in which the recent garment workers' strike was handled by the police of this precinct.

In the writing of the report the first important rule to be observed is to *stick to the subject*.

Wrong—The strike was declared on December 19, last.



Its object was to secure an 8-hour day and an increase in wages. Many of the employees were of foreign birth and the employer took advantage of their ignorance.

Right—On receipt of notice from Burling Brothers that a strike had been declared in their shop, I communicated immediately with the firm, and made arrangements for co-operation in handling the strikers and preventing crime and disorder. The firm was notified at the outset that the employment of bullies to beat and assault the strikers would not be tolerated.

The first is not sticking to the subject of handling the strike, the second is.

The body of a report should first have a statement of the facts followed by a discussion. The personal opinions of the writer should not be inserted at this stage.

Wrong—The strike might have been prevented if the firm had taken the trouble to consult with the employees and find out the cause of discontent.

Right—Fifty operators from the mechanical departments went on strike while eleven operators and seventeen helpers refused to join them. Those who remained expressed themselves as willing to continue to work, if protected, but unwilling to run the risk of assault. For that reason it was arranged that all should come and go by the same routes, arrive at the shop at 8 A. M., take their lunches on the premises and leave at 5:30 P. M.

After all the facts are related, there can, in most cases be a discussion. A discussion means a weighing of facts. This should be done impartially.

In not sticking to the subject, the common fault lies in taking too wide a view of what is asked. When writing upon the handling of a strike, a person is not called upon to give all the facts about the strike. When giving a plan of handling a strike his subject is different from one which describes how the strike has been handled. The one is a plan to be put into execution, the other a recital of what has already happened.

The words "in my opinion" should not be inserted in the introduction. "In my opinion" expresses a conclusion. They belong properly towards the end.

Hackneyed expressions such as "relative to," "cope with the situation," should be avoided, so should the use of small words after the sense is already complete. They are merely redundant and add nothing to what has been said already.

Slang expressions and such colloquialisms as "Don't" have

no place in a written report. Neither should a word be used unless the meaning of it is perfectly clear to the writer, nor should a sentence be used unless the meaning is clear. To make certain of this, it should be read over.

Police expressions, such as "while I was patrolling my post" or "When I arrived on the scene," I did so and so, should not be used. It is assumed that the man must have been patrolling his post, and he could not do things at the scene if he were away from it. There is altogether too much use of what is known in grammar as the gerund, that is words ending with ing, such as "walking along," "seeing ahead;" on account of them sometimes the sentence and hence the sense is left incomplete.

The man who believes he can learn to write the best reports without good training and long practice is fooling himself. Report writing is not acquired in a day, a week or a month. If it were it would be a small test of a man's intelligence.

In order that a report be effective, it must not merely contain good thoughts or interesting statements; it must be well organized as a whole. It cannot be a well organized whole, if the writer puts down thoughts or statements at haphazard, just as they occur to him. To get good organization, a plan is first necessary and he must follow that plan. He must before he begins to write, decide on a few topics and on each topic write a passage constituting a unit of the whole report. Unless this plan of organization is followed the report is likely to be a collection of pieces—not a well made whole. The ideas may be individually good, but the composition is poor. As in warfare a band of men, though strong and brave individually, is collectively weak unless well organized so a report, though its parts may be forcible, is weak as a whole unless well organized.

Two wheels, a diamond frame, a chain and a pair of handle bars all piled in a heap may be good material for a bicycle, but they are far from being a good bicycle any more than a series of haphazard remarks not organized as a whole make a good report. Material belonging in one part of the report should not be placed carelessly in another part.

Conjunctions like "but" and "and" should not be misused while care should be taken not to misuse the prepositions "of," "for," "by," "from," nor the adverbs, "when," "where," "which," "who," "whom." When these are not properly used carelessness or ignorance is indicated. They should not be omitted when their presence in a sentence or as a connection is called for.

In writing a report the writer should not shift carelessly be-

tween the present and past tense. He should decide at the beginning what tense to use and then use it consistently. The mode of expression should also be uniform. "Shall" as a sign of the imperative is used in the law. When the law is being paraphrased and not quoted directly the mode is changed and "shall" is improperly used.

When the facts have been all discussed, there may be a recapitulation, a conclusion and sometimes the expression of an opinion. It should be such an opinion, however, as is the natural conclusion that flows from a discussion of the facts and the reasons advanced. An opinion without facts and reasons is of no value. A conclusion that is contrary to the logical one that would flow from the facts and their discussion shows poor reasoning.

Some of the common faults of a report are:

1. The idea intended is not clearly conveyed.
2. The thought is not completed in the sentence.
3. The subject matter of the report is not stuck to throughout.
4. The statements are often incoherent.
5. The report is not properly organized; materials which belong in one place being placed carelessly in another.
6. Capital letters are used where they should not, and not used where they should be.
7. Two modes of expression and two tenses are often employed in the same sentence.
8. Little attention is given to where a paragraph begins or ends.
9. Statements are too general and therefore lack strength.

The simplest kind of a report is that in which the writer narrates or relates incidents that have happened. More difficult is the report calling for a description of a condition, while to discuss a subject or to argue for or against a policy is more difficult. Still most reports combine both description and discussion.

When ten facts should be stated it is not enough to state three; when the matter can be discussed from three standpoints it is not enough to discuss it from one. When a thought can be expressed in ten words it is foolish to employ thirty. The more padded a report is the weaker it is.

No fault is more common, more glaring in bad reports nor more offensive than the promiscuous use of capital letters.

Capital letters should begin every sentence, should be used where proper names are used, or the days of the week, or the

month of the year or when an important word like the Charter or the Constitution is used, or when something is quoted, or when titles are used and in a few other cases that do not come under policemen's use.

Right—Commissioner Smith was present.

Either permissible—The Commissioner said so, or  
the commissioner said so.

Wrong—We work for the City.

Right—We work for the city.

Right—We work for the City of New York.

Wrong—The Executive power is vested in the Mayor.

Right—The executive power is vested in the mayor.

Right—Mayor Jones exercises executive power.

Wrong—I found the child in the Public Highway.

Right—I found the child in the public highway.

Wrong—A Policeman's duty is to Prevent Crime.

Right—A policeman's duty is to prevent crime.

Wrong—The matter was turned over to the Detectives.

Right—The matter was turned over to Detective Smith.

Wrong—I served the Chauffeur with a Summons.

Right—I served the chauffeur with a summons.

Since facts are the most necessary element in a report it is foolish to expect to make a good report without a knowledge of all the pertinent facts and their arrangement in the proper order. Assume that the subject of the report was the necessity for ordinances to prevent unnecessary noises in the streets or other places, and the provisions which such ordinances should make. In such a case the candidate should set forth, first the conditions that make such ordinances necessary including the persons and places affected by unnecessary noises; the agencies that create unnecessary noises and then the substance of the proposed ordinances. The following facts should be woven with greater elaboration into such a report.

Anti-noise ordinances are designed to protect the nervous from irritation and consequently to protect the health of the public. A person may violate these ordinances either by an act or speech or by making unnecessary or unusual noise or disturbance or when he does anything that aids, countenances or encourages others by a speech that is profane, obscene or vulgar if done in public places. The persons injuriously affected must be either occupying the public places or in residences adjacent to them. They must either be annoyed or inconvenienced.

Hospitals and schools are to be particularly protected against unnecessary noises, the former because the health of the sick and convalescent is liable to injury, the latter because their studies would be disturbed. Borough Presidents can put up signs of warnings on the corners of the blocks on which they are located or pave the streets around them with noise lessening pavement while the Police Commissioner can divert all heavy or noisy vehicular traffic. Individuals must behave themselves quietly in the vicinity of those places and make no unnecessary noises, drive vehicles no faster than a walk and obey any regulations the police department may prescribe. Peddlers and junkmen and itinerant musicians and organ grinders are not to operate in the immediate vicinity of these institutions at distances varying according to the operator. They are not to cry wares between hours when persons sleep as people want repose nor ring bells, beat drums nor make any unusual noise, while steel rails cannot be carried loose along rough paved streets.

Courts are to be protected while sitting against any kind of noise that would disturb the proceedings, but the courts have the power within themselves to give themselves protection. Sick in private houses can on occasions get protection if they spread tan bark at their own expense outside their homes. Fowls that crow early in the morning are barred from residential districts and even barking dogs can be suppressed. The blowing of sirens, whistles and horns can be stopped.

The "Plan" is the pivot around which the following report revolves:

Write a report giving a comprehensive plan of dealing with a shirt waist makers' strike in your precinct.

New York, May 1, 1919.

The Police Commissioner,  
City of New York.

Sir: Obedient to your instructions, I am submitting a plan of police action, to guard against violations of the law, arising out of the strike of shirt waist makers at Cohen's factory, 20 West 40th Street.

Sixty-seven operators at the 40th Street factory quit work yesterday when a demand for higher wages and shorter hours had been refused by the firm. Some twenty other employees refused to go on strike, and the firm has inserted advertisements in the daily papers for workers to take the places of the strikers. It would appear, therefore, that a determined effort is to be made by both sides to win. Constant and unremitting attention by the

police will be needed to prevent violence.

I have formed a plan for giving employees protection while coming to and going from the factory, as well as for preserving order in the immediate vicinity of the place. To carry this plan into effect, four men in uniform, specially assigned are needed to cover four avenues of approach to the factory and co-operate with the regular policemen on post in preventing workers from being assaulted and beaten.

The strikers in this case are especially difficult to handle. They are all women, all foreigners, excitable and lacking in self-control. Few speak or understand the English language and most of them are willing and able to fight with the police as well as with other workers. Since they cannot be made to understand their responsibility trouble is possible.

By an arrangement with the firm, workers will be assembled from four different points, and taken to the factory in automobiles at 8 o'clock each morning. A policeman in uniform will accompany each vehicle to protect it from missiles, both coming to and going from the shop.

The strikers will undoubtedly concentrate their efforts on keeping new workers from responding to the advertisements. These new workers will have to run the gauntlet of seventy odd strikers who will picket every block within half a mile of the factory, and stop and question every person suspected. Many innocent persons are likely to be suspected, and there is grave danger of some of them being assaulted. The four patrolmen specially assigned together with the regular post men and as many plain clothes men as conditions call for will be needed to keep the pickets in hand and keep them from molesting others.

The situation is aggravated by the presence of a number of parlor socialists who are aiding and advising the women on strike. While these may help by advising a compliance with the law, their presence is likely to encourage the strikers to acts of violence on account of the moral support it gives them.

The men handling the strike are instructed to use no unnecessary violence towards the women, to show no sympathy with either side and to confine their efforts solely to the preservation of peace and the protection of life and property.

Respectfully,

JOHN DOE,

Captain 100th Precinct.

This is a report on traffic problems:

New York, January 1, 1919.

The Police Commissioner,  
City of New York.

Sir: I respectfully submit a report on the problems involved in the regulations of traffic in New York City.

The conditions of traffic involving congestion and needing correction are of two kinds, pedestrian and vehicular. Pedestrians cross the streets at points other than cross walks, often run along without looking, read books or papers while crossing, hold up umbrellas which obstruct their view and frequently stop to converse with friends in the middle of the roadway. They step on and off cars while in motion, pass behind vehicles without looking for the approach of another vehicle from the opposite direction, and frequently get excited in the roadway on the approach of a fast moving automobile, which brings about mental confusion and frequent injury through collision. Boys and children play games in the streets, jump on and off moving trucks and cars, roller skate on the asphalt pavement, coast down hills in winter and operate pushmobiles on the pavement. The roadbeds of crowded streets in busy sections are frequently used by persons afoot which often results in collision and injury.

The concentration of large numbers of employees in certain buildings congests the sidewalk at certain hours of the day. This is particularly true of the large office buildings on narrow streets in the commercial district of lower Manhattan, the loft buildings in the vicinity of Madison Square and the theatres and department stores of the Times Square district.

Drivers of vehicles drive recklessly, often leave their teams unattended in the roadway, pass on the wrong side of the street, pass too close to unloading street cars, cut corners, stop on street crossings and at other places without warning, turn in the middle of the block, back up to the curb while loading and unloading and fail to keep proper control of their horses or motors. Vehicles are sometimes operated by men intoxicated, by men without sufficient training, and by immature children. Chauffeurs are especially disposed to operate their cars at an excessive rate of speed and at night time without proper lights. Their brakes are frequently defective and their warning devices out of order.

Owing to the millions of persons, visitors and commuters who enter and leave the city daily, traffic, both vehicular and pedestrian, is at times greatly congested at the railroad stations and in the vicinity of the most prominent ferries.

The conditions enumerated cause collisions between vehicles, between pedestrians and vehicles and between one person and another. They cause persons to fall down, to be run over, injured and killed, property to be damaged and destroyed, and traffic to be delayed, impeded and stopped to the detriment and inconvenience of the travelling public. Children are sometimes injured, maimed and killed, and business of all kinds is subjected to loss and irreparable injury.

The remedy for the foregoing conditions lies in education, regulation and punishment. Education can best be imparted through a bureau specially established to teach both pedestrians and drivers of vehicles how to observe the rights of others. This can best be done by the distribution of pamphlets teaching them what to do and what to avoid, by the distribution of posters illustrating how accidents occur, by having lectures in places where people are likely to assemble such as stables, garages, schools and department stores and by means of slides in moving picture houses.

Regulation of traffic conditions can be accomplished by the adoption of proper ordinances by the Board of Aldermen supplemented by more detailed rules for the regulation of traffic, the maintenance of a traffic squad charged with the strict enforcement of such rules and ordinances.

Finally the establishment and maintenance of a traffic court, specially equipped and presided over by magistrates with an intimate knowledge of the law, the conditions within the city and of the disposition of violators who will administer even punishment will result in improvement of the conditions complained of.

Respectfully,

The three subsequent reports relate to matters on which it is the duty of the police to take action and report. This variety is an easy sort of report to write, yet the ratings on such reports are just as wide as on any other. This is because the conditions are not unusually well stated, the manner of the happening not well described and the action not properly set forth.

In one material respect the reports differ. The causes of the street accidents is set forth in detail, that of the building accident is not. In the one the policeman saw what had happened and was in a position to state facts from his own knowledge. In the other he was not in such a position since he did not know the cause and another department is responsible for that duty.



New York, May 1, 1919.

Commanding Officer, 100th Precinct.

Dear Sir: I respectfully submit a report of a collision between an automobile and a United States mail wagon which occurred at 42nd Street and Madison Avenue at 10 o'clock this morning.

While passing south on Madison Avenue my attention was called to an automobile descending the hill on Madison Avenue between 41st and 42nd Street. The chauffeur was sounding his horn furiously and the car was going at a speed which indicated that the brakes were not working properly. Several other vehicles were in the block at the time, the drivers of which saw the danger and managed to get out of the way.

A U. S. mail wagon was going east on 42nd Street. The driver looked at the approaching automobile, kept on his course leisurely and made no effort to avoid being struck. The automobile struck the front wheel of the mail wagon and overturned it, throwing the driver into the street. The hood and radiator of the automobile were crumpled in, and the chauffeur was thrown through the wind shield to the street. Two women who were passengers in the automobile were thrown forward from the tonneau, cut by flying glass and otherwise injured.

I told Patrolman Jones who was present to call an ambulance and notify the station while I went to the aid of those who were injured. I picked up the driver of the mail wagon who murmured "I had the right of way" and then became unconscious. With the aid of some citizens he was carried to the drugstore on the corner.

I found the chauffeur bruised, bleeding and unconscious and had him removed to the drugstore also. Meantime other citizens had been ministering to the two women who were still in the wreck of the automobile. They were both hysterical and suffering from shock and cuts when the ambulance arrived. They, too, were taken to the drugstore and treated. They refused to go to a hospital and were sent home in a taxi-cab. One of them before leaving, reported the loss of a lady's Tiffany gold watch.

The driver and chauffeur were removed to Bellevue Hospital, still unconscious. The driver of the mail wagon was made a prisoner on my complaint and put in the custody of Officer Jones. An employee of John Adams, the mail contractor, arrived and took charge of the mail wagon; the automobile was safeguarded pending an examination by a department expert. De-

tective Griffith who appeared, took charge of the search for the watch. The names of all the parties concerned are as follows:

Respectfully,

New York, N. Y., October 4, 1916.

The Commanding Officer,  
Twenty-third Precinct.

Dear Sir: I respectfully submit a report of a collision in which a delivery wagon, an automobile and a street car were concerned which took place on 42nd Street east of 5th Avenue at 11 o'clock this morning in my presence, and which resulted in injuries to eight persons and damage to the vehicles which collided.

At the time the accident occurred 42nd Street was crowded with vehicles and the sidewalks with pedestrians. A new building is in course of erection on the southeast corner of the street and 5th Avenue. The sidewalk is covered over at that point and the supports obstruct both street and sidewalk. Part of the space opposite was occupied by a stationary sand and material wagon while there was a large hole on the south side of the street extending along from the sidewalk covering. Lined along the north side of the street were five taxis, six automobiles, a horse cab and a repair wagon. On the south side, backing up against the curb, was a coal wagon delivering coal to 16 E. 42nd Street with a repair wagon immediately to the west. At that point where the accident happened, there is a switch rail for switching cars from one car track to the other. A large delivery wagon belonging to the Loft Candy Manufacturing concern added to the congestion.

The delivery wagon started across the street to the north just as a green street car was being switched from the east to the west bound track. The car slipped on the greasy rails, got beyond control of the motorman and struck the wagon in the center, unseating the driver and throwing him into the street. The horses took fright, sprang forward, and smashed into a seven-passenger automobile going east. The automobile was upset and the passengers thrown into the excavation which the contractors had dug on the south side of the street.

I summoned an ambulance immediately. When one arrived from Bellevue Hospital, the injured persons had been removed to Riker's drugstore opposite. Three of them were removed to the hospital; the others sent home.

With the aid of officers, so and so, I cleared the street and

after a lapse of twenty minutes, traffic was resumed.

The following are the names and dispositions of the persons concerned in the accident and witnesses:

Respectfully submitted,

Write a report of 350 words, describing the collapse of a building on your post, the results of the collapse and the action you took.

New York, N. Y., August 8, 1919.

The Police Commissioner,  
City of New York.

Sir: I respectfully submit the following report on the collapse of an apartment house at 150th Street and Moore Avenue, this morning and the action taken by me in consequence.

I learned at 10 A. M., while on my post a block away, that the Calton Apartments in course of erection at the above address had collapsed. When I reached the place a minute later I found that the front walls had tumbled into the street and carried with them the four floors already up. The scaffolding was buried under a pile of debris as were also most of the men who had been at work on the building.

From Scott's drugstore, next door, I telephoned to the station house and asked for reserves. When I returned to the building I found about twenty persons there, staring at the ruins but doing little to help those buried beneath the brick and mortar. I directed them to begin at once to clear away the debris as many of the buried workmen were still probably alive. They responded very willingly and in another minute or so had rescued eleven men of whom ten were living.

In response to my call, Lieut. Dillon appeared with ten patrolmen. Soon afterward the Fire Department men arrived, and the work of rescue was prosecuted vigorously. Ultimately twenty persons were taken out of whom only two were dead.

Ambulances from the Hope, Mercy and Rescue Hospitals arrived promptly and the physicians ordered seven persons to the hospitals and allowed eleven to go to their homes. John Jones, 10 Frankfort Street, and Frank Fox, 18 Hill Street, were pronounced dead and their bodies sent to the morgue. The names of the injured and their disposition is herewith submitted.

The Carlton Apartments have been under construction since June 1 by Dodge Brothers, builders and contractors of 1111 Broadway. They were to be eight stories on a plot 75 x 100. At various times during the work I have seen Inspectors Smith

and Kenny making inspections. No reports of the unsafety of the building reached me prior to the collapse. The building has been taken charge of by the Building Department.

Respectfully,

The following report written by a Police Lieutenant is worth at least 95% :

New York, N. Y., March 31, 1919.

The Municipal Civil Service Commission,  
City of New York.

Sirs: In obedience to your orders I submit a report on the difficulties of handling crowds on very important occasions, such as big parades, when large numbers of citizens congregate here.

Various causes may be assigned for such difficulties, but the following are the primary ones:

1. Geographical formation of the city; making it difficult to distribute the traffic equally on all streets.

2. Volume of shipping at the port of New York.

3. Streets too narrow to accommodate crowds which assemble on occasions of any demonstration.

4. Necessity of keeping certain streets open for fire, ambulance and street car traffic.

5. Unwillingness of certain residents to comply with the orders of the Police Department.

6. Lack of proper material with which to fence off certain streets or squares when it is necessary, for properly policing them.

7. Lack of foresight by members of the Police Force who are intrusted with the formulation of plans for policing large processions or assemblages.

8. Unwillingness of magistrates to punish offenders brought before them by policemen for violations of laws and ordinances in connection with parades or assemblages.

That all those difficulties may be overcome, a comprehensive plan of policing each large assemblage or parade should be formulated before the event so that all officers and men assigned to the duty of handling them will have sufficient time to familiarize themselves with it. The method of policing each parade or assemblage by itself will have to be considered, because the conditions of each will be different.

Large parades should be given permits for wide streets where the crowds that assemble to view it will have sufficient room to stand on sidewalk and roadway without interfering with the

passage of the parade. Small parades and small assemblages for any purpose should be directed to march or congregate where they will inconvenience other citizens least.

Necessary wire cables and stanchions should be provided, so that streets or squares might be roped off if the emergency arose.

In cases of great congestion of persons on sidewalk or roadway, policemen should be placed a block away from the occupied street or avenue at the intersection of right angled streets to direct the pedestrian traffic.

In military parades such as that of the 27th Division, the military authorities should be requested to police the line of march on both sides. This would release members of the police force for duty in rear of lines of pedestrians and at intersecting streets where they could prevent crowding and, if necessary, stop all pedestrians' traffic to the line of march.

All Police Department automobiles should be mobilized at a convenient location so that they could be lined up at any point where the police lines were giving way, before the lines broke. Automobiles lined closely together prove an effective barrier against any on-rush of citizens.

A mounted detail should also be placed where it would be easily accessible. Mounted policemen are very effective in holding police lines. This is due to fear by citizens of being trampled upon by horses.

A reserve force of officers and men sufficient to cope with any emergency likely to arise should be placed in a convenient place (station house) along the line of march where they can be procured in a few minutes.

It is not necessary to describe the duty of each police official here. This is done by written orders, and no one can plead ignorance of them as an excuse.

Respectfully,

In the following report on a comparison of the Bertilon and finger print systems of identification, 350 words only are used because the subject can be compared in that number of words. While the sentences are rounded out there is no waste of words.

Both systems are described, then the advantages of the finger print system are pointed out and finally there is a conclusion in accordance with the arguments, and the only logical conclusion that could be made on the statements in the report.

The report is not long because the subject is fully covered in

the space taken and any more writing would be in the nature of padding.

Feb. 25, 1915.

John Doe,

Dear Sir: I respectfully submit a report comparing the finger print system with the Bertillon system for identifying criminals.

The Bertillon system is based upon the fundamental fact that no two persons are alike in size, shape, physical appearance or peculiarities of the body. It is put in use by the taking of certain measurements of the individual such as height, chest and waist girth, length of the arms, legs, fingers, nose and different parts of the human body. It includes also the making note of birthmarks, scars, deformities and peculiarities of the mouth formation, as well as of the ears, nose eyebrows, teeth, chin and face, including the face wrinkles. In addition to these the record made takes in a statement of the person's weight, his habits, style of walking and posture in sitting, method of speaking, and all peculiarities of manner, speech or personal behavior.

Like the Bertillon system the finger print method of identification is based upon the fact that no two persons are physically alike. It takes in all the good features of the Bertillon system, but it has the additional merit that comes from the fact that physical characteristics noted by the system do not undergo change in the person identified. It is put in use by smearing the fingers with printers' ink, or by placing the fingers on a slab previously smeared, rolling them around until properly smeared and then rolling the fingers over white paper to which the impression is imparted.

The finger print system is the better of the two because it leaves a print of the patterns of the skin ridges which never change but remain permanently fixed while the person lives. With the Bertillon system records are taken of measurements which do change with time. A man often may grow stout or thin, his height decrease, his appearance alter, his habits vary, his peculiarities disappear until identification through former characteristics becomes impossible. With the finger print system records are taken of marks which time does not alter nor efface. It is therefore the better and more dependable of the two.

Respectfully,

No kind of report is more often asked for than that which calls for the advantages and disadvantages of a certain system

or-practise. The following is a sample:

New York, N. Y. Feb. 11, 1915.

The Police Commissioner,  
City of New York.

Sir: In obedience to orders, I respectfully submit my views on the advantages and disadvantages of the system of allowing policemen to interview the Commissioner directly, instead of waiting for permission to be given through official channels.

*Advantages:* The Police Commissioner will get information first hand. He will get more thorough reports on any subject of importance than could possibly come to him through formal reports. He will gain a better understanding of the men under his command, their wants and necessities; he will be able to learn more of the peculiar conditions in each precinct, get different viewpoints of his commanding officers and their suitability for different grades of work. Through this means he can improve police conditions by placing officers where they can work to the best advantage and remove to more suitable places the men whose work is unsatisfactory.

The ordinary patrolman from his practical experience may have valuable ideas of the best methods of improving certain police conditions.

Patrolmen may have personal grievances arising out of temperament which may not be agreeable to that of a superior. A man with a grievance is usually a poor policeman and the trouble can sometimes be cured by separating the men, or admonishing both to forget their troubles and remember that they have better and more important work to do.

*Disadvantages:* The Police Commissioner is a busy man. He has nearly 11,000 men under him and were even a small fraction of these to seek personal interviews other important duties would have to be neglected. Some men are likely to abuse the privilege by carrying to him trivial complaints. If the Commissioner should not be a strong-minded man he might lose his sense of proportion and give too much attention to the stories of trouble makers and those who carry scandal. Such a man might undermine discipline through giving ear to gossip and rumor and believing what he had heard without investigation. Commanding officers would become afraid of their own men and police conditions would be likely to suffer.

*Conclusions:* With the right kind of man for Police Commissioner, one who can separate the trifling from the important, get from men what they know without waste of time, the system

of direct interview affords a means of supplying the Commissioner with a knowledge of police conditions which otherwise could not be by him obtained.

Respectfully submitted,

The following report is on a complaint referred for investigation by the Police Commissioner:

New York, January 1, 1919.

The Police Commissioner,  
City of New York.

Sir: Concerning the complaint of Patrolman Jones of this precinct, alleging discrimination on the part of his associate officers, the following report is submitted:

The complaint which came from your office on the 7th inst. states that since December 18, 1918, no member of the various squads has spoken to him, that on various occasions his equipment has been hidden, that his memorandum pad has been scratched up to such an extent as to be unfit for use, that on several occasions his bed linen has been soiled, that false entries have been made in his memorandum book and that he has received intimations from a source outside the Department that if he does not get a transfer "the gang will get him."

Jones is of the opinion that the motive for the conduct of the other officers towards him lies in a steadfast refusal on his part to join the Patrolmen's Association and too great a readiness on his part to tell superiors of the delinquencies of his associates.

In substantiation of his charges Jones cites the fact that on January 8, 9 and 10 his pistol was taken from his pocket, his nippers concealed under the bed clothes and his billy dropped behind a panel. He submitted his memorandum book for inspection bearing pencil marks criss crossed with entries not in his handwriting containing false and misleading statements concerning the facts originally entered there. He called attention to a complaint made by him to Sergeant Brown concerning the matters spoken of, cited Mary Smith, the bed maker, as a witness of the soiling of his bed clothes and Frank Fox, a druggist at Ninth Street and Madison Avenue, as authority for the statement that his brother officers had conspired to injure him.

From the Sergeant, the bed maker and the condition of the memorandum book I was able to get corroboration of Jones's story. Fox, the druggist, however, said that the policeman had misunderstood him while none of the officers would admit



either a conspiracy to give him the "silent treatment" or to do him other harm. Each admitted not being on speaking terms with Jones but denied the allegation that trouble had begun on the date mentioned or was due to the causes alleged. Patrolman Swift said Jones was disagreeable and they had not exchanged words in a year; Patrolman Toms gave a private quarrel as the reason for his refusal to converse with Jones. Others said that the officer was sulky, a few merely stated that he was "no good." In fact each member of the squad gave a different reason for his own conduct towards Smith and all of them admitted a personal feeling of unfriendliness. Each, however, denied any preconcerted action and no one would admit knowledge or connection with the acts of annoyance to which Jones was subjected.

As a result of my investigations I am satisfied that there is a basis of truth in the charges, in fact that all the acts complained of have been committed. I am also satisfied that the motives stated are not the correct motives but that the real reason for the conduct of the men is Jones's own personality. He has at various times complained to me of persecution. In fact he thinks himself a martyr to duty. While he has made insinuations against other members of the force he has never carried to me any real information of delinquencies on their part. There can, therefore, be no substantial grounds for his suspicions on that score. The men say they do not want him in the Patrolmen's Association as he would be a trouble maker. I am, therefore, of the opinion that the motives he alleges are entirely incorrect.

Since it would be detrimental to discipline to grant his request at the present time, I would recommend that the matter be left in my hands for the present and that he be not transferred, as except for his unfortunate disposition he is a good policeman. If conditions do not improve I shall submit another recommendation.

Respectfully,

It will be seen that since a complaint is the basis for the making of this report, the substance of the complaint should first be set forth. It is not necessary to give the complaint in extenso. The investigations, however, should be described in detail but the manner of making them should not, while the personality of the investigator should be subordinated.

This report calls for conclusions and recommendations, and it would be incomplete unless both were given.

The next report relates to the value of blank summonses and the restrictions on their use. It differs from the previous report inasmuch as it calls only for a statement of the purposes and of the restrictions. Since the practice has obviously taken the place of something else, a short history of the subject is first properly set out. This is followed by the statements called for in the directions and brief conclusions, the whole making a report of about 400 words.

New York, November 29, 1916.

Municipal Civil Service Commission,  
City of New York.

Gentlemen: I respectfully submit a report on the general and specific purposes served by the issuance of summonses to policemen in blank under proper restrictions as provided by the Inferior Courts Act.

Summonses are issued and served for the purpose of bringing into court persons charged with minor infractions of law, without subjecting them to the hardships of summary arrest. There are two authorities for the issuance of summonses, that which belongs inherently in the courts themselves and that which is derived from the inferior courts' law.

Prior to the enactment of the Inferior Courts Law there was some question raised as to the right of magistrates to issue summonses for minor offenses. That question was settled by the law passed in 1910 which specifically gave to magistrates authority to issue summonses for violations of the motor vehicle law and of corporation ordinances. This law provided also that summonses could be issued in book form and given to peace officers to be served by them when the violations occurred in their presence. The effect of this provision is to enable the courts to get jurisdiction of minor offenders without subjecting them to the inconvenience, the humiliation and the punishment connected with actual arrest. They are served subject to the provision that offenders are able to identify themselves. The practise has the additional merit of saving the time of the offender, of the policeman, desk officer and of a lot of other officials which would be taken up necessarily in a stretch of routine work in the event of an arrest.

Unrestricted use of summonses might result in their being put to the purpose of extortion by corrupt and unscrupulous officers. To provide against this contingency rules have been adopted by the Police Commissioner. These rules provide that

all summonses must be accounted for and when a summons is lost or mutilated the fact must be reported by the officer without delay.

In the case of motor cycle officers additional precautions are taken. The exact time of service, the specific violation and the name and address of the person served must be entered on the stub in ink or indelible pencil before the summons is filled out and the exact time of service has to be put on the summons itself, the desk officer has to be notified immediately and furnished with the serial number of the summons, the exact time and place of service, the specific offense and the name and address of the person summoned. These facts have to be recorded in the blotter and the stub itself turned in at the end of the policeman's tour of duty.

The foregoing precautions are designed to prevent a policeman from changing, tearing up or taking back a summons and thus prevent a corrupt collusion between the policeman and the offender by which the latter would be able to escape punishment.

Write a report giving a comprehensive plan of dealing with a shirt waist makers' strike in your precinct.

### **Effects of Prohibition**

New York, January 10, 1920.

The Police Commissioner,  
City of New York.

Sir: In obedience to orders is submitted a report on the probable effect of the Prohibition Law on the morals of the community and the work of the police.

There are about six thousand (6,000) places in this city where alcoholic liquor is sold to be consumed on the premises. The majority of them are conducted in a respectable and orderly manner, the patrons are respectable men and women who when they use alcohol, do so in moderation. Many of such places will be driven out of business by prohibition, the patrons inconvenienced, financial loss will be suffered by the proprietors, and the community at large will not be benefited to any great extent. Some other places are neither respectable nor orderly; the patrons are principally vicious, immoral, intemperate, and criminal. In them the weak father, son, or daughter finds temptation that leads to ruin. These places will not attract patrons when they cannot supply liquor consequently they will go out of business,

the community will benefit and the work of the police will be decreased.

There are about fifty (50,000) thousand persons employed in the sale of liquor in this city who have one hundred thousand others depending on them for support. Many of those will lose employment through prohibition; those who do and who are law abiding will seek other employment. If because of inexperience or physical condition they are unable to get it they will become public charges. Some who will lose their employment are neither respectable nor law abiding, particularly owners of or bartenders in tough saloons and hotels. These will not all seek honest employment, but try to gain a livelihood by unlawfully manufacturing, selling liquor or narcotics, keeping gambling or disorderly houses.

There are about six hundred (600,000) thousand persons in this city who use liquor moderately or excessively. The moderate users will adapt themselves to prohibition—offending once in a while perhaps by using liquor when they can procure it with safety, or by manufacturing it in their homes in small quantities for home consumption. The excessive users will obtain it if possible, drink it to excess when it can be obtained and resort to the use of narcotic drugs when it cannot, with the result that unless persistent police efforts are made to stop the practise, the number of drug fiends will be enormously increased. In addition a great many persons tempted by the large profits, will manufacture, sell, procure, or distribute alcoholic liquor unlawfully. It will be principally manufactured in the tenement sections of the city, and in garages, stables, cellars and outhouses in all sections of the city particularly in the farming sections. It will be smuggled into the city from foreign countries and from the suburban localities. It will be sold in hotels, candy stores, restaurants, tenement houses, barber shops, bowling alleys, drug-stores, groceries, etc. It will be procured by bell hops, hack drivers, chauffeurs, waiters, etc., and it will be drunk by the people who have always drunk it.

To cope with the conditions described the police force should help to get employment for all persons who lose their jobs through prohibition and who need aid; organize a special squad to deal with this particular law, get the co-operation of the Inspectors of License, Health, Tenement and Fire Departments in detecting violations, also the Police Reserves and public spirited citizens; co-operate with Federal officers in guarding steamboat landings and railway terminals to prevent smuggling, arrest all

persons found intoxicated and try to learn where they procured the liquor; pay special attention to localities in which persons are often found intoxicated, establish a bicycle patrol to prevent smuggling into the city, make special effort to prevent the unlawful sale or use of narcotics, drugs, etc.

If the police force act intelligently and persistently the prohibition law will probably improve the morals of the community, decrease poverty and crime, lessen the work of the police, and make this city and the United States a more prosperous, healthful and happier place for this and future generations to live in.

But there is a tradition that no unpopular law ever proved a blessing.

Respectfully,

Sometimes reports are put in the art class or the scientific class. A policeman's report belongs in the scientific class. He should deal only with hard facts, cold reason and logical conclusions.

In the other kind of report different qualities are brought into play. Imagination, satire, figures of speech, humor, pathos, irony and many others. These, however, must be eschewed by policemen. They must not attempt to imitate the style of the sensational newspaper, nor even the style of the humorous story such as is sometimes indulged in, but in other respects the style of the editorial columns is worth imitating. So is the style of any serious article where facts are given and conclusions drawn.

### NOTE

By the laws of 1919 it is made vagrancy to secure another for the purpose of prostitution, to receive another, to offer one, agree to receive another into a structure that passes for a building for such purpose, knowingly permit such one to remain or aid and abet in any of the acts enumerated in Section 887, Subdivision 4 of the Criminal Code. A common prostitute is almost made a vagrant.

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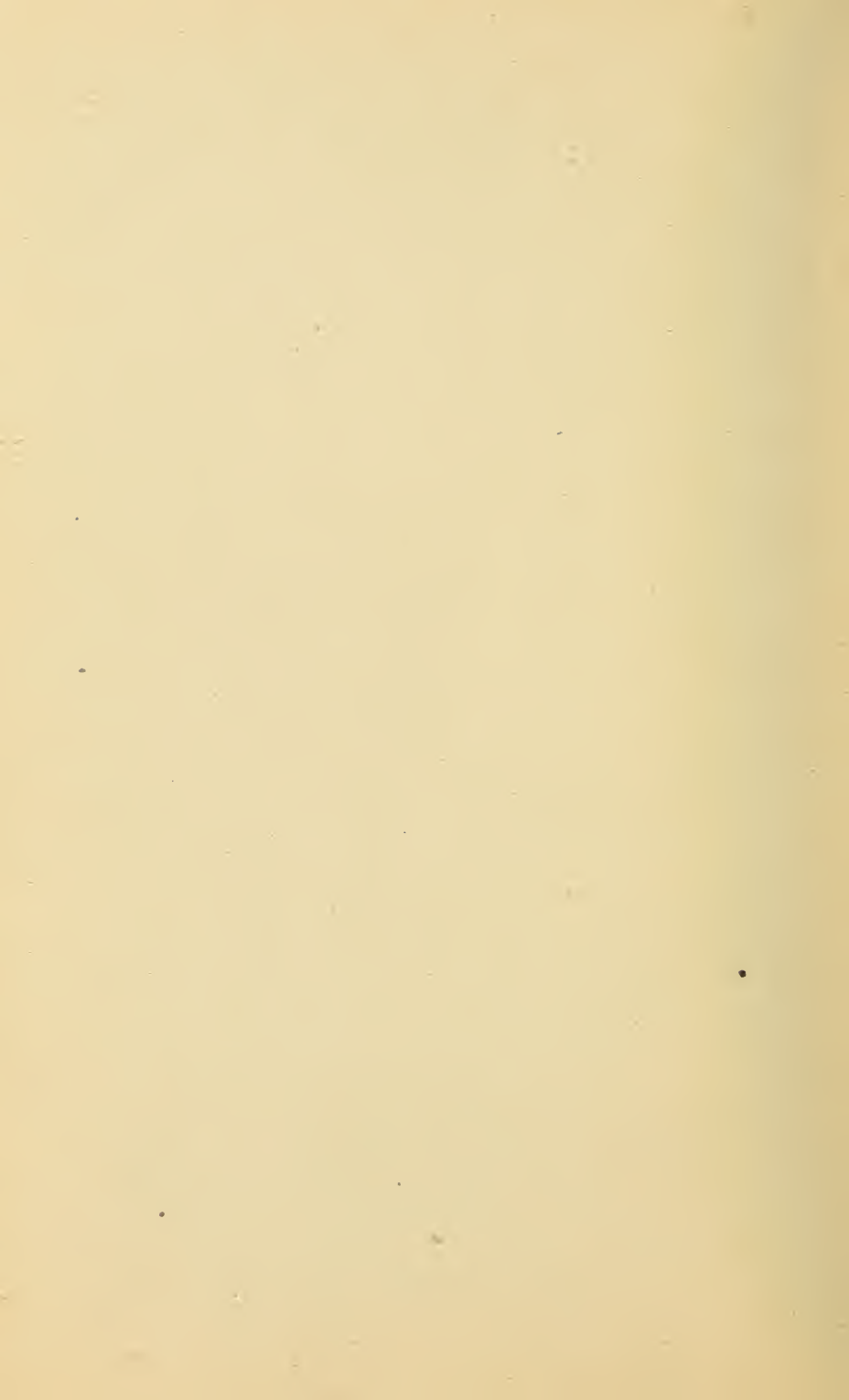
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