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Editorials

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EDITORIALS

A NON-PARTISAN JUDICIARY.

As this issue of the Kentucky Law Journal goes to press we are confronted with a situation which is heartily condemned by many of the foremost members of the Kentucky Bar. Under our conception of liberty and good government it is absolutely essential to maintain the independence and integrity of the judiciary, both Federal and State.

On the day of election the voters of Fayette County, for example, will state their preference for the candidates for Circuit
Judge for Fayette County. The candidates for the judiciary are stumping the county with diligence, vote-seeking here, wire-pulling there, hand-shaking everywhere, just as are the candidates for Sheriff, Commonwealth's Attorney and Coroner. The vote of the electorate will follow party lines as closely in the judicial race as in any other. The Circuit Judgeship is in politics up to the hub and all the faults of our present political system are fastened upon the judiciary, a non-political department of government to the same extent that such faults are attached to the legislature, a purely political department. Such a situation is fundamentally wrong and its abolition should be the aim of those who are interested in the maintenance of an independent judiciary. If the present system is allowed to continue then the expiration of six years will probably find the "Judge" seeking re-election, which means that during his incumbency he has been at least tempted to "trim his sails" to meet popular approval. To expect anything different is to expect human nature to reverse itself in a day—an event not very likely to occur.

The people prate of an independent judiciary, yet refuse to take the step which would guarantee judicial independence. That step is the appointment of judges for life or during good behavior as is the case under the Federal Constitution. Such a step would not violate democratic principles but would offer a guarantee against judicial demagogism. During the Revolutionary period where the spirit of pure democracy most nearly manifested itself in the creation of state governments, the term of office of judges in eight of the thirteen states was during good behavior.

A. Lawrence Lowell, in his Essays on Government, p. 40, truly remarks that "The authority of the courts is the most vital part of our government, the part on which the whole system hinges.

Alexander Hamilton, in the Federalist, No. 78, says: "The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a Monarchy it is an excellent barrier to the despotism of the Prince; in a Republic, it is no less an excellent barrier to the encroachments and oppressions of the representative body." This reasoning is as sound in principle today as it was in the time of Hamilton.
Professor Burgess, in his Political Science and Constitutional Law, Vol. II, page 365, describes such a system as the "Aristocracy of the Robe," but such is far more to be preferred than the demagogic influence of the mob.

THE CRIME CURVE.

From the time we have any accurate history of our remote ancestors to the compiling of our latest criminal statistics, we discover that the per cent of crime has always increased. There have been transient variations and slight changes in the nature of crimes, but the general trend has always been upward.

The best writers of criminal phenomena give three sources from which crime may flow: (1) The climatic conditions of the country; (2) the economic conditions, and (3) the social and domestic or the home environment.

Let us take the first source, and examine the relation of climate to crime. When we compare statistics, we find that the great criminal countries of the earth are southern countries. Other conditions may bear on this result; but we take northern peoples in the same economic and social conditions, and crime among them is considerably less. It cannot be the difference of race, for the people of the same race in the north are less prone to commit offenses than their southern brothers; and notwithstanding the bad economic conditions in winter, more crime is committed in the summer season. But climatic conditions are beyond the control of man, and if that were the only cause of crime, the ratio would remain fixed, and neither increase nor decrease.

We shall next turn to the second cause of crime, and inquire into its effect on the increase of crime. Depressed economic conditions may vary the nature of the offense, but it does not play any great part in changing the volume. Wealth is an instrument that may be used for good or evil purposes. The lack of money might cause one person to commit robbery, an offense against property, while the possession of wealth might enable another to commit a greater crime against the person. If poverty or destitution were
the chief cause of disturbances, then, in times of greatest prosperity crime would almost disappear, and in those countries most prosperous there would be the least crime; but neither of these circumstances holds good. Australia, the most prosperous of the British possessions, has a larger per cent of delinquents than Ireland, the poorest of English speaking peoples, and India, which has as much poverty as any country, has less crime than any people on earth.

Do the various degrees of punishment make any noticeable change? England, when she had over two hundred offenses punishable by death, had more criminals than she had under the old system of punishment; the northern tribes in Greenland and Canada, that know no punishment, are unmolested by criminals, while crime in France throve in the face of the guillotine.

The above mentioned influences are insignificant when compared with the third cause of crime, the social and domestic environment. India, in spite of economic conditions and poverty, stands high in virtue, because of her social environment. Every person in India is associated with some family or group of people, and, consequently, feels some moral obligation to his associates, while in our country and many others, the great commercial strife has practically obliterated the family and social group. Large families are broken up, and their various members, from mother to small children, have a different occupation. We find that in those countries where women perform labor outside the home, the increase in crime is very noticeable. Nearly half of all crime manifests itself in the youth, in some form, before the child is over fourteen years of age. Proper environment would come more nearly striking the source than severe punishment after the individual has become a hardened criminal.

The present appalling number of crimes, we believe, can better be assigned to our large drifting population of people who have no fixed abode, and some of whom even have no relatives in this country, than to the poverty of the criminal. Punishment, then, would merely touch the surface, and leave unmolested the unstable conditions that generate crime.
ENFORCING THE EIGHTEENTH AMENDMENT.

The Federal Constitution is our principal instrument of government and every right guaranteed by that Constitution is as sacred as the ark of the covenant. It is absolutely essential that each article of the original draft as adopted and each amendment subsequently added should be diligently guarded. The 18th Amendment is just as truly a part of the Constitution as any one of the original articles. Being an integral part of that sacred document the 18th Amendment solicits the support of every American citizen and its provisions are morally binding. Yet thousands of our citizens take great pride in repeating the ignominious phrase “Prohibition does not prohibit.” Slavery, a twin evil of liquor, was abolished after a severe struggle which finally resulted in a constitutional amendment forbidding involuntary servitude. The dry amendment came as a result of years of agitation by the anti-liquor forces, the final conflict being waged in Tennessee. The National prohibition (such as it is) is no longer a thing to be hoped for or an object of the imagination, but it is an existing reality. The 18th Amendment is on the same footing as that concerning slavery and should be respected in the same manner. Moonshiners, boot-leggers, and those who consume the forbidden liquors must be branded as citizens of the most treacherous type. Public officials, police, and private citizens who share in the undermining of our amended Constitution break faith with its original makers and tend to encourage the already nation wide crime wave. Prohibition will prohibit when the indifferent public lends its support to the enforcement provisions, but until this is done we cannot hope to reap the full benefits of prohibition.

NOTES OF THE LAW SCHOOL.

The Law College has at this time an enrollment of 74 bona fide law students and 11 students from the other colleges are taking work in the department, making the total 87. Several of the old students failed to return this year, some because of graduation and others because of the lure of other colleges. However we have in their places a number of new faces among whom are: Roy Moreland, Phil Powell and J. G. Bruce, A. B., graduates from Transylvania University;
Beginning with this year no student can matriculate in the College of Law who has not had one year's work in the College of Arts and Science. Consequently we have a more mature body of students in the department than in previous years.

Professor George W. Goble, whose efficient work and cheery disposition endeared him alike to faculty and students, is no longer with us. He resigned to accept a position as instructor in the College of Law of the University of Illinois. The best wishes of the entire College go with Mr. Goble in his new field of work.

The vacancy occasioned by the resignation of Professor Goble has been filled by securing two members of the Lexington Bar to teach the subjects taught by him. The new members of the faculty are: Mr. George W. Vaughn and Mr. William E. Nickols. Mr. Vaughn was educated at Transylvania and received his LL. B. degree from the University of Virginia. Mr. Nickols is an A. B. from Georgetown and an LL. B. from the University of Virginia.

E. H. Dummitt, '20, was here the past week substituting for Professor Nickols. Those of us who had the pleasure of being in his class realize that Mr. Dummitt is an efficient instructor and we sincerely believe that should he decide to drop the practice of law he would undoubtedly make a success as an instructor.

Mr. and Mrs. John L. Williams, who were students in the College of Law last year, have announced the arrival of a daughter whom they have named Margaret Lafferty in honor of our beloved
Dean. We hope they will return next semester and bring John, Jr., and Margaret Lafferty with them.

Emory Frazier, Lawrenceburg; Berl Boyd, Sedalia; Robert Tomlinson, Lancaster, '21, and James Park, Richmond, '20, are making the race for the Legislature. The Law Journal hopes they will all win by a big majority.

Members of the class of '21 have located as follows: M. K. Eblen, C. O. Burton, Wm. Milam and Sam Cole, Lexington; Robert Hayes and Robert Tomlinson, Lancaster; Richard Hagan, Louisville; George Ross, Richmond; W. C. Benton, Winchester; Dillard Turner, Frankfort, and William Minnehan, Louisville.

Phi Alpha Delta, honorary law fraternity, announces the pledging of the following men: Calvin Lisman, J. B. Watkins, Elbert Sparks, W. W. Kirtley, W. C. Pickett and Sidney Neal.