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Punishment of Perjury

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AMERICAN BAR RECOMMENDATIONS

The American Bar Association, at the recent Memphis meeting, adopted a resolution setting forth the following as a declaration of principles, without requesting legislation to make the same effective:

1. That there be available to every criminal and juvenile court a psychiatric service to assist the court in the disposition of offenders.
2. That no criminal be sentenced for any felony in any case in which the judge has any discretion as to the sentence until there be filed as a part of the record a psychiatric report.
3. That there be a psychiatric service available to every penal and correctional institution.
4. That there be a psychiatric report on every prisoner convicted of a felony before he is released.
5. That there be established in each state a complete system of administrative transfer and parole, and that there be no decision for or against any parole or any transfer from one institution to another, without a psychiatric report.
6. That the various state and local bar associations be requested to give consideration to the recommendations as a part of their programs during the coming year, and for this purpose to secure the cooperation of their respective state and local medical associations.

THE LAWYER—LEARNING AND FEE

We commend the following from the statement of Mr. F. G. Tyrrell of the Los Angeles Bar:

"The most important function of government is to secure as near as may be, equal justice between man and man, between man and society, and in this function the lawyer is the principal agent. Not the court or the jury, but the lawyer stands at the portals of the Temple of Justice, deciding who shall and who shall not enter, and he accompanies the petitioner to its Altars, and there officiates as the Minister of Justice. This task involves responsibilities to the State that must forever establish the practice of law as a profession, not a craft or trade, or a mere means of livelihood.

"Now, when attorney and client are negotiating, how much should be charged by the attorney? How much should the client be willing to pay? Both should reflect that no man can serve efficiently, in the multiform tasks of the lawyer, if he is worried over the problems of subsistence. Pecuniary compensation adequate to the work performed is a good investment for the client and a necessity to the lawyer. The self-respecting attorney will not condescend to 'dickering,' and will make short shift of clients who 'shop' or 'peddle' their business. But the situation is one that sometimes requires the lawyer to be, for the moment, a patient teacher, educating the client to the ethics and requirements indicated."

PUNISHMENT OF PERJURY

We quote the following editorial from The Panel, the monthly publication of the Association of Grand Jurors of New York County, New York: "Too often does perjury confuse and clog our legal machinery, and go unpunished—in spite of the fact that perjury is considered a major crime. The very fact that it is a major crime is

its reason for going unpunished so frequently. Contempt for law and honest principles should be prosecuted, instead of being permitted to flourish and encumber our court procedure with prevarications, deliberate delays and needless expense. . . . The severity of sentences reacts upon the petit jury and adds a new responsibility to the juryman's task. As perjury is considered in the light of carrying a severe penalty, and alternative should be provided to prevent the 'neck or nothing' theory which goes with its prosecution. . . . The bill proposed provides this alternative: 'Any person, who in any action or proceeding. . . wilfully and knowingly testifies, declares, deposes or certifies falsely . . . any matter to be true which he knows to be false . . . is committing a crime, and it is time this fact was brought home to everybody who deliberately makes, or intends to make, a false statement under oath. . . . The bill should be given the support of every citizen . . . in the interests of justice, honesty and progress.'

TO OR FROM WORK

There have been some modifications of the rule that workmen are not in the course of their employment while going to and from work. A very recent decision of the Court of Appeals of New York, *Marks' Dependents vs. Gray*, 167 N. E. 181, deals with these modifications. The facts were: A workman, whose wife had gone to a nearby village to visit, promised to call for her at the end of his day's work. His employer received a call for some work at a house in the same village, a job requiring 15 to 20 minutes work. Learning that the employee was to make this trip, the employer requested him to take his tools and attend to the work. Nothing was said about pay, but the general expectation was that after-hour pay rates would govern. When about a mile from this village, the workman had an auto accident and was killed. The claim was for death as a result of an injury in the course of employment. HELD: The employment did not take the decedent to the village. The work to be performed was a mere incident of the trip and did not create the necessity for the traveling. "The journey would have gone forward though the business errand had been dropped and would have been cancelled on failure of the private purpose though the business errand was undone." Hence, the travel as well as the risk was a personal risk, and compensation can not be awarded.

SIMULATION OF COURT PROCESS

The practice of individuals and concerns in making use of forms which have all of the appearance of court process or orders is growing to an extent where legislative action is certainly warranted. We are advised by attorneys from various parts of this state that these individuals and concerns have country-wide connections, the claim being made that several of them represent more than a hundred forwarding agencies.

Other states, notably California, have taken action with respect to such vicious practices. Section 526 (new) of the California Penal Code provides that the delivery, with intent to obtain money or other thing of value, of any paper or document purporting to be the pro-