

CRIMINAL LAW

8. A police officer's first and most important duty is to stop people from committing crimes and to protect life and property. This is called "crime prevention." His second duty is to arrest and prosecute people who have committed crimes.

Like a doctor. Stopping people from getting sick is even better than curing them afterward.

To do either of these duties he must know what a crime is and when the law says one has been committed. That is what this part of the course is to tell you.

Why should a police officer know about the criminal law?

FELONIES AND MISDEMEANORS

9. The serious crimes are punished by death or by imprisonment in the state penitentiary. Crimes punished in either of these ways are called "felonies."

What is a felony? When class is to be drilled in a word always put it on the blackboard.

Less serious crimes are punished by imprisonment somewhere else than in the penitentiary (for example, in the jail or House of Correction) or by a fine. Sometimes the judge is allowed to choose whether to send the prisoner to jail or to fine him, or to do both. All these less serious crimes are called "misdemeanors." Those misdemeanors that are punished by imprisonment, or where the judge can imprison, if he wants to, are called "graver misdemeanors" (that is, serious misdemeanors). Those where a fine is the only punishment are called "minor misdemeanors."

What are misdemeanors? How are they divided? What difference is there between the kinds of misdemeanors. What are they called?

DOING PHYSICAL INJURY TO OTHERS

10. Doing physical injury to another person, without a good excuse, is, of course, a crime. And the worst injury that can be done to a person is to kill him, so, naturally, killing another person is generally considered the most serious crime. Such a killing may be either the crime of "murder" or the crime of "manslaughter." Murder, the statute says, is a killing with "malice"; manslaughter, a killing without malice. This, of course, makes it necessary to know exactly what the law means by malice.

Drill on meaning of "murder," "manslaughter."

The killing is said to be with malice, and so murder, (1) where the prisoner wanted to kill *somebody* (even if he wanted to kill somebody else from the man he did kill); or (2) where he was doing something against the law that was *very dangerous* and that he knew might *very likely* kill or seriously hurt somebody; or (3) where he happened to kill somebody while he was trying to commit a *felony* of any sort (even if he did not mean to kill anybody and even if he did not expect that he would).

Give numerous illustrations. A stick-up man gets nervous, pulls the trigger, and kills his victim. A gunman means to kill a man; his bullet misses but he kills another man across the street. Ask the class for other illustrations.

11. The killing is said to be without malice, and so only manslaughter, (1) where the prisoner killed somebody while the prisoner was doing something he had a right to do, but did it *carelessly*, and on account of that carelessness caused the death. (2) It is also manslaughter where he meant to do something that he had *no right* to do (but where the thing he wanted to do was only a misdemeanor, not a felony) and while doing it happened to kill somebody. In both these cases he does not seem quite so bad to us as the man who killed with malice.

Ask class for illustrations and give some yourself: the careless automobile driver who kills somebody; the butcher whose bad meat

killed a buyer, where the law made it a misdemeanor to sell bad meat, and so on. Which is worse, murder or manslaughter? Why? A burglar kills a citizen whose house he has entered; is it murder or manslaughter? Why? Bring up and ask about other cases.

12. Sometimes it may happen that a man loses his temper and intentionally kills, under circumstances where any reasonable man would also certainly lose his temper and kill. As such a killing is wrong and as he certainly wanted to do the killing this looks like murder, but on account of his reasonably losing his temper the law is not quite so hard on him, and calls it only "manslaughter." But the law is very strict. It is not enough that the prisoner lost his temper. A reasonable man would have to, too. For example, where the man killed had just hit the prisoner, or where he was just having intercourse with the prisoner's wife. But the law says that calling a man names, no matter how bad, should not be enough to make him lose his temper, and if he kills on that account it is murder. Even where the prisoner had a right to get angry, it will not help him, if he killed after a reasonable man would have cooled off and got control of himself again; if his temper kept up that is his fault—he has committed murder. When the prisoner had a right to get angry the law says he had "provocation."

What does provocation mean? What does it get a prisoner to show that he had provocation? The various paragraphs above cover all the criminal killings. Think up a number of killings under different circumstances and ask whether it would be murder or manslaughter. Always make the student give his reasons fully.

13. The punishment for murder is death or fourteen years to life in the penitentiary. For manslaughter it is one to fourteen years.

14. Not every killing is criminal though. (1) It may be an accident and nobody's fault, as where an auto's steering gear breaks and the auto plunges on the sidewalk.

Ask the class for a few illustrations.

(2) It may be in self-defense or in defense of one's home against someone who is trying to break in so as to commit a

serious crime. If the prisoner mistakenly thought he was in great danger when he really was not, his mistake will not help him, he will be guilty, unless a reasonable man would have made the same mistake too. But if a reasonable man would have thought that he was in danger and the prisoner thought so, the law treats him as if he really was in danger and says it was all right for him to defend himself. Self-defense will not permit using more force than necessary; for example, a boy armed with a knife attacks a grown man, who kills him, when he could have just taken the knife away from him. And if the prisoner started the fight he cannot claim self-defense unless he clearly showed the other man (by running away or by his words) that he wanted to stop fighting—if the other man, after he knew the danger was all over, still kept on fighting, the prisoner had a right to defend himself.

Bring up various situations which may or may not be good self-defense and ask the class about them. Make them give reasons for their answers. For example, killing a burglar. Ask for examples where self-defense would not be good.

(3) A man is not limited to defending himself. If he sees somebody else being attacked and in great danger, he may protect that person and even kill the attacker, if that is necessary.

As usual, put situations before the class and ask them about them.

(4) A police officer, even when he knows he is not in any danger himself, may sometimes kill a man who is resisting arrest or who is running away after he was arrested. We will take this up later on in the course.

Is murder a graver misdemeanor? A felony? Why?

Statutes, c. 38, secs. 358-73a

15. Just as it is a crime to kill a person, it is also a crime to *hit* somebody unless it had to be done in self-defense or in stopping him from stealing one's property. A citizen has a right to stop a thief who has just picked his pocket by knocking him down. If he could only stop him by killing him he must rather let him go, but hitting him is all right.

When does the law allow a man to hit another?

Hitting a man is called "assault and battery." It is also criminal if you just try to hit another, even if you do not succeed. Trying to hit him is called "assault." Both of these crimes are punished by fines and not by imprisonment.

What is an "assault"? What is an "assault and battery"? What is the difference? Are they felonies? Graver misdemeanors? Minor misdemeanors?

16. But there may be other facts besides the mere hitting or striking, and these other facts may, for one reason or another, make the crime worse and the punishment more severe. For example, the assault may have been with a deadly weapon (such as a revolver, knife, etc.), with the intention to cause a serious injury; it is plain that this is more serious than merely hitting with the fist, and it is punished more severely, by either fine or jail or both. If the assault is by a person wearing a hood or a mask the prisoner may even be sent to the penitentiary. He may be sent to the penitentiary if he made the assault with the intent to kill his victim or to do some other serious crime. All these are, in one way or another, far more serious than just hitting another.

Drill the class in the various kinds of aggravated assaults, making sure they see why these situations are picked out and followed by specially severe punishment.

17. If the prisoner did some injury that can never be cured, such as cutting off a leg, or an ear, putting out an eye, and so on, he is guilty of "mayhem," and may be sentenced to the penitentiary.

Ask the class to suggest other injuries that would be mayhem. For example, cutting off the nose or lips or arm.

18. According to the statute, if any two or more persons shall commit an assault and battery for the purpose of getting somebody to confess a crime, it is a felony, and so is punishable by a penitentiary sentence; merely threatening violence is a graver misdemeanor.

How does this differ from an ordinary assault and battery? Why does the law have a special provision for assault and battery to get a confession? Does this section also apply to police officers?

Statutes, c. 38, secs. 55-60a, 379, 448

19. There are still further ways of committing a crime on someone. One of these is "false imprisonment," that is, not letting him go freely where he has a right to go. It does not necessarily mean locking him up in a room. Surrounding a man in an open field and not letting him move away when he wants to do so may be as much a false imprisonment as locking a door on him. It may carry a jail sentence.

What is the idea of imprisonment? How can a man be imprisoned if he is out in the open? Does the imprisoning have to be done forcibly?

20. From what you have just read you will see that a man can of course be guilty of false imprisonment even if he used no force on his victim at all. But suppose that he *forcibly* carried him off or locked him up, or did it *secretly*, so as to hide his victim. Plainly this is a more serious crime. It is called "kidnapping." It means a heavy fine or the penitentiary. There are some special kinds of kidnapping that carry extra long sentences, because they are specially dangerous or harmful. One of these special situations is where the prisoner wore a hood or a mask while he was doing the kidnapping. Another is where the person kidnapped was child twelve years old or younger, when as much as a life-sentence may be given. And the punishment will be heaviest of all (it may be as much as a death-sentence) if the person who did the kidnapping did it so as to get ransom money.

To be a case of kidnapping the prisoner must have meant to hide or imprison the person kidnapped. So a kidnapping is really just a specially bad kind of false imprisonment, just the same as mayhem is a specially bad kind of battery.

Give various situations and ask class about them, so as to bring out that kidnapping is like false imprisonment plus (1) either a forcible or secret taking, and (2) intention to hide the victim away. Why do these added facts make the crime worse? Why does wearing a mask make a difference? Can a grown man be kidnapped? When could a child's father or mother be guilty of kidnapping? Answer, of course, would be (for example) when parents have been divorced and one parent is given the children and the other steals them away.

Statutes, c. 38, secs. 2, 252, 384-86

SEX OFFENSES

21. Another very serious crime is rape, which is punished by a penitentiary sentence of from one year to life. It is committed when a man forcibly has intercourse with a woman (not his wife) against her will. A husband cannot be guilty of raping his wife, because the law says that when they were married she gave her consent to intercourse and cannot take it back. Even if the girl was willing, it is still rape, if she was less than sixteen years old; her consent does not count for anything at all, as the law says she is too young to know what she is doing. If the prisoner marries the girl he is no longer guilty.

Does it make a difference whether the girl is fourteen years old or twenty? As a review question asked what a man would be guilty of if he knocked a girl down meaning to have intercourse with her but was arrested before he did so? (*Answer:* Assault with intent to commit a felony.) (It would also be an attempt to commit rape, but the class has not had attempts yet.)

22. Even where a girl sixteen years old or older consents to have intercourse it is still a crime (called "seduction") if the man got her consent by falsely promising that he was going to marry her. But it is only seduction if she was of chaste character before then and if she was less than eighteen years old. Just as in rape, if he marries her he is no longer guilty. Seduction is punished by jail or fine.

What is the difference between rape and seduction? Which is worse? Why? What is rape? What is seduction? Graver or minor misdemeanors? If a man falsely promises a seventeen-year-old prostitute that he will marry her, what is it? A girl of good morals, nineteen years old? A good girl, seventeen years old? A fifteen-year-old prostitute (make *sure* all see *why* this is rape; her consent is no good at all)? What effect will marriage have?

Statutes, c. 38, secs. 490-91, 537

23. Rape and seduction are alike in one respect: They are both crimes against girls who did not want to be immoral (or, in the case of rape, a girl who was too young to realize how serious a thing she was doing); the man is punished because of the wrong he did the girl. If a man has intercourse with a

grown woman who is perfectly willing and is not deceived in any way, we cannot say that he is doing her a wrong; it is not like rape or seduction. But still such conduct is immoral and offensive to moral people. For this reason it is made a crime for a man and a woman to live together in open immorality. This crime is called "adultery." It is also called "fornication." Both the man *and the woman* are guilty. Each time a prisoner is convicted of this offense the punishment is increased. But it only carries a jail, not a penitentiary, sentence.

How does adultery differ from seduction or rape? Does it make any difference whether the woman was of good moral character or not? Why not? Point out that the punishment increases on second and third convictions, and so on. Tell students that they are going to have more situations where second convictions are punished more severely than first are.

Statutes, c. 38, sec. 46

24. If the man and woman went through a marriage ceremony, and lived together, with people thinking that they were man and wife, there would not be the offense to moral people that was just spoken of in adultery. But if the marriage was really of no effect, because one or both of them were already married and the first husband or wife was still alive, a crime has been committed called "bigamy." Even if a husband (or wife) disappears and the prisoner honestly thought he was dead, she will be guilty if she marries and he then is found to be still living, *unless* he has been gone without a word from him for five years or more; if she waits that long before marrying again, she will not be guilty of bigamy even if he does turn up again. Bigamy is a felony.

See that class realizes that bigamy is a crime that both men and women can be guilty of. Is this true also of adultery? Rape? Seduction?

Statutes, c. 38, sec. 75

25. Just as the law steps in and forbids people who are already married to marry a second husband or wife, so it also steps in and forbids near relatives from marrying each other *at all*, or even from having sexual intercourse with each other. By near relatives we mean parents with children, uncles or

aunts with nieces or nephews, and first cousins with each other. This crime is called "incest," and may carry a penitentiary sentence of as much as twenty years.

Can a prisoner excuse himself from the charge of incest by showing that he married the girl? Why not?

Statutes, c. 38, secs. 374-75; c. 89, sec. 1

26. The crimes which have been just described are often called sex offenses. A crime of a very different sort, but which is often discovered in connection with sex offenses, is "abortion." It is a felony which is committed by anyone who causes or tries to cause a pregnant woman to miscarry. The only excuse is when a doctor does it so as to save the woman's life. It makes no difference what means are used, whether instruments, drugs, or any other means. To help keep down abortions it is also made a crime (but only a misdemeanor) for a druggist to sell (except on prescription) drugs which could produce an abortion; or for anyone at all to advertise such drugs or instruments or information where they can be got (but such advertising is a felony).

What is abortion? What must druggists and others not do? What reason is there for letting druggists selling drugs get off easier than people advertising them?

27. If a mother hides the death of a child which, if it had lived, would have been a bastard, so that it cannot be told whether it was murdered or not, she is guilty of a graver misdemeanor. Of course, if she herself killed the child she is guilty of murder.

To what situation does this crime apply? Notice that there must be a concealment and the child must be one who would have been a bastard.

Statutes, c. 38, secs. 3-4, 6, 136

28. Coming back to sex offenses, the law also punishes anyone taking indecent liberties with children less than fifteen years old. "Taking indecent liberties" includes any sort of act tending to arouse or satisfy the sexual passion of the prisoner or of the child. It also includes taking a child to some place where such acts are going to be done. It is a felony.

What does this crime include? Suppose a man has intercourse with the girl child, does anyone remember a crime, already discussed, that he would be guilty of? Suppose that the prisoner could show that the child was willing to have the liberties taken, is that a defense?

Statutes, c. 38, sec. 109

29. Unnatural intercourse between human beings, or between a human being and a beast, is a felony. It is known as the "crime against nature" and as "sodomy."

Statutes, c. 38, sec. 141

30. The commonest of the sex offenses is prostitution. The places where prostitution is carried on are called by the law "houses of ill fame" or "houses of assignation." Any inmate of such a house is guilty of a graver misdemeanor. The longest jail sentence is for one year.

Explain the meaning of the term "inmate."

But the law does not stop with punishing the inmates of such a house. Anyone (whether he lives in such a house or not, and whether it is a man or woman) who invites or urges a man to come to a house of ill fame for the purpose of prostitution has also committed a misdemeanor. So has the man who went to the house of assignation. But the law goes still farther; it also punishes the person who runs such a house (and when we speak of "house" we also mean shanty, flat, or even boat). He may be sent to jail and his house be declared a nuisance and padlocked. If it is shown that he let a girl less than eighteen years old live in the house, it is a felony and carries a penitentiary sentence. The law also punishes with a penitentiary sentence anyone who gets a girl to become an inmate of such a house or who gets her to stay there, if otherwise she would leave. It makes no difference whether he gets her by force, or by fraud, or by persuading her to go there. And such a person will be guilty even though the girl he got was already of immoral character. But if the girl was unmarried and was previously moral, or was unmarried and under eighteen years old, the offense is worse, and the punishment

more severe. A person, man or woman, cannot excuse keeping a girl in such a house on the argument that she was working out a debt to him; debt or no debt, it is a crime to keep her. It is even a crime just to take a share of a prostitute's earnings. This kind of crime is called "pandering." It is a graver misdemeanor on first offense but a felony on second offense.

Ask who the people are who may be concerned in the group of crimes just now being considered, that is, those having to do with prostitution (the inmates, keeper of house, decoys, the customer). Is procuring girls a crime? Does it make any difference whether the girl is of good character and unmarried or is not? Why? Does the keeper of a house of assignation put up a good defense if he can show that his girls were all willing to stay with him? Can he make a girl stay with him who owes him money and who would else run away without paying?

Statutes, c. 38, secs. 1, 13, 145-49, 162-70, 174, 327; c. 100½, secs. 1-2, 5

31. The offenses against good morals which have just been described—prostitution, incest, adultery, and so on—almost all had to do with conduct between a man and a woman. But these moral offenses include more than that. It is also an offense against good morals to give an obscene and indecent show as entertainment, and the punishment will be jail or fine. Not only the actors in the show will be guilty, but the manager of the theater will be too. Exhibiting notorious criminals, or pictures of them, or exhibiting deformed people is also forbidden, with jail or fine as punishment.

What are things or people that may not be exhibited in shows? What is the harm of it for each type of show? Who will be guilty?

32. Just as obscene and indecent shows are forbidden, it is also against the law to give away or sell obscene and indecent pictures or to tell people where such pictures can be got. Just having such pictures in one's pocket, with the idea of selling them or giving them away, is a crime, even if the prisoner did not get around to selling any.

33. There may be pictures, movies, or shows that are not indecent but that still may be very harmful to have shown. For example, a show or a picture may show some religious

group or some race or color of our citizens in such a way as to expose them to public contempt. All these hurt public peace and are likely to make trouble, and so are forbidden. Along the same lines are pictures, movies, or shows of lynchings, hangings, and so on.

34. Books, magazines, or newspapers that are mainly filled with news about crimes or police reports are not always against the law but must not be sold or given to *children*, and anybody who does so, or has them in his possession, meaning (when he has a chance) to give or sell them to children, is guilty of a crime, even though selling them to grown people would not be wrong. Hiring or using a child to sell or give away such things is also forbidden. All these offenses are misdemeanors.

What would be some kinds of pictures or shows that would come under the description of sec. 33? Why? What harm do they do? What is the difference between pictures of lynchings, burnings, and so on, and newspapers made up of criminal news? (*Answer: Pictures of lynchings, etc., may not be sold even to grown people; crime magazines only not to children.*) Is one worse than the other? Statutes, c. 38, secs. 106-8, 468-72, 486

CHILDREN, OFFENSES AGAINST

35. Anyone who has carefully considered the crimes so far taken up in this course will probably have noticed that the criminal law is often so arranged as to take care of children, to save them from going wrong, or to protect them from having wrong done to them. For example, the crime of taking indecent liberties with children, kidnapping children, and so on. Indirectly even bigamy, prostitution, and adultery are crimes partly because the law concerns itself specially with children; they are all three crimes likely to result in bastard children.

Ask for other crimes which have already been taken up where special protection was given to children. (For example, sexual intercourse with a girl under sixteen is always rape. Seduction of girl under eighteen. Keeper of house of ill fame who admits a girl under eighteen. Selling newspaper mainly made up of crime news to a child. Perhaps the class may think of other examples.)

Besides these crimes there is a whole group of others that are specially made so as to protect children in one way or another, or to keep them from becoming bad citizens. Thus the parent, or guardian, or any other person who has charge of a child less than eighteen years old who fails to provide for it and support it (without a good excuse) is guilty of a crime. (The same law also makes it a crime to fail to support one's wife.) As the punishment may be fine or jail it is a misdemeanor. If the child is less than one year old, and was abandoned by its parents or by the person having charge of it, the situation is so much more serious that it carries a penitentiary sentence. There is still another statute (not part of the Criminal Code), called the Bastardy Act, that is meant to force a father to support his child. According to this law the mother of an illegitimate child can compel its father to appear in court, and if she can prove that the man is its father he will be forced to help pay for its support for nine years. As was said above, however, this is not a part of the Criminal Code. Besides enforcing the support of the child the Criminal Code forbids cruelty to a child. The statute describes what would be cruelty; it includes such things as beating it, overworking it, not letting it have food or clothing or shelter, or abandoning it. A fine is the only punishment for cruelty. Putting a child in a situation where it is in danger of losing its life or of injuring its health is about the same sort of offense.

36. If a child is abandoned or not supported the way the law demands, or lives in a house of ill fame or other unfit place for a child, or is made to go begging on the street, or peddles and sells articles, or plays a musical instrument on the street, and so on, the law calls it a "dependent and neglected child." Any person in charge of a child, including its parents, who does things that will make it a "dependent and neglected child," or who could stop it from being such a child but does not, is said to be guilty of "contributing" to its dependency and neglect, and is guilty of a graver misdemeanor.

How does the law try to see that children will be supported? Is there any difference between abandoning a very small child and a larger one? Why? What does the Bastardy Act try to do? What does cruelty include? What do you understand by a "dependent and neglected child"? What is wrong with a child's playing a musical instrument on the street for money? Maybe it was willing and glad to—then it is all right, isn't it? If not, who has committed a crime, the child or the grown person that told it to play the instrument?

37. What was just said above had to do with children made to play musical instruments or to sing, etc., on the *public street*. It is not very different if a child has to do that sort of thing elsewhere (for example, in a *theater*). So the law forbids that too. Besides playing and singing, it forbids a number of other things like tight-rope walking, dancing, doing acrobatic stunts, and so on. Or any other acts dangerous to their health. On first offense this is punishable by jail. On second offense it may carry a penitentiary sentence.

Does anybody remember an offense, already discussed, where second offenses were more severely punished than first? (*Answer: Adultery is more and more severely punished. Pandering.*)

Statutes, c. 17, secs. 1-8; c. 28, secs. 92-93, 96, 99-101, 109, 147; c. 68, sec. 24

38. Another health protection, but of a different sort, has to do with tobacco. It is against the law to sell tobacco in any form to children under sixteen. To do so is a minor misdemeanor. But there is a trick to this offense: If a parent gives his consent in writing, no crime is committed. And if a child smokes in a public place the child itself is committing a minor misdemeanor.

In all the other offenses against children was there any where the child was guilty too? Have we had any crime which was made all right by the parent's O.K.? Point out that it is strange that a parent can give good permission here. Warn class that most provisions regarding use of tobacco by minors will be found in city ordinances. Describe briefly the local ordinance.

Statutes, c. 38, secs. 97, 123-24

39. It is likewise against the law (a minor misdemeanor) to sell toy pistols or pistols that can shoot blank cartridges. This is mentioned here because they are likely to be sold to chil-

dren. The law, however, forbids selling them to *anybody*, including grown persons.

40. Other kinds of business that must not deal with children are junk dealers and secondhand men who are forbidden to buy from children, and pawnbrokers who are not allowed to lend to children. Violation is only punished by a fine. It is also against the law to sell or give a pistol or revolver to a child.

A child sells some clothing to a secondhand man—or borrows money on it—what is wrong with that?

Statutes, c. 38, sec. 110, 154, 554

41. An expression that is often used in connection with children who are in trouble with the law is “delinquent children.” A delinquent child is one who has broken the law or who associates with criminals, or has run away from home, or hangs around poolrooms, etc.; or hangs around railroad yards, flipping trains; or one who uses indecent language near a schoolhouse. In other words, it includes a great many different kinds of conduct that are all alike in one respect, that they all show that the child is headed toward growing up as a bad citizen. Any person who helps a child to become delinquent is said to “contribute to” its delinquency, and is guilty of a graver misdemeanor.

What do you understand by contributing to delinquency? Give some illustrations. What is the difference between a delinquent child and a dependent child?

Statutes, c. 38, secs. 103, 104

42. Some pages back it was stated that the law punishes cruelty to children, who are unable to help and protect themselves. The same argument of helplessness of course applies even more to animals, who are still less able to protect themselves. And so, as might be expected, the statutes declare it to be a minor misdemeanor to be guilty of cruelty to animals. This is said to include such matters as overworking, not feeding, abandoning, and so on. It also includes dog fighting and cock fighting.

Statutes, c. 38, secs. 144-47

SOME UNLAWFUL BUSINESSES

43. A short way back it was said that tobacco dealers, junkmen, and pawnbrokers must not do business with children. Their businesses are lawful ones but they cannot have a child as a customer. There are other businesses which are either wholly unlawful or are only lawful if run in a certain way. A business lawful if run in a certain way, but unlawful if not run the way the law says, is the business of selling firearms. We saw, a while ago, that such a dealer may not sell at all to children. But even when he sells to grown persons he must keep a record (called a "register") of all weapons sold or given away by him. This register must show, first of all, the date of the sale. Then it must describe the buyer, that is, give his name, address, and occupation. Then it must give a description of the weapon, that is, its make, kind, and number. Finally, it must tell for what purpose the buyer wanted it and how much he paid. Only when all this is done is it lawful to sell firearms. Violation is punished by jail or fine. Selling or giving away such weapons as blackjacks, slungshots, and knuckles is always a crime—keeping a register won't help, it is always unlawful.

If you were making the law what would you do about dealers in firearms? Forbid them? Allow them? If so, what records should they keep? Why, for each item? Compare the class views with what the law asks of dealers. Why is sale of some weapons forbidden entirely? What are they? Warn class that further provisions regarding sale of weapons will be found in city ordinances. Describe the local ordinance.

Statutes, c. 38, secs. 153, 156

44. There are other businesses which are always unlawful, regardless of how they are run. One was spoken of a little while ago—selling toy pistols. Making, buying, or selling dynamite or other explosives, with the intent to do something unlawful with it, is a felony. Later on, when we take up bombing, we shall see that making and selling bombs is always a criminal business.

Is selling dynamite unlawful if there is no intent to use the dynamite for an unlawful purpose? Why not?

Statutes, c. 38, sec. 229

45. Druggists selling certain kinds of poison are like dealers in revolvers—their business is lawful if (but only if) they keep the kind of record that the law wants. The poisons are arsenic, strychnine, corrosive sublimate, and prussic acid. They must have a prescription. Their record must show the date of the sale, what and how much was sold, and who the buyer was. (If the buyer lied he is guilty of a minor misdemeanor.) Then, before handing over the bottle or package, he must paste a label on it with the word “Poison” on it. If he sells wood alcohol he must put such a label on it too. A fine is the only punishment for this group of offenses.

Do not expect students to remember the names of the poisons. They are the very dangerous ones; that is enough. Compare what the revolver dealer must do and what the druggist must do. In what way are they alike and in what way different?

Statutes, c. 38, secs. 184-86

46. A business that is always unlawful is fortune telling. It makes no difference whether the method is by palmistry, card reading, astrology, spirit messages, or other means. A fine is the only punishment. (But the statute carefully says that it does not apply to spiritualism as a religion.) Advertising fortune telling is likewise a minor misdemeanor.

Is fortune telling legal if the fortune teller kept a record of who consulted him, what he charged, what he told him, and so on? To what methods of fortune telling does it apply? What is the difference between fortune telling and spiritualism?

Statutes, c. 38, secs. 290, 291

47. Another kind of business that is entirely illegal is setting up and running a lottery or selling tickets to a lottery. Covering it up by making it part of a sale of some property or other makes no difference at all. It is a misdemeanor—minor on first offense, graver on second offense. The only exception is policy lotteries, which are graver on first offense and are felonies on second.

What is a lottery? Give example of covering it by a sale—is this lawful? What is a policy game?

Statutes, c. 38, secs. 406-14

48. A statute that deals with a matter not so very different is that forbidding gambling, whether for money or for anything else of value, and whether by cards or dice or billiards or any other means. It is punished by fine only. Running a gambling place (whether in a house, yard, boat, or anywhere else) is an offense that goes all the way up, being a minor misdemeanor on first offense, a graver one on second, and a felony on third. Decoys for gambling-houses are also guilty of minor and graver misdemeanors (but in their case it never goes up to a felony). Keeping any record of bets made or of pools, or acting as stakeholder, is a graver misdemeanor. But this is expressly stated as not to be applied to the pari-mutuel system of betting in the grounds of horse racetracks.

Describe various kinds of offenders and ask class where they fit into the foregoing.

Statutes, c. 38, secs. 324-25, 327, 336, 345-46

49. A number of businesses have been just described that are entirely illegal, but the most important one—bootlegging—has been left out so far. While it belongs here with the rest, it will be left out and only later on will be discussed when we get to the Prohibition Act.

MISCELLANEOUS SORTS OF CONDUCT HURTFUL TO PUBLIC

50. The law gets them going and coming. It not only forbids certain businesses, but it also punishes those who are habitually idle and refuse to do any work. In law such persons are called "vagabonds." The word "vagabond" has a great many meanings, according to the statute. Some of the typical ones will be given, for example: Besides bums it includes beggars, confidence men, drunks, persons sleeping in sheds, parks, and so on (and not able to give a good account of themselves), also persons with a record as thieves, pick-pockets, etc., who are without lawful means of support and are hanging around public places, banks, railroad stations, theaters, and so on. This will show what a wide meaning the word has. Those guilty of being vagabonds may be fined or sent to jail.

Do not expect the class to remember all the examples of what "vagabond" means. They are only the high spots. Talk over the meaning of the word with them. Point out that "delinquent child" was another word with many kinds of meaning, and that "delinquent child" is for a child more or less the same thing as "vagabond" is for a grown person.

Statutes, c. 38, secs. 578, 579

51. The expression "vagabond" covers, as will be plain, the type of person often spoken of as "hoodlums." This in turn brings up the crime of carrying concealed weapons. Some weapons, such as blackjacks, sandbags, knuckles, and a few similar ones, are entirely forbidden. To own them at all is a crime, because no law-abiding person would have any use for them. This is not true of firearms. The law does not forbid one's having them in one's home or place of business, if they are needed for protection. But it does forbid carrying a concealed firearm around on one's person. This does not apply to certain persons who are allowed to carry firearms, such as sheriffs, police officers (your course in "Rules and Regulations" will tell you when you may carry a revolver), jailers, watchmen, railway conductors, baggagemen, and a few others. Violation of any of these provisions concerning weapons is a graver misdemeanor. There is one exception—it is a felony if the prisoner had within five years been convicted of murder, robbery, burglary, or assault with intent to commit a felony.

Is there any difference in the way the law treats firearms from the way it treats knuckles or sandbags? Is owning a revolver a crime? What does the expression "on one's person" mean? Are all people forbidden to carry guns? Who are not? How serious an offense is it to carry a gun? When is it a felony? Why?

Statutes, c. 38, secs. 152, 155-58

52. Aside from carrying concealed weapons, it is a minor misdemeanor to discharge firearms on a public street or road, but this does not apply to people who are authorized to carry firearms.

What kind of a situation does this hit that the one before did not? (*Answer*: It applies to the person who *openly* carries a gun, if he fires it.)

Statutes, c. 38, sec. 16

53. Shooting off a gun is only one way of disturbing the peace and quiet of a neighborhood. Other ways are by quarreling, trying to pick a fight, making threats, showing weapons in a threatening way, or even by just making loud or unusual noises. All these disturb the neighborhood's peace and quiet, and are minor misdemeanors. Wearing a hood, while doing it, as usual raises the punishment, but as it stays only a fine it stays a minor misdemeanor.

What kind of conduct is "disturbing the peace"?

Statutes, c. 38, sec. 160

54. Another minor misdemeanor of about the same sort (that is, it is disturbing and annoying to law-abiding people) is what is called "disorderly conduct." It includes any act of indecency done in a public manner.

Statutes, c. 38, sec. 159

Then, too, there are some kinds of meetings where people have come together and do not wish to be annoyed by outsiders who interrupt and disturb them. Such meetings are funerals, school meetings, church services, and religious services even if out of doors. To interrupt and disturb any of these is a minor misdemeanor. In the case of camp meetings the law says that going around selling refreshments, or setting up side shows, shall be considered as such disturbing, except for people who were already in that business in that place before the camp meeting came; they cannot be forced to shut up their business and go away just because a camp meeting comes along later.

What are the kinds of meetings that must not be disturbed? What would be called "disturbing"? Can you sell "hot dogs" at a camp meeting? When?

Statutes, c. 38, secs. 175-78

Then, too, being drunk in a public street is disturbing to the public, and is a minor misdemeanor. The law says that is the case even when the drunk is perfectly quiet. But if the drunk stays at home or in some other *private* place, he only becomes guilty of disturbing when he starts to raise a row.

Is being drunk an offense or does it only become one if the prisoner, besides being drunk, began to raise a commotion? Suppose he was on the street but kept quiet?

Statutes, c. 38, sec. 193

55. From what has just been written it will be plain that a great many very different things are considered disturbing and disorderly, and so are forbidden. But a great many people have the mistaken idea that anything that *they* do not like is *disorderly* and against the law. You must be particularly careful not to be fooled by this mistaken idea when you have to deal with strikes and parades, as both of these are likely to raise strong feelings for and against them. Parades are regulated by city ordinances, and will be studied in the course in "Ordinances." All we need say here is that they are illegal unless the paraders have a permit from the Commissioner of Police. If they have such a permit, they are legal and are not disorderly conduct. Very much the same thing is true of open-air political speeches. Strikes, too, are not unlawful. If workmen decide to quit, or employers to lock them out, that is their business, and it is not up to the police department to take sides, even if one side is clearly in the wrong. If strikers make threats to men who have not quit, or try by any means to scare them from their work, they are guilty of disturbing the peace. But peacefully picketing a place is not a crime, and the pickets may probably even go ahead and tell their side to people who are willing to listen to them. But such pickets, no matter how peaceful they may be, must not obstruct traffic, either by reason of the way they stand around or because there are so many of them. Often the courts, in strike cases, will issue what is called an "injunction" (that is, a court order) commanding the strikers not to do certain things. If anybody does something that the injunction says he must not do, he is guilty of "contempt of court," and can be punished as the judge decides.

Is a parade disorderly conduct? How far does a strike concern police officers? Does picketing amount to a disturbance of the peace? What may a picket lawfully do? What is an injunction? When an injunction has been issued how does that change matters?

Statutes, c. 38, secs. 376-78

56. If two or more people gather together for the purpose of disturbing the peace or doing some other unlawful act, a police officer should order them to separate. If they do not they are guilty of a minor misdemeanor. If there is a larger number of them, twelve if armed or thirty if unarmed, and they refuse to separate, the police officer may call on the people around to help him break up the meeting. Anybody who refuses to help will be considered as belonging to the meeting. A large meeting like this is a more serious matter and is a graver misdemeanor.

What should a police officer do when he sees people meeting for the purpose of disturbing the peace? How many people must have come together before he is required to act?

Statutes, c. 38, secs. 507-9

57. Disorderly and rowdy conduct, which we have just been dealing with, whatever its cause may have been, whether drunkenness, strike, or any other, is very likely to end up in injury to somebody's property, so our next question is, When is injury to property a crime? It is a crime when the injury is "wilful and malicious." By this the law means when the prisoner meant to hurt the property and knew perfectly well that he was doing something wrong.

Could we have this kind of an offense if the prisoner mistakenly thought he was destroying something that belonged to him, and that he could destroy it if he felt like it?

The property that is injured or destroyed may be real estate (a house, for instance) or personal property. It may be fences or trees or automobiles—the kind of property makes very little difference; scratching, or cutting, or hurting it in any way, or hiding it—all this would be a graver misdemeanor. In the case of an auto the prisoner need not even have hurt it; starting the motor or shifting gears is enough if the prisoner did not have the owner's consent to do it. Maybe the property injured was public property, like street lamps, street signs, and so on. That makes no difference—it is the same kind of crime.

To what kind of property does this crime apply? Is monkeying with an auto (even if no harm is done) lawful? Does this crime include public property of any sort?

Statutes, c. 38, secs. 355, 425, 434-35, 439

58. There are a few kinds of property injury to which is considered as specially serious for one reason or another, and injury to which is a felony instead of a misdemeanor. Thus killing or wounding an animal is one of these more serious injuries, because of the added fact of the cruelty to the animal. Doing injury to the equipment of gas, electric, telephone, or telegraph systems is another, because so many people would be inconvenienced. Injuring railway tracks or bridges or signals (or trying to, or getting other people to do it), or injuring railway rolling stock (that is, cars and locomotives), is still another, because of the great danger to human life that such acts produce. Still another is breaking into a grave and taking the body away, because this is such an extreme shock to public feelings.

What are some sorts of property whose injury is specially harmful? Why?

Statutes, c. 38, secs. 354, 416-17, 422-23, 437

59. The acts just described all call for injury to the property. If no harm has been done to the property the prisoner is not guilty of malicious mischief. But there is one sort of act which is a crime even though the prisoner did not succeed in really doing any harm. Putting glass on a street or sidewalk is a misdemeanor, even though nobody is hurt by it.

Statutes, c. 38, secs. 545-46; c. 121, sec. 157

Putting glass on a street is only one way of making a street less useful to traffic. Intentionally or carelessly blocking a sidewalk so that people cannot pass is another way, and is a misdemeanor too.

Statutes, c. 38, sec. 544

60. Putting up advertisements on public property (streets, etc.) without a permit, or on private property without the consent of the owner, is still another sort of meddling with

other people's property or use of the streets that the law does not allow. The law calls such ads a "nuisance." Another kind of nuisance is to let the bodies of dead animals, or other evil-smelling objects, lie on one's land and inconvenience other people with their smell. To commit a nuisance is a misdemeanor—a minor one the first time, a graver one the second time.

What do you understand by a "nuisance"?

Statutes, c. 38, secs. 466-67

61. Finally, there is one more act that is disturbing to the peaceful use of the streets by the public, and that is the sending in of false fire alarms. It is also of course a harm to the fire department. To send in a false alarm, knowing that it is false, is a graver misdemeanor.

Suppose the prisoner sent in an alarm, when there was no fire but he mistakenly thought there was, is he guilty?

Statutes, c. 38, sec. 442

62. As we are dealing with the use of the streets, this would seem to be the proper time to take up the Illinois Motor Vehicle Law, which regulates the use of automobiles and motorcycles. Most of the regulations, though, are city ordinances, which we are not taking in this course, so our discussion would be only partly complete. Furthermore, we should not even take up all the matters in the Motor Vehicle Law, as many of its sections do not concern the patrolman and are only handled by the Traffic Bureau, which specializes in this part of the law. For these reasons most of the Vehicle Law questions will be taken care of in your course in "Ordinances," and only one or two matters will be spoken of here. Children under fifteen must not be allowed to run an auto unless the owner of the car or a licensed chauffeur is with them. Driving an auto while intoxicated is a graver misdemeanor. "Hit-and-run" driving is also a graver misdemeanor; anyone who has caused any injury to persons or property, even if it was not his fault, must give his name and address or must report to the nearest police station.

Point out that most of the provisions about speed laws, traffic lights, horns, brakes, rubber tires, licenses, and so on are city-ordinance matters, and so the whole thing will be handled in that course. Are there any people who must not drive an auto? What is "hit-and-run" driving? If it was not the driver's fault he need not give his name, need he? Why?

Statutes, c. 121, secs. 232, 241, 242, 242a

OFFENSES AGAINST THE GOVERNMENT ITSELF

63. We shall pass on, now, to some offenses which have nothing at all to do with the ones we are just leaving. The group which we are now going into all have to do with people who, in one way or another, are doing direct harm to our government or are trying to interfere with the orderly running of government affairs. The most serious is the crime of treason, which carries the death penalty. It consists in joining enemies who are making war on the state of Illinois. It is plain that this crime is one which as a practical matter you are never going to run into. But another crime, somewhat less serious but still a felony, that you may have to deal with is committed by anyone who in a public speech (or by any other means) argues for the overthrow of the United States government or the government of Illinois, by violence or some other unlawful method. Distributing books or papers with such arguments in them is the same as making such a speech. Just belonging to a club or society that is organized for such a purpose is the same kind of a crime. So is showing an anarchist flag at a meeting or parade.

What kind of people does this crime deal with? Does it cover the man who wants to change our laws by peaceful and lawful means?

Statutes, c. 538, secs. 555-64

64. Other conduct that does harm to the government is bribery. Bribery is not limited to giving money. Anything else, any present, can be the subject of bribery, if it was given to a public officer for the purpose of influencing him to do an improper favor to the person giving the bribe. It is a felony. The giver of the bribe and the officer who takes it are both guilty. Even if nothing was ever handed over, just offering a

bribe, or asking for one, or agreeing to take one, is a misdemeanor. Failing to make an arrest, on account of a bribe, or delaying in making an arrest, is a misdemeanor.

What do you understand by "bribery"? Is it only in giving *money*? What if only a very small sum was given? For what purpose must it have been given? Which is the guilty person, the giver or the receiver of the bribe? If nothing was actually handed over, has any crime been committed? Does the crime of bribery apply to police officers?

Statutes, c. 38, secs. 78-82

65. The people are interested in having our courts run smoothly and in having witnesses tell the truth when they are testifying. Accordingly it is a crime, called "perjury," for one to tell what he knows is a lie, when he has been sworn to tell the truth, on the witness stand. It is a felony. So is getting somebody else to tell such a lie. Even *trying* to get somebody else to commit perjury (although you do not succeed) is a felony. Persuading or hiring a witness in a criminal case (whether he would be a witness for or against the prisoner makes no difference) to leave the state, so he will not be on hand to testify, is another way of keeping our courts from running smoothly, and is a graver misdemeanor. Still another way is where the victim of a crime agrees (in return for money or something else paid to him) that he will hide the crime from the police. This is a misdemeanor. But this does not apply to a person who merely takes back from a thief or other criminal the property which was stolen or taken from him, or its money's worth.

What do you understand by perjury? Does it make every liar a criminal? Which person is guilty, the one who lied on the witness stand or the one who persuaded him to lie? Suppose the prisoner tried to make someone commit perjury but did not succeed, has he done any wrong? Is it all right to hire a witness in a criminal case to leave the state? Suppose he was not paid to go? Suppose he would have been a defense witness, not a state witness? Why is it wrong for a citizen to hide a crime?

Statutes, c. 38, secs. 135, 473, 474, 476, 580

66. Just as we need to have our courts run honestly and truthfully (that is, free from bribery and perjury), we need

to have all our elections run fairly and honestly. For this reason the law has laid down very exact rules as to just how elections are to be run. To break such rules is a crime. Police officers are assigned to polling places to watch and see that these rules are followed. Changing ballots, stuffing ballot boxes, holding votes out of ballot boxes, bribing voters, preventing voters from voting, would be examples of such wrongful conduct, and are graver misdemeanors. It is also against the law (a minor misdemeanor) to do any electioneering within 100 feet of a polling place. Trying to see a voter's ballot, so as to learn how he has voted, is another minor misdemeanor. So is harming or destroying any of the supplies, papers, or furniture of a polling place. When votes are being counted the officer must see that the official watchers are given a chance to see the ballots as they are being counted. The judges of election, who are in charge of the polling place, must see that the peace is kept at the polling place, and if, in order to keep the peace, they give orders to a police officer to make an arrest, he must do so. Interference with election officials, destroying or tampering with ballots, by anyone at all, are, of course, all of them, offenses.

What are some of the election offenses that a police officer is on duty to stop from happening?

Statutes, c. 46, secs. 84, 167, 234, 251-70, 317-19

67. Another thing which is necessary, if our government is to run smoothly and efficiently, and if citizens are to have the proper respect for the law, is that police officers, if they are under a duty to make an arrest, should not refuse or neglect to do it, and that persons who have been arrested should submit quietly. For this reason if a police officer corruptly refuses to make an arrest when he should do so, or waits so as to let the offenders get away, he is committing a graver misdemeanor. The same is true of a jailer or lockup keeper who lets prisoners out. If an officer lets a person who has been convicted of a felony get away, or helps him escape, he is himself guilty of a felony.

What are some of the things which a police officer must not do with regard to making arrests and holding prisoners? Is such conduct a felony or a misdemeanor?

Statutes, c. 38, secs. 219, 225-26

68. What has just been said applies to officers who are violating their duty. Suppose the officer is acting as he should, making the arrest, and some private person helps the prisoner get away or rescues him, after the arrest has been made. This is a graver misdemeanor, unless the prisoner who got away was charged with a felony; helping a felon (or somebody charged with a felony) is so bad as to make helping him a felony too. What has just been said also applies to helping (or trying to help) somebody get away from jail. It makes no difference even if the person who was arrested and was being helped was innocent; once he was properly arrested private citizens should wait for the law to turn him loose.

Of what will a person be guilty (felony or misdemeanor) who helps an arrested person escape? Does it make any difference if the arrested person was innocent but was lawfully arrested? Point out that this does not apply where the arrest itself was unlawful. Can this kind of offense be committed before the officer makes the arrest?

Statutes, c. 38, sec. 220-24, 208, 499-500

69. Another way in which the work of the police department may be interfered with and made harder, and the public confidence in the department be lessened, is by a private person's pretending to be a police officer, when, in fact, he is not. This is called "impersonating an officer" and is a graver misdemeanor.

What is the harm in impersonating an officer? Does the impersonation have to be by putting on a uniform?

Statutes, c. 38, sec. 260

70. We have already had a few offenses connected with improper conduct by police officers; a few have not yet been mentioned. Intoxication while on duty is a misdemeanor (and may mean dropping from the force); furnishing liquor to a prisoner is another; taking money or any other pay before doing one's duty as an officer is still another. The law also

commands police officers to let prisoners see any lawyer that they choose, in private and alone, unless there would be great danger of their getting away if they were allowed such a private interview.

What offenses have already been taken up that police officers might commit? (*Answer:* Receiving a bribe; assault and battery to get a confession.) Bribery is a felony but taking money to do one's duty is only a misdemeanor; what is the difference between the two crimes? (*Answer:* Bribery covers cases of taking money to *neglect* one's duty.) May a prisoner who is plainly guilty be refused a chance to see a lawyer?

Statutes, c. 38, secs. 454-56, 477

By way of reminder, do not forget that we have lately been dealing with crimes that all had to do with the smooth running of the government. Telling lies on the witness stand, interfering with a police officer who has made an arrest, giving and taking a bribe, cheating at elections—all belong to this type.

TAKING OR USING PROPERTY WRONGFULLY

71. Now we shall again change over to an entirely separate, and very important, group of crimes, that is, those crimes (and there are a great many of them) that have to do, one way or another, with the wrongful taking of property from its owner or wrongfully using it. The crimes have different names—larceny, embezzlement, false pretenses, robbery, and several others—and it will now be our job to find out the different situations to which they apply, and which is which.

72. (1) First of all there is the situation where the prisoner took something from me (which, of course, he had no right to take) without my permission. Maybe he picked my pocket; maybe he broke into my house; maybe he stuck me up—all these are further details that we are going to have to work on later. But they are all alike in one respect: He took something entirely without my permission, and meant to keep me from getting it back again. If we have that kind of a situation—he took my property without my permission, meaning to keep me from ever getting it back again—just that, no more, no less, the law calls it “larceny.” Later on we shall come

back to larceny and go into details about it, and see whether it makes any difference if he picked my pocket or broke into my house, and so on. Just now we are only getting a bird's-eye view of the whole group of crimes.

Drill class to make sure they have the situation in mind. Could there be larceny if no property was taken? Could there be larceny if I was willing to let him have it? Or if we know for sure that the prisoner was going to give it back in a half an hour?

Statutes, c. 38, sec. 387

73. (2) The next situation is one that does not look quite so bad for the prisoner. Suppose I had handed the thing to him, telling him to take care of it for me. He was not to use it in any way, only to store it for me. The law name for a person like him (that is, a person with whom a thing is stored) is "bailee." He (the bailee) has it with my permission; you can't say he took it from me without my permission. But if, against my orders, he begins using the thing himself, meaning not to let me have it back again, he isn't any better than the man in situation (1) above, and he is guilty of "larceny by bailee," and gets the same punishment as the man guilty of larceny.

Drill class to make sure they have the situation in mind. Did he have possession of the thing with or without my permission? Was he to use it or do anything with it? Did he use it? Would it be larceny by bailee if we know for sure that he meant to let me have it back again?

Statutes, c. 38, secs. 394-95

74. (3) Now suppose I handed over some property to him (money or anything else), not just to store and keep for me, but for him to deal with and use in the way I tell him, or somebody else hands him something to take to me, and instead he uses that money for himself; he is guilty of a crime too. It is true that the thing was freely handed to him (so it can't be larceny), and it is true that (unlike the bailee) he was even supposed to *deal* with it and *use* it. But he was not to use it for himself. When he used it for himself he was no better than the men in situations (1) and (2), and will get the same punishment. This kind of crime is called "embezzlement."

How does this situation differ from the other two? What name do we give to it?

Statutes, c. 38, secs. 207-10, 213-14

75. (4) Lastly, suppose I handed over my money (or whatever else it was) meaning him to have it for his own. He is not just to *store* it, like the bailee, or just to *use* it for *my account*, like the embezzler, it is to be *his* property, entirely his. But suppose further that he only got me to hand over the property because of certain lies or dishonest conduct on his part, and that if I had known the truth I should never have given it to him. We cannot put him into any of the three groups just discussed, but plainly he should be guilty of *some* crime. He is. In fact, there are several crimes, which are not very different from each other, which might cover him. These crimes are the ones that are now going to be described.

How does this situation differ from the other three?

The easiest case to deal with is where he pretends to be somebody else, and I hand him the goods because I believe he is that somebody else. This is just as bad as larceny, and gets the same punishment.

What is the situation that we are now dealing with?

Statutes, c. 38, sec. 262

Next comes the case that the law calls "obtaining goods under false pretenses." If anybody gets me to hand over any property (or to sign my name to any paper) by false statements or lies of any sort (of course he must know that what he is saying is not true), he is committing this crime. It is a graver misdemeanor.

Ask for examples of this crime. Point out, as one example, getting credit by making false statements of one's financial position. What if the prisoner thought he was telling the truth?

Statutes, c. 38, secs. 253-54

A crime that is not very different is the "confidence game." This is where property was got by some false or bogus check or by any scheme by which a swindler gets the confidence of his victim and then swindles him out of his money by taking advantage of that confidence. It is a felony.

What is the difference between confidence game and false pretenses? False pretenses cover a lot more—*any* kind of lying conduct; confidence game, either by *fake* checks or by betraying a person who *relies* on the prisoner. Is there any reason for making these worse?

Statutes, c. 38, sec. 256

There is one crime that looks a lot like the confidence game, but must not be confused with it, as it (the crime now to be described) is only a graver misdemeanor, just as false pretenses is. This crime is committed by anyone passing a check, knowing that the drawer does not have *enough* money in the bank to cover the check. It may be the prisoner's own check or it may be the check of somebody else which he is indorsing; it makes no difference—if he knows the check will not be paid.

What is the difference between this and confidence game? If a man gave a check on a bank where he had *no* account at all which would it be? Is there any reason for making the punishment less in one than in the other?

Statutes, c. 38, sec. 255

76. This hits the high spots so far as getting property by false schemes is concerned. There are a number of special statutes that were put in just to make absolutely sure that the things they describe would not be said by the courts to be all right. Thus swindling by card tricks, fortune telling, or three-card monte is declared to be no better than larceny. Selling short weight by using short weights or measures is a graver misdemeanor. Fixing a gas, electric, or water meter so that it will not give a correct reading of the gas, electricity, or water going through it is another. Falsely advertising that a sale is a fire sale or a bankrupt sale or a sheriff's sale is a misdemeanor (minor only). In fact, any kind of advertising that contains statements known to be false is a misdemeanor. So, too, selling meat which is said to be kosher when it is not kosher. Or getting a meal at a restaurant or a room at a hotel without having any intention to pay.

Point out that most or all of these would have probably been taken care of all right even by the false-pretenses statute; they were put in simply for "safety first."

Statutes, c. 38, secs. 247-49, 258-59, 292, 300-301, 318a, 318b;
c. 147, sec. 39

The law also has its eye on those who work on our kindness and sympathy. Any beggar who gets or tries to get money by falsely pretending to be blind or deaf or any way crippled is committing a graver misdemeanor. Soliciting funds for a soldiers' memorial by persons not authorized by the city or by some organization such as, for example, the American Legion, is another. Wearing a G.A.R., Spanish War Veterans, or American Legion button by anyone not entitled to do so is a minor misdemeanor.

Statutes, c. 38, 266, 268, 273

77. This finishes the questions of faking and lying. We can now go back to larceny (that is, stealing) and go into more details about it. Larceny covers every kind of property; it is larceny if even so cheap a thing as a newspaper is stolen. The only difference is that if the thing stolen was worth only fifteen dollars or less larceny is a graver misdemeanor; if it was worth over fifteen dollars it is a felony. (The misdemeanor of larceny is often called "petty larceny"; the felony of larceny, "grand larceny.") There are three exceptions here though: If the property has been stolen from the *person* of another (for example, if my pocket was picked), it is a felony no matter how little the property taken was worth. Another exception is that the larceny of an auto or motorcycle is always a felony. And in the third place a second conviction of petty larceny by a person over the age of eighteen makes it a felony. In these three cases it is a felony no matter how little the thing was worth.

What do you understand by "larceny"? Review the class in sec. 72. Which is it, felony or misdemeanor? Does it *always* depend on the value of the property stolen? Is the exception about autos a very important one? Be sure the class fully understands the other two exceptions though.

Statutes, c. 38, secs. 389, 393, 399

78. If a person takes an automobile to use without the consent of the owner or person in charge of it, or hires it, not meaning to pay the rent on it, it is clear that he is not stealing

it (since he does not mean to keep it from the owner for good), but he is committing a graver misdemeanor.

Why isn't this larceny?

Statutes, c. 38, sec. 438

79. Not only the person who steals the property is committing an offense, but the person who (either for his own profit or just to keep the owner from getting it back again) receives or helps hide goods which he knows are stolen is guilty of "receiving stolen property." Like larceny it is a felony if the article was worth over fifteen dollars, or was an auto (or motorcycle), or was a second conviction. But only a graver misdemeanor, if not one of these three was the case.

What are the facts that have to be shown to make out a case of receiving? (1) Goods must have been received, which had in fact been stolen; (2) he must know that they had been stolen; (3) he must do it for his own gain or to keep the owner from getting it back. Give various situations in which one or the other of these three are missing. Is this crime a felony or a misdemeanor? When?

Statutes, c. 38, secs. 507-8

80. Anybody who removes or changes a manufacturer's serial number or mark on an article, so as to hide its identity, is guilty of a graver misdemeanor; except that if it was a mark on an auto (for example, the engine number) it is a felony, regardless of what his reason for doing it was. And offering an auto for sale with such a changed or destroyed number is a misdemeanor on first offense, and felony on second.

Why is removing marks or numbers harmful? What must his intent be?

Statutes, c. 38, sec. 447; c. 121, secs. 235-36

81. Some time ago it was said that there might be special facts which, added to the larceny, made the combination a different or a worse crime than would otherwise be the case. Larceny from the person (see sec. 77 above) is an example because it is always a felony, without regard to the value of the property taken. Another is the crime called "robbery." Robbery is the violent taking of something from the person of another, either by force or by putting him in fear. It is always a

felony, but if the robber, or any partner of his who is present, is armed with a deadly weapon, it carries a longer sentence.

How does robbery differ from larceny from the person? Give examples of "force" and of "putting in fear." How valuable must the property be? Would it be robbery if a man were forcibly kept from picking up property that belonged to him?

Statutes, c. 38, sec. 501

82. A totally different crime that many people confuse with robbery is "burglary." If anybody breaks into and enters (or, if a door or window is already open, simply enters) a house of any sort (including a store) or a steamboat or railroad car, for the *purpose* of committing a larceny (no matter how small) or any felony (no matter what kind), he is guilty of burglary, which is a felony. He does not have to succeed in carrying out the crime for which he broke in—it is already a burglary when he broke in and entered with that kind of a purpose in his mind, even though he never succeeded in carrying out the crime that he meant to commit.

What are the facts that will have to be proved to show that the prisoner was guilty of burglary? Is a breaking-in necessary? Suppose he breaks a window but pushes a pole with a hook on it through and does not enter? What must he enter? Will a church or school do? Suppose we know for sure that he did not mean to steal a thing—he broke in just to commit a rape—is he a burglar? Suppose he was arrested before he had a chance to commit the rape? Suppose he meant to steal, but only ten dollars' worth?

Just trying to break into a building *at night* is a felony too. So is having burglar's tools with the intent to use them in committing a burglary.

Statutes, c. 38, secs. 84-88

83. Another well-known crime is "arson." It is committed by anyone who purposely (or, as the law expresses it, "wilfully and maliciously") sets fire to and burns property under the following circumstances: If the property so burned was real estate (that is, a house or bridge, etc.) it is always arson, even though the house belonged to the prisoner *himself*. If it is personal property (auto, lumber pile, coal, etc.) it is arson if one or the other of two facts was true: *either* the property

must have belonged to somebody else (and have been worth at least twenty-five dollars), *or*, if it belonged to the prisoner himself, he must have burned it to cheat the insurance company. Arson is always a felony. Even trying to commit arson is a felony although the prisoner got no farther than arranging inflammable material that he was later going to set fire to.

What do you understand by "arson"? Suppose a man is very careless, and so sets a fire going—is he guilty? To what kind of property does it apply? Whose property? May the owner burn up his own property? Suppose the fire was put out before any harm was done, has any crime been committed? Could there be a crime if no fire was ever even started?

Statutes, c. 38, secs. 48-52

84. A crime that might very well have been put in with those on false and lying conduct (such as false pretenses, confidence game, and so on) is "forgery." If anybody falsely makes or changes any written document of any sort, so that it has a different effect in law from what it had before, he is committing forgery. It makes no difference what the document is that is being faked or changed—railroad ticket or theater ticket, bank check or lease, or any other paper at all that seems to have any sort of legal meaning. It is also forgery if anybody has such a forged document and passes it on (or tries to pass it on) to somebody else, knowing that it is forged and meaning to cheat the person to whom he is passing it.

Is it forgery to change a genuine check or note? Is it forgery if I change a letter belonging to you, so that the end reads, "Very truly yours," where, before I changed it, it read, "Very sincerely yours"? Why not? Can a person be guilty who has not done any changing himself? How? Suppose he *tried* to sell the paper but could not find a buyer? Suppose he thought it genuine and all right? Suppose he knew it was forged but gave it away, telling the man he gave it to that it was forged and should be destroyed?

A very important kind of forgery is called "counterfeiting." This is making false money (paper or metal) or passing such money, including trying to. It gets the same punishment as forgery. Having counterfeiter's tools is also a felony.

Statute, c. 38, secs. 277-85

85. Of the crimes which have not yet been described one of the most important is "extortion." This is committed by anyone who either by word of mouth or by writing threatens another person that he will do him some serious physical harm (such as kill him or wound him or kidnap him), or that he will burn his house or other property, or that he will do one of these things to some relative of his, if these threats are made to get money from the victim. It is a felony. It is still extortion, but only a graver misdemeanor, if these threats were made without any intent to get money. If the threat was falsely to accuse him of having committed a crime, or was to tell the world of some infirmity or failing of his, it is only a graver misdemeanor, whether the intent was to get money or not.

To be this sort of crime how must the threats be sent, by writing or by word? To be a felony point out that it must be a combination of the most serious threats (kill, kidnap, etc.) and the worst object (to get money). If the object is not such a bad one (not money) or if the threats are not so bad (just to start a criminal charge, etc.), it is only a misdemeanor. Is it extortion to have somebody charged with a crime which he really committed? Why not?

If any person representing or pretending to represent a labor union or other group of workmen extorts or tries to extort money from any employer or property owner, in return for not calling a strike (or calling it off if it has begun), or settling any dispute or letting goods be delivered without interference, he is also guilty of a felony.

What is the slang name for this crime? Can it be committed by a man who is really a union official? By one who is not?

86. In this connection it should be said that any conspiracy to commit any felony is itself a crime, and amounts to a felony. Even if the object of the plot is perfectly lawful, the conspiracy is a crime if they plan to reach that object by using unlawful methods and means.

Explain what we mean by "conspiracy." Explain that this may get a person before he starts to carry out his scheme—just planning it with others is enough, and point out that this applies to conspiracy to commit *any* felony.

Statutes, c. 38, secs. 139, 240-46

87. Anybody who damages (or tries to damage) any building used as a living place by anybody, by means of a bomb or other explosive, commits a felony. Throwing (or trying to throw) a stink bomb is a graver misdemeanor. Having stink bombs in one's possession, with the intention of throwing them, is just as bad.

Point out that the bombing statute just applies when the building was used for living quarters. If it was a store building no crime was committed, was there? What?

Statutes, c. 38, secs. 237-39, 443-45

88. The criminal law does not permit anyone to say or write untrue things which tend to blacken the memory of a dead person, or which attack the honesty or good reputation of a living person, or which show up his natural defects and so expose him to public hatred or ridicule or to financial loss. But if the things said or written are true, it is generally a good defense. Saying such things is called "slander"; writing them is called "libel." They are misdemeanors.

Statutes, c. 38, secs. 402-4; c. 126, secs. 1-6.

ANTI-NARCOTIC AND PROHIBITION LAWS

89. Only two types of offenses are left to be considered: violations of the laws against the sale of narcotics and violations of the Prohibition Law. These are both different from anything we have had so far, in one important respect: They are partly or entirely offenses, not against the state laws of Illinois, but against the laws of the United States as a whole. This is important because it may mean that federal government officers (U.S. deputy marshals, prohibition agents, and so on) may work on the same case with you or entirely independent of you. You will learn from other courses how you should act in order to co-operate with them. Here we shall merely give a brief description of the offenses just mentioned.

Narcotics.—This word means habit-forming drugs, the kinds of drugs that people call "dope." To sell dope, unless on a prescription, is a crime against the United States. Of-

fenders are tried in the federal courts and if guilty are sent to a federal penitentiary (Fort Leavenworth or Atlanta).

Prohibition.—There is a federal prohibition law (the Volstead Law and the Jones Law), and also an Illinois state law, so it is entirely possible for somebody to be violating the federal and state law both at the same time. Although he would technically be committing two crimes at the same time, one against the United States and the other against Illinois, and perhaps technically might be tried and punished for each one, it is the usual thing to try him only once, either in the federal court under the federal law or in the Illinois state court for the offense against the Illinois statute. Usually the trial is in the federal court and the prosecution is carried out by federal officials, and so will be taken care of by federal officers. For that reason only the important points in the Illinois Prohibition Law will be described here. The law forbids the manufacture, sale, or transportation of intoxicating liquor. (Liquor is intoxicating if it contains more than one-half of 1 per cent of alcohol and is fit for beverage purposes.) It forbids the sale, also, of patent medicines (and other medicines with alcohol in them), toilet waters, flavoring extracts, etc., in such places as restaurants, poolrooms, bowling alleys, soft-drink places, shoe-shine stands, etc. Hospitals and drug stores, under permit, may in case of prescription sell liquor for medicinal purposes. Sacramental wines, for religious purposes, are also permitted. Advertisements of liquor are forbidden. So is taking an order to furnish liquor, or soliciting an order. It is unlawful to sell or to advertise any article to be used in making intoxicating liquors. How to proceed in enforcing the law, and particularly what the law is regarding searches of places where it is suspected that liquor is being kept, will be taken up later.

GENERAL PRINCIPLES APPLICABLE TO ALL
CRIMINAL OFFENSES

90. We have now finished describing the main offenses that the statutes of Illinois lay down. There are many more, very

many, but they are either less important or they are ones that a police officer is not going to have anything to do with.

Now that you have a general idea of criminal offenses it is time to mention a few general matters that apply to just about all crimes. Some of these matters have already been referred to; others not.

In the first place, to get a conviction you must be able to prove against a prisoner *all* those facts which, taken together, make up the crime that he is charged with. Not just some of them. Not just most of them. All of them. For example, in the crime of receiving stolen property: (1) the goods must have been received by the defendant, that is, actually got by him; (2) they must really have been stolen; (3) he must know that they were stolen; (4) he must have received them with intent *either* to make financial gain *or* just to keep the owner from getting them again. You must be able to prove fact (1) and fact (2) and fact (3) and fact (4), although in fact (4) you are given a choice between two things either of which will do. Since *everything* must be proved it is very important to know all the things that make up each offense, so that you can get the evidence for all of them for the state's attorney. That is why it is so important to know just what things make up each crime.

Why is it important exactly to know all the things that make up a crime? How many of these must be proved? Drill class in various ones. This is a good chance to do some good reviewing.

91. In the second place, you have probably noticed in most of the crimes studied that for the prisoner to have committed the crime he must both have done some particular *act* and had some particular *intent* or thought while he was doing it. To use receiving stolen goods as an example again, he must have done the act of receiving goods that were stolen, and, so far as his intention and knowledge are concerned (that is, the things inside his mind), he must have *known* they were stolen and must have *meant* to make a profit or to keep the owner from getting them back. Almost without exception (there are a few exceptions) this is true all through the criminal

law—a crime is not just an *act* by the prisoner, something that he did; it is the act and, besides that, the necessary *intent*, and one is just as important as the other. The crime is the combination of the two.

Ask for other illustrations that a crime is the combination of act and intent. Give examples of act without intent or intent without act. Ought either of them alone to be a crime?

92. In court, as was said a little way above, both the necessary act and the necessary intent have to be proved. It is fairly plain how we must do this for the act. We may prove the act directly by getting witnesses who saw him do it, or indirectly by getting witnesses to whom he admitted that he had done it; or we may do it by showing a set of events and circumstances which can only lead us to the conclusion that he did it. (Later we shall get into more details on these matters.) It is less plain how we are to prove his intent. No machine has been invented so far for reading the inside of a man's mind. So we do the next best thing: we decide what his intent was by looking at his conduct. It is his thoughts, not his conduct, that interests us, but we have to look at his conduct because that is the only way we can get a line on his thoughts.

Use receiving stolen property again as an illustration. How shall we prove that he knew the goods were stolen? That he meant to make gain from them or to keep the owner from getting them?

93. One thing should be clear from what has been just said: If we should find that the prisoner was a person who *could not* have the intent—the wrongful thought—that the law says is absolutely necessary, the result would be that such a person *could not* commit a crime. He might do the act, but the act without intent is not a crime. Are there people who are not capable of having the necessary wrongful thoughts? Yes, there are—people that we call “insane,” people who have some sort of mental trouble that makes it absolutely impossible for them to have the necessary wrongful thoughts. This does not mean that every person whose brain is not wholly normal is incapable of having the necessary intent; one's

mind may be a little "off," yet still good enough to form and have the necessary intent. But a person is *incapable* of having the necessary wrongful thoughts only when he does not know the difference between right and wrong, so that he has no idea that he was doing anything morally wrong at all, or when he has delusions about the things happening around him and does something which would be quite natural and lawful, if the facts really were as he (because of his delusions) supposes them to be, or when he is an idiot, or when he is a child under ten years old.

94. You will notice that nothing is said about drunkenness in this regard. Drunkenness, intoxication, is not a defense. The law says that a drunken person is to be taken to know what he is doing as well as if he were sober. The only exception is where he was made drunk by force or fraud—then he is treated like an insane person. But otherwise we say that his condition was his own fault, and he is not to get any benefit from it. Only those people are excused who are not responsible for their being that way, that is, insane persons, idiots, and children.

95. Before leaving the matter of children, one thing more should be said. A boy under seventeen is considered by law to be incapable of committing rape. This is not so much because he cannot form the *intent*. It is because the law says that physically he is too young to do the *act*. Of course this may not be always true, some boys at seventeen may be developed enough to do the act, but for the sake of simplicity the law takes it for granted that he was too young to be able, and no evidence will be allowed that he was old for his age.

Drill class very thoroughly on all matters in these paragraphs, as they are very important. How far "off" does a person's mind have to be before he can defend that he did not have the ability to form a criminal intent? Why does a child under ten go free? Or a boy under seventeen, in a rape charge? Is drunkenness also a good excuse? Is it sometimes an excuse?

Statutes, c. 38, secs. 589-94, 599

96. There are two other groups of people who may do an act that looks like a crime and yet not get into trouble for it:

also applies to somebody who forcibly or fraudulently makes somebody else drunk, so that the drunken person will commit a criminal act for him.

Can somebody be guilty of a crime when somebody else does all of the act? When?

Statutes, c. 38, secs. 595-99

98. This shows that a man may be guilty of a crime even when he does not do the act at all, provided that he got some *innocent* person (like a child, idiot, etc.) to do it for him. But suppose I got a grown man of sound mind and persuaded him (no threats of any sort by me) to do the criminal act. What has just been said does not apply to me, because I am not acting through an *innocent* person. He is himself guilty. But just because he is guilty, should I go free, when I aided and encouraged him to do it? The law says "No," the person who aids and encourages another to commit a crime is just as guilty as he is, and should get the same punishment, whether he was himself present at the scene of the crime or not. The law gives me a name in this sort of case—it calls me an "accessory."

What does the law do about a person who gets somebody else to commit a crime? What does it call him?

Statutes, c. 38, sec. 582

99. Suppose I know that a crime has been committed, in which I had no part, but I hide the crime from the police, or I hide or in some other way help the felon who committed it, knowing that he is the guilty person; that makes me guilty of a felony too, because I am hindering the smooth working of the law. I am what the law calls an "accessory after the fact." There is one exception: If the guilty person who was helped was husband or wife of the one helping him, or was his parent or child, or brother or sister, helping him will not make the helper an accessory after the fact.

What is an accessory after the fact? What must he do and know? Here is a chance to remind the class that a crime is the combination of an act and an intent. What is the act and what the

intent, the knowledge, here? What does the word "felon" mean? Why is there such a crime as "accessory after the fact"? Why cannot near relatives be guilty of it?

Statutes, c. 38, sec. 584

100. We saw several times that a person might be guilty of an offense even though he only *tried* to do something serious, although he did not succeed. For example, attempt to commit murder, attempt to commit arson, and so on. There is a provision in the statute that, even where nothing is specially said, any *attempt* to commit any felony is itself a felony, and any attempt to commit a misdemeanor is a misdemeanor. So the law punishes not only the man who commits a crime himself, and the one who gets somebody else to do it, and the one who helps and hides the person who did it; it even punishes the person who tried to commit a crime, even though the complete crime was never committed by anybody at all.

Why are attempts worth bothering about—they didn't hurt anybody?

Statutes, c. 38, sec. 581

101. Sometimes the prisoner sets up the defense that he ought to be excused because of something that the *victim* said or did. And sometimes this defense is good and other times it is not. Our work now for a while will be to see exactly when the victim's conduct may be a defense.

There is one very clear case where plainly the victim's actions show that the prisoner committed no crime. That is where the victim started the fight and the prisoner did nothing more than he needed to in self-defense. We have already considered that. But let us suppose that the prisoner started the trouble. Is there any sort of conduct by the victim even then which will free the prisoner from the criminal charge?

In the first place, suppose he says (and can prove) that the victim was willing to let him do what he did, or, as the law expresses it, that the victim "consented." Is that a good excuse? It depends. For some crimes it is and for others it is not. If it is a rape charge it is a good defense, because the crime is only committed if the act of intercourse is without the consent

of the woman. Or if it is larceny. But in many crimes the victim's consent makes no difference at all; it is still a crime. We simply pay no attention to the consent, although our reasons for disregarding it may be very different in different cases. For example, in adultery, or in prostitution, the fact that all parties consented makes no difference, because the harm is to public morals, and the consent of the parties will not make that harm any less. Or, again, two men agree to have a fight on a public street. Their consent to giving and taking blows does not make their conduct harmless, because others are likely to join in and create a serious disturbance of the public peace. Or, again, a man suffering from an incurable disease consents to his doctor's poisoning him. The law simply will not let anyone consent to serious injury to himself—it is too important a matter to let him decide it. In such cases consent will not help the prisoner at all.

Ask for more examples of where consent will be good and where not. Ask for reasons in each case. Is consent always a good defense in rape (girl under sixteen)? What about consent in bigamy, kidnapping, forgery, bribery, false imprisonment, fortune telling, and so on?

102. The victim's conduct, on which the prisoner hopes to get an excuse for what he has done, may be something else than consent. He may try to get free by claiming that the victim forgave him and did not want a prosecution. Is that a good defense? Yes and no. As a matter of fact, the state's attorney's office is so full of work that if a victim is willing to let prosecution go, they usually will not push the matter either. But suppose they *do* want to go ahead—can the victim by forgiving the prisoner end the state's case? The answer usually is "No," because the injury that the prisoner did was not just to the victim; it was to the people of the state of Illinois, to all the people, and the victim can no more give away and end their right to have the prisoner punished than I can give away your property. We can be generous and give away only our own property, not the property and rights of somebody else. There is one rather important exception to what was just said: seduction and rape. The advantage to

all concerned of getting the parties married is so great that the law tries to bring this result about by saying that if the defendant marries the girl he does not need to be afraid of criminal prosecution any more; the girl's forgiveness and their marriage are a defense to him.

Should the victim's being willing to let bygones be bygones be a defense? Is it, practically, a defense? What is the difference between what we are now talking over and consent? Will forgiveness help in a seduction charge? Why?

103. Or the prisoner may say that the crime was the victim's own fault because he was careless—the injury would never have happened if the victim had used only ordinary care. This defense is no good at all. The victim may have been foolish or careless, but that does not make the prisoner's conduct any better.

Ask for examples of careless or foolish victims. (*Examples:* Victim foolishly believed defendant's false pretenses. Victim carelessly stood in middle of street and defendant carelessly ran over him and killed him.) Why not a defense?

104. But suppose the victim was not only careless—he was himself behaving in a criminal manner, or trying to. For example, the prisoner was impersonating an officer, and the victim tried to bribe him (thinking him an officer). The prisoner now says that that should be a defense, because (he says) the criminal law is made to protect honest people, and a dishonest, crooked victim is not entitled to have the law come in and help him when he himself was breaking the law. But this is not correct. The prisoner is still guilty of his crime; the dishonest conduct of the victim merely shows that he (the victim) may be guilty too, of another crime.

Should the criminal conduct of the victim be a good defense? Why not?

These, then, are the different ways in which the prisoner hopes that the conduct of the victim may help him—the victim's consent, his forgiveness, or his own fault, either by way of negligence or actual criminal conduct. As has been seen, the defense may or may not be good. It depends.