

The Commonwealth of Massachusetts

COMMUNICATION FROM THE ADMINISTRATIVE COMMITTEE OF THE DISTRICT COURTS.

To the Honorable the House of Representatives of the Commonwealth of Massachusetts:

We, the members of the Administrative Committee of the District Courts, have considered your order of March 28, 1951, sent to us on April 4, 1951, and respectfully report as follows:

As we construe this order, we are requested to make an immediate investigation of the case of William F. Bonnell, Jr., and also of the disposition by Justice Arthur P. Stone of the Third District Court of Eastern Middlesex of all cases involving sex crimes during the past five years, with a view of determining whether the disposition of such cases has been detrimental and harmful to the public interest and whether such disposition of cases by said justice warrants the taking of such action as will better protect the public against the improper freeing of sex criminals, and also with a view of determining whether in the opinion of this Committee said justice should be retired because of advanced age or mental or physical disability. We believe that the laws presently in force, if properly administered, adequately protect the public against the improper freeing of sex criminals and that no further legislation is necessary to accomplish this purpose. There might well be, however, some improvement in the method of commitment and in the institutional care of these unfortunate and potentially dangerous individuals

upon which subjects the advice and recommendations of the Department of Mental Health and others would be of value. A step in this direction was taken by Chapter 683 of the Acts of 1947, (G. L. Chap. 123A) but this statute has not been invoked frequently.

As to the particular subjects of investigation, we report;

First; In reference to the cases of William F. Bonnell, Jr., we find that since the adoption of this order, the said Bonnell has been brought before Justice Stone, his suspended sentences revoked and new sentences to the Massachusetts Reformatory imposed, from which sentences the said Bonnell has appealed to the Superior Court. In view of the fact that the cases are now pending in the Superior Court and the question of the defendant's guilt has not been finally determined, it does not seem appropriate or fair either to the defendant or to the jury or judge of the Superior Court who may later hear these cases, for us, at this time, to make any comment as to what disposition of these cases should have been made by Justice Stone when they were first before him.

Second; As to making an immediate investigation of the disposition by said justice of all cases involving sex crimes during the past five years, we respectfully desire to call to the attention of the Honorable House of Representatives the magnitude of such an investigation and the time necessary adequately to conduct it. It first involves the searching of the court docket of the Third District Court of Eastern Middlesex to segregate the type of crimes described and to learn from the docket the disposition of such cases and, if they were appealed, to ascertain the final disposition of each case in the Superior Court. It would then seem necessary for the Committee to learn what the evidence was in each case to determine whether the disposition thereof in the District Court was detrimental and harmful to the public interest. Our Committee has no power to summons witnesses, no funds to hire investigators or clerical assistance, and even if we were able to procure the evidence voluntarily it is obvious

that a great amount of time would necessarily be consumed. Furthermore, it would be necessary in each case to investigate the background and record of each defendant at least from the probation records in order to determine the questions fairly. We are calling all this to the attention of the Honorable House of Representatives having in mind that it may desire to modify its order at least insofar as making an immediate investigation of all such cases during the past five years is concerned.

Third; In reference to the opinion of the Committee as to whether said Justice should be retired because of advanced age or mental or physical disability, we desire to report that upon our invitation Justice Stone appeared before the Committee with such persons as he desired and with the court and probation records relating to the Bonnell cases. He and these others gave a full account of the evidence and his reasons for the disposition he made of the cases having in mind the result of the mental examination of the defendant and the absence of any previous court record against him. We have also had occasion to see and confer with Justice Stone several times within the past few years. He is in his eighty-second year and readily admits he cannot perform his duties as justice without the constant use of a hearing aid which is obviously not always adequate or satisfactory. Without taking into consideration the Bonnell cases and his disposition of the same, or the disposition by him of any other sex cases, it is the opinion of the Committee that Justice Stone is of such advanced age and physical disability that proceedings to bring about his retirement under the provisions of the 58th amendment to the Constitution of the Commonwealth would be warranted.

FRANK L. RILEY.

KENNETH L. NASH.

LEO H. LEARY.

ERNEST E. HOBSON.

ARTHUR L. ENO.

*Members of the Administrative Committee
of District Courts.*

