

1914

Reviews and Criticisms

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Reviews and Criticisms, 4 J. Am. Inst. Crim. L. & Criminology 931 (May 1913 to March 1914)

This Book Review is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

REVIEWS AND CRITICISMS.

LA DIFESA PENALE NELL ISTRUTTORIA. By *Avv. Silvestro Graziano*.
Presso Nicola Zanichelli, Bologna, 1912. Pp. IV, + 710. Lira 15.

This is a very able and conscientious argument for introducing the right to defense at preliminary hearings. It may be, as Professor Parmelee asserts, that the underlying theory of the Continental "procedure of investigation" is much more advanced and shows a higher conception of the function of penal procedure than our own. But the book before us and a good part of Signor Graziano's massive bibliography proves that Continental lawyers are by no means agreed that this type of criminal procedure is the highest or best.

The author's central thesis is that "the position assumed by the Italian code of penal procedure now in force is in strident antithesis to not only the rights of individual liberty, but also to the very constitution of the state and to the new concept of modern society." He points out that the present code, in so far as it has to do with preliminary criminal investigations, "smells of canon law and barbarism," has only a varnish of modernity, and "kills the sentiment of liberty, which is the life and soul of the social organism." He is very positive that the procedure of investigation is a very real and permanent lesion upon the rights of the individual. "In the actual state of our legislation the sphere of activity permitted to the accused and his defense in the preparatory stage of his hearing does not offer sufficient guarantees for safeguarding the interests of the defense." But suppose I insist that we are not confronted by a question of absolute personal rights, but of public interests, and put forward the concept of social defense as the only proper motive for the trial and punishment of offenders? Granted, replies the author. Public interests are not really secured unless those of the individual are fully fostered and preserved. He quotes in witness, Montesquieu's famous dictum, "Unless the innocence of the citizen is assured, his liberty cannot be." But aside from theoretical objections to this method of procedure there are many practical difficulties not lightly to be disregarded. Indeed the preliminary examination as it is now conducted is the very soul and body of the whole criminal judicial process. The trial itself usually revolves within the narrow circle drawn by the examining magistrate at *l'istruzione preparatoria*. This means that the government or the police may use very arbitrary means for their own peculiar purposes; in short, it means a survival of the Inquisition. Such methods, of course, nullify not only the spirit but the very letter of Beccaria's work. For we recall that one of the fundamental principles laid down in the *Dei delitti e delle pene* was that the investigative process (*processo informativo*) must not be turned into an offensive process. We in America realize the danger so keenly that we abhor the police "third degree," and provide for right of counsel even in so informal a procedure as a probation officer's report in a juvenile court. That the author is not tilting at mere

REVIEWS AND CRITICISMS

academic ghosts appears from his unhesitating charge that many judicial errors, miscarriages of justice, may be traced to their root in a defective, partial, or badly conducted preliminary examination.

The main body of the book falls naturally into a three-sided investigation of the author's central thesis. The first line of argument has to do with defense in general; the second with the role of defense in the evolution of penal procedure, particularly in the development of the preliminary investigation; the third is a digest and criticism of the various and discordant opinions on the subject. His general conclusion is that the right to defense must not only be *admitted*, but better than that, it must fit into the procedure of investigation as one of its *fundamental functions*.

University of Illinois.

ARTHUR J. TODD.

FOURTH ANNUAL REPORT OF THE COMMISSION ON PROBATION FOR THE YEAR ENDING SEPTEMBER 30, 1912. THE COMMONWEALTH OF MASSACHUSETTS. State printers, 18 Post Office Square, Boston, Mass.

The Commission on Probation for the State of Massachusetts reports for the year 1912 that probation as a method of dealing with certain offenders against the law has become the settled practice in the courts of the state, that the true principles which should govern the work of probation are better understood by the courts and the probation officers and that reformation and not leniency is becoming more and more the guiding principle.

That the courts are using the probation system more is evidenced by the fact that 1,651 more people were placed on probation than during the year previous, and that \$136,511.85 was collected by probation officers, an amount which exceeded that collected in the previous year by \$50,000, and which exceeds the entire cost of the probation service for the state by more than \$20,000.

The commission emphatically states its opinion that the conferences of judges and probation officers and the visits of the deputy commissioner to the various courts have been of great value in unifying the work throughout the state.

There are seventy-one courts in Massachusetts dealing with criminal cases, exclusive of the superior courts the number of which is not given. In all the courts there are 111 probation officers, divided as follows:

Superior Courts	15
Boston Juvenile Court	2
Municipal Court	25
Police Courts	18
District Courts	51

The statistical tables show that these officers handled 17,538 probation cases in the year. These officers also investigated 730 cases of persons in prison, 475 of whom were released on the recommendation of the officers. Only ten others of the 730 were released against such recom-

REVIEWS AND CRITICISMS

mentation. The tables also show that 15,850 cases of drunkenness were investigated at the request of the different courts and 86,537 other cases of drunken persons arrested. This makes a total of 120,655 cases handled by 111 people in one year. It would seem that more officers would be needed for this amount of work, but such a request does not appear in the report.

The statistical tables also state the following results:

	Number surrendered to court for violation of terms of probation.	Number disappeared and defaulted.	Number arrested for new offenses during probation.	Number who had probation extended.	Number of cases on file or discharged at expiration of probation.
Superior Courts	118	34	166	10	463
Municipal Courts	1139	886	80	549	3919
Police Courts	309	118	49	665	2392
District Courts	681	440	220	1221	3490
	<u>2447</u>	<u>1478</u>	<u>515</u>	<u>2445</u>	<u>10264</u>

From these figures one would say that 4440 cases—the total of the first three columns—were unsuccessful probation cases, and 10264 successful, with 2445 doubtful. Of the total number of cases heard in all the courts 10.2% were placed on probation.

The results of the Boston Juvenile Court are shown by the following table:

SURRENDERED FROM PROBATION.				
Committed	Committed By Other Courts		Fined	Continued
36	4		2	2
Arrested for New Offenses	Probation Extended or Renewed	Probation to Pay Fine	Disappeared or Defaulted	On File
23	35	10	33	339

The Commission recommends that women offenders be placed on probation to women officers; that probation officers who handle large sums of money be required to furnish bond, and that the different courts having jurisdiction in cases of juvenile delinquency adopt the same practice for the cases of children between the ages of 14 and 17.

An interesting section of the report shows the relationship of the probation work to the enforcement of the new desertion law, which provides for the payment of money to the families of prisoners from the annual appropriation for the maintenance of a penal or reformatory institution in which any person is confined by virtue of a sentence under the non-support law. Because of this law about \$3000 has been paid by the Boston House of Correction to dependent families. It also furnishes a partial reason for the 80% increase in the money received in non-support cases.

From the commonwealth of Massachusetts one would expect a more comprehensive report than the above. The report of the Commission covers only four pages and that of the Deputy Commissioner ten, with

REVIEWS AND CRITICISMS

thirty-six pages of tables. The work of the Juvenile Probation Officers is disposed of in three and one-half pages of report and two statistical tables. As very little is said concerning methods of administration, and as the treatment of each subject is exceedingly brief, this report is of little value to probation officers from other states.

Chicago.

JOEL D. HUNTER.

STERILISATION UND KASTRATION ALS HILFSMITTEL IM KAMPFE GEGEN DAS VERBRECHEN. Von *Dr. Friedr. Ludw. Gerngross*. J. F. Lehmann's Verlag, Munchen, 1913, pp. 39 M, 1.20.

The idea that society has a right to and should protect itself against its anti-social members, so warmly agitated at the present time, is by no means a new one.

Already in the ancient Greek and Roman states there was a recognition of this principle, but we of today shudder at the mere mention of the methods used by the ancients. The next step in our efforts to deal with this problem was the enactment of laws forbidding the unfit to marry. Some of our own states were among the first to enact such laws, but it was soon discovered that while these laws were absolutely correct in principle, they were entirely useless in practice. Prevention of marriage does not in the least assure prevention of propagation. Especially is this true among the classes under consideration here. With them restriction of marriage means in most instances an increase in illegitimacy.

Asexualization of the unfit is the present-day battle cry in all quarters, and it is with the legal phases of these preventive measures that the author, whose pamphlet of some forty pages is before us, concerns himself. Gerngross, a jurist, commits himself unqualifiedly for sterilization as a means of prevention of crime, and it is indeed gratifying to the medical profession to see so much interest in this purely medical subject on the part of their legal brethren. For the very interesting discussion of the legal phases of this problem, we will have to refer the reader to the original, as it lends itself but very poorly to brief abstraction.

BERNARD GLUECK, M. D.

Government Hospital for the Insane.

DIE RASSENHYGIENE IN DEN VEREINIGTEN STAATEN VON NORD AMERIKA. Von *Geza Von Hoffman*. J. F. Lehmann's Verlag, Munchen, 1913, pp. 250, M 4.

There was a time when the mere suggestion of the possibility of America teaching Europe anything in the biologic sciences would have provoked a good deal of doubt; and it is indeed very gratifying to see that the unexpected has happened.

In the volume before us, we see an attempt by a European to bring before his countrymen in their own language a critical summary of the activities in the United States in the field of Eugenics or Race-culture.

The author particularly emphasizes the practical, the every-day

REVIEWS AND CRITICISMS

phases of this problem, and it is quite evident that he tries to imbue his readers with some of our utilitarianism. Says he, in the introduction, "America is in no way radical, it is only rational to the point of sobriety; here one does not concern himself whether a thing is new or old, whether tried or proven, if it appears reasonable, rational, it is tried, and when it stands the test it is taken over for permanent use."

As the author merely wishes to set forth in this volume the present status of the Race-culture Movement in the United States, it is doubtful whether those of us who have been keeping up with the American literature on the subject will find anything new in the book.

In the first chapter on the "Principles of Race-culture" the author discusses in a very able manner the theories of evolution, selection and variation; the principles of heredity, Mendelism, the question of transmission of acquired characteristics and the principles of Eugenics.

The second chapter deals in a very thorough and candid manner with the inception and spread of the Eugenic Movement in this country and describes the various private and state agencies engaged with this problem. Chapters three and four are to be especially recommended for their clear and critical resume of the present status in this country of the questions of marriage regulation and the sterilization of the unfit. The reader will find these chapters up to date in every way.

The laws of the United States governing these subjects are tabulated and form an easy and clear means of reference. A special chapter is devoted to "Immigration and Eugenics." A detailed description of the laws on these subjects follows in the appendix, and the book closes with a very valuable bibliography of over 900 publications.

Those who have access to the German language should feel very grateful to the author for his excellent presentation of the present status of this subject.

BERNARD GLUECK, M. D.

Government Hospital for the Insane.

REPORT OF THE HARTFORD VICE COMMISSION, HARTFORD, CONN. July, 1913. Pp. 90.

In January, 1912, the Court of Common Council of the city of Hartford passed a resolution authorizing and directing the mayor to appoint a committee to inquire into the conditions existing within the limits of the city with reference to the social evil. This volume is the report of the committee.

In the November, 1911, issue of the JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY the report of the Vice Commission of Chicago was reviewed by Carl Kelsey of the University of Pennsylvania. He concludes by saying, "In my opinion this is the most significant inquiry yet made in this field in America. Gruesome and horrible in many ways, the report is yet of compelling interest. It deserves wide attention." The report of the Hartford Committee deserves similar attention. One might presume that conditions would be found so variant in cities of such different size as Chicago and Hartford that there would be little similarity between reports on the social evil of these cities. The two

REVIEWS AND CRITICISMS

committees did not approach the problems of the social evil in the same way and the emphasis is not always the same throughout the reports, but the main conclusion was the same in each. The Chicago Commission recommends "Constant and persistent repression of prostitution the immediate method: Absolute annihilation the ultimate ideal." In Hartford a month before the mayor was authorized to appoint the committee he ordered the houses of prostitution closed which had previously been tolerated. The Hartford report covers the period when vice was protected in Hartford and also the period when houses of prostitution were closed. The committee's first recommendation is "That the present policy of keeping houses of prostitution closed be adhered to rigidly." Because this conclusion was reached unanimously by the committee after it had studied vice conditions for a year and a half in a city in which the policy was to close houses of prostitution the report deserves careful study. The committee states, "Keep the houses of prostitution closed. It can be done and has been done in this city now for some eighteen months. None of the evils predicted by the advocates of toleration have followed. On the other hand, some of the worst evils of the traffic in vice has been diminished."

It is not possible to condense the evidence, the consideration of which leads to the above conclusion. The headings of the chapters, however, indicate the thoroughness of the inquiry:

1. Legal Aspects.
2. Policy of Toleration and Segregation.
3. History of Prostitution in Hartford.
4. Present Condition.
5. Study of Hartford Prostitutes.
6. Alleged Causes of Prostitution.
7. Alleged Preventive Measures.
8. Specific Recommendations.

The importance of united action in annihilating prostitution is shown in two sentences in the report which were written after it was stated that the white slave traffic was being investigated by the federal authorities in New York. These sentences are, "The cities of Connecticut are so close to New York that they early felt the operations of the market. The larger cities in this state became good places of disposal, especially those which had adopted the policy of toleration."

It is the opinion of so many that vicious conditions exist only in a metropolis that it would be well for them to read the Hartford report to see how smaller cities hundreds of miles from a metropolis are affected by the variations in the policy of controlling metropolitan vice.

Chicago.

JOEL D. HUNTER.

VERBRECHERTYPEN, HERAUSGEGEBEN VON HANS W. GRUHLE UND ALBRECHT WETZEL, HEIDELBERG. I. HEFT, GELIEBTENMORDER. Verlag von *Julius Springer*, Berlin, 1913. Pp. 101, M. 2.

An interesting characterology is promised in the series of papers, of which the one mentioned above is the first. From the scientific investigations of criminals of all types, conducted under the direction of

REVIEWS AND CRITICISMS

Lilienthal, Nissl, Schott and Wilmanns, and published as *The Heidelberg Dissertations in Criminal Psychology*, it is proposed to draw summaries and to delineate average types which will be presented to the public in a series of papers under the heading "Verbrechertypen." The conclusion of the paper tells us that it is not the intention to set up new categories for the classification of criminals, but rather to give a psychological characterization of groups within the present rubrics. A bibliography of 38 titles from Hitzig's *Zeitschrift für Kriminalrechtspflege*, Hitzig's *Annalen der Deutschen und ausländischen Kriminalrechtspflege* and Feuerbach's *Aktenmässigen Darstellung merkwürdiger Verbrecher*, critically summarized according to types of cases is a valuable addition.

The authors assert that the present literature of so-called criminal psychology is unsatisfactory and almost useless, for the reason that it is interwoven with personal opinion and philosophic prejudice, to say nothing of the paucity of case descriptions. There is need for a new archiv which shall devote itself principally to case descriptions and it is this function which the proposed series shall subserv. Its intention is to be descriptive and entirely free of doctrines or theoretical standpoint.

The three cases presented in the opening number of the series are well drawn by Albrecht Wetzel and Prof. Dr. K. Wilmanns. The results of the psychological and neurological tests are instructive, and while not complete in this summary, serve as a constant reminder that in Germany the criminal is the subject of a serious individual investigation, of prime importance to the state. Murder, from erotic motives, is seen in each of the three types. Are the conditions which led to these acts primarily hereditary, or are they a product of the milieu? This is the large problem underlying the investigation. And notwithstanding that bad heredity is shown in each of the three cases, we do not find the German investigator "jumping" to the conclusion that the problem is thereby settled. Rather is it considered an unusual opportunity for the study of the causal connections of these erotic motives with the entire mental organization of the individual. This series of papers, taken in conjunction with the Heidelberg researches, promises to yield a mine of information in criminology.

University of Illinois.

A. H. SUTHERLAND.

A PHILOSOPHICAL DISCUSSION OF THEFT. By *Carnevale* and *Lanza*.
Il Progresso del Diritto Criminale, May, July, August, 1913.

"*Il Progresso del Diritto Criminale*," published in two of its issues (Nov.-Dec., 1911 and Jan.-Feb., 1912) an article by Emanuele Carnevale, its editor and professor of penal law and procedure in the University of Palermo, entitled, "Ancora dei limiti morali, nella repressione del furto" (reviewed in this Journal, Sept., 1912, p. 451), in which he advanced and maintained the principle that no prosecution for larceny should lie for the theft of articles of minimum value, and that the allowance of such an action did more harm than good, be-

REVIEWS AND CRITICISMS

cause it tempted the court to disregard the law, on account of its severity.

To this there has come a reply. Pietro Lanza, in the May, July and August issues of "Il Progresso," for the year 1913, has published an essay, "Nuove asservazione sui furti minimi," and a *repliation* by Carnevale in the last issue cited. As we said in one review, the value of the arguments pro and con lies, for the American lawyer, in emphasizing the necessity of precision of thought in legislation, of legislation that is possible of execution, and of the relation between law, economics, sociology, etc.

But to reduce Lanza's long and detailed reply into a few words: He believes that the minimum value of the thing stolen has nothing in it to avoid a criminal action. He believes in justification as a plea, when the defendant shows an immediate necessity, together with such acts as show an intent to do the least possible harm. He bases justification on the absence of the evil intent which is a subjective element in every crime. Careless disregard of the rights of others is a mark of such intent, and even if coexistent with an absence of malice, is no justification.

In his "Un' ultima parola," Carnevale reiterates his case, that the minimum value of the thing stolen should be presumptive evidence of a lack of intent, and hence, a justification unless controverted. It seems that he is wrong. A justification must be in the absence of the subjective element of a crime. The worthlessness of the result of the criminal of fact cannot show an absence of anti-sociality, in fact, rather, the reverse.

The truth seems to be, as Escobedo wrote in his pamphlet on the "Costituzione de la porti civile,"¹ in the difficulty of grafting new reforms in old systems, for it is impossible to obtain a conviction entailing imprisonment for the theft of an apple. The answer to the difficulty lies in adopting positivistic methods of anti-criminal influences of an economic, moral, physical, psychic and biological order. Looking upon delinquency as a disease, the theft of an apple can be prevented by inculcating a feeling of social responsibility, through influences of teaching, environment, etc.

Philadelphia.

JOHN LISEE.

LIBERTA VIGILATA. By *Ugo Conti*. Reprinted from *Rivista de discipline carcerarie e corrective*. Anno XXXVIII, N. 7-9, 1913.

In this essay the author takes up questions generally dealt with in America under the subject of juvenile courts and probation officers. Putting aside the difference of the means adaptable to the ends desired, wherein the codes, equitable procedure and paternal attitude of the juridical mind of Southern Europe, which, together with the smaller administrative units with more stable population are more advantageous for the alteration desired, the scheme outlined is very similar to that

¹Citta di Castello, 1912, and cf. *Journal of Criminal Law*, July, 1913, p. 315.

REVIEWS AND CRITICISMS

followed in several of our states. It is interesting to note, however, the Italian (and philosophical) acceptance of the penal function as one of social defense and not of moral betterment. It seems that the Italian jurists have generally passed not only the stages of vengeance and superstition in criminal law, as most civilized countries have done, but have also passed the stage where punishment is considered to be morally corrective as well as socially protective, an error which we may abandon when sentimentality and its consequent impotency of criminal justice have brought home to the people a knowledge of the amount and percentage of unpunished crime.

Conti begins by defending "liberta vigilata" as "a state of controlled physical and moral individual liberty." This phrase is applicable to every individual, but he puts aside all question concerning the "liberta vigilata" of children, say, until fourteen years of age. It is administrative, he says, and its theory belongs to the science of administrative law. But it is managed by the penal department, because of its anti-sociality. This distinction, while foreign to American thought, is logical and accurate, and tends to accuracy in result. There is no question of penalty in children, who are not punishable. Because of the distinction of this branch of law from administration, of which it is a subdivision, and from penal law, with which it is unconnected, there should be a separate court for juvenile cases. There should be the judge, the probation officer, and the custodians of the minor. These factors in the machinery of handling juvenile cases he takes up in order. First, he considers how the case should be brought before the court, holding that any one could make complaint; but it is the duty of the judge *ex officio*, and of any of the officers so to do. The hearings should be private¹ and not appealable, reversals being allowed only for potent illegalities. The probation officer's duties are well known. He makes no alteration in them. As custodian, he distinguishes guardians and trustees. Every child must have a custodian, either natural, or, in cases of abandonment, appointed. They may be volunteers or paid officials of the court. The judge may appoint a member of the child's family, a stranger or an institution. The appointee, thereupon, becomes liable for the execution of the decree.

One reform, Conti suggests, however, which is not generally found attached to the American Juvenile or Domestic Relation Courts, that is, a school for probation officers. This we can most heartily recommend. It is an innovation similar to the Roman Police School,² and one most worthy of imitation.

But Ugo Conti's article, while well-received and lucid, should be read by all, not only and perhaps not so much for its recommendation of a much needed institution, but for the logical and philosophical spirit with which the author approaches his subject. This spirit should be

¹This follows the ruling of Judge Gorman, of the Juvenile Branch of the Municipal Court of Philadelphia, just established.

²Also instituted in kind if not in degree by Director Porter of the Philadelphia Department of Public Safety.

REVIEWS AND CRITICISMS

inculcated in all those who desire reform, in order that their efforts, however good their intent, may not retard rather than aid the plans they propose.

Philadelphia.

JOHN LISLE.

JUSTICE LAUDATIVE. RECHERCHE DES ELEMENTS D'UN DROIT SOCIAL COMPLEMENTARY DE LA JUSTICE PENALE. By *F. Holbach*, Avocat a la Cour d'appel de Bruxelles. Brussels and Paris, 1914.

The writer opens a fertile field, hitherto little cultivated. The work begins with the assumption that there is in society a conviction that justice includes the rewarding of good deeds as well as the punishment of bad ones. That such an idea exists and has long existed is shown by numerous references from history and the literature of law and religion of the past and present.

That the punitive idea of justice has received so much attention and has become fixed in the law while the other phase of it has scarcely received attention, at least public attention, seems to the advocate an unfortunate thing for society as a whole. The writer believes that the neglected branch of justice has done much more in the way of social control than punishment in spite of the fact that it is unorganized and little conscious effort has been made to make use of it. Having demonstrated the existence of this dual conception of justice, M. Holbach states his thesis as follows: "The subject which occupies me is as follows: if the laws have for so long a time compelled the hunting out and punishment of evil, without hunting out and rewarding good, if a penal law already exists and the law of compensation (laudative) has for a long time been absent when justice implies both and Christian charity counsels rather the omission of the punishment than of the reward, the reason for this logical anomaly is found in the whole of the social organization or resulting circumstances imposed by the moral and intellectual imperfection of humanity. Perhaps," he continues, "in considering the whole of the facts set forth in the following pages, one will receive, as I have, the impression that the time approaches which will see diminished the regime of the old testament that evil be opposed with evil; and which will assist in the insensible social realization of the so long enigmatic words of the evangelist who wished that evil might be combatted with good. It is not by any means doubtful that '*justice laudative*,' which has already constituted itself and is in action, will be a new and very powerful means of ameliorating human society, perhaps more efficaciously than '*justice penale*,' whose field of action is more limited."

That the advocate has a good ground here for argument, no one will deny, but that society would be materially helped by a conscious effort to supply this apparent fault of the developed system not a great many will agree. This would be conscious interference which would disturb the shade of Herbert Spencer if not the social equilibrium. Leaving aside the discussion of the advisability of conscious interference, there are other important considerations involved in this thesis.

REVIEWS AND CRITICISMS

Would a society impelled to action by the hope of reward be the goal of evolution? Is not the present system working toward a better object? Cannot the words of the evangelist be oft interpreted that the good deed is its own reward? Might not the present system develop a type desirous of doing good for the sake of society rather than for the hope of a personal reward? Many believe that the last condition suggested is the real one. It is certainly more likely to win out in the selective process. The golden age is ahead as M. Holbach discerns it, but we seriously doubt the wisdom of trying to hasten its coming by the means of "*justice laudative*." However, as is pointed out, the wheels of society might be made to run a great deal smoother if public service were better paid than at present. That this should be more than decorations and titles is obvious, but to make it more material would seriously endanger a delicately organized system of social control, worked out by long ages of unbiased experiment.

The book is well written and the author makes a good case. That there is a popular conception such as he describes is made clear. The question is, "is this justice or merely an idea?" There is apparent confusion on this point.

The field traversed has been little studied and this pioneer does good work. His style is happy and his view optimistic. On account of the sociological significance of the material considered the work almost if not quite merits translation.

Syracuse University.

PHIL. A. PARSONS.

JUVENILE LAWS OF THE UNITED STATES. (A FIATALKORUAK BUNTETOJOGA ESZAK AMERIKABAN.) By *Dr. Francis Finkey*, Budapest. Atheneum, 1913, Pp. 276, index.

Dr. Francis Finkey is professor of criminal law and criminal procedure of the University of Kozsvár, Hungary, and one of the foremost jurists of modern Hungary, progressive and abreast with the times. His work on "the present status of penology and its reform questions" appeared in 1904, discussing the latest developments of penal science in Western Europe. The present work was inspired by his attendance at the International Prison Congress, held at Washington in October, 1910. He records his impressions gathered during the two months study trip taken by the delegates prior to the sessions of the congress. The work contains six chapters, an introduction, a bibliography and index. It was issued under the auspices of the Hungarian Bar Association.

Dr. Finkey in explaining the reason for writing his book, points out that the reform law of the Hungarian Criminal Code (1908; XXXVI) and especially the second chapter, dealing with juvenile offenders, is modeled to a large extent after our juvenile court laws and some of the features of our jurisprudence of this branch were taken over by the Hungarian code without change. Hence he finds it useful to go to the source and to show conditions of the place where the reform movement dealing with juvenile offenders originated.

REVIEWS AND CRITICISMS

There is a difference between the "milieu" of the European and the American child; their groups of ideas, therefore, are different. Yet the European and the American child are essentially alike. Society, therefore, for its own protection against delinquent children and its efforts to save them, properly proceeds in Europe along the same lines (so far as cardinal principles are concerned) as in America.

Dr. Finkey reviews the essential principles of the American criminal law and also describes the principal traits of American society, for as he says, there is a close connection between the governing ideas and aims of society and the criminal law. A similarity of culture produces similar jurisprudence. He points out that the great number of voluntary, social and charitable organizations in America co-operate with judicial and administrative bodies with great mutual benefit. He observes that scholarship is more practical and popular in America and is closer to every-day problems of life; that it concerns itself very largely with social questions. The eminent Austrian statesman, J. M. Baernreither, happily expresses this idea thus: "In America science became democratic, and experience was placed on a broader foundation."

Dr. Finkey describes the various prisons which he visited, discussing the systems in vogue. He has few good words to say about our county jails, but comments highly on the state penitentiaries visited by him.

Passing to the second chapter he takes up in detail the subject of child protection, showing great insight and sympathy with the subject and describes the various phases of the activities of the state and private agencies concerning child protection.

The third chapter gives a good exposition of the Juvenile Court, the spirit of this new department of "social jurisprudence," is well understood and admirably presented. A full account of the Illinois law, as well as the workings of the Denver and New York Juvenile Courts are given. He points out by way of comparison that the Juvenile Court has been in existence in Hungary since January 1st, 1909. That probation and parole are part of their law also now. He expresses the principle in dealing with juvenile offenders in this language: "The nature of the offense shall not be regarded abstractly, but the individuality, the future and the moral development of the child shall be taken into account."

He finds the source of probation in the old English law, "surety for peace" and "surety for good behavior," and describes the development of probation in the various states of the Union, dealing at length with Massachusetts. Truancy, parole, etc. are discussed, too. The remaining two chapters of the book are devoted to our reform schools, to the various institutions for dependent and delinquent children. The reformatory and the various practical methods in use are treated exhaustively, which discharge the functions to prevent, cure, educate and reform the child and youth of both sexes.

Dr. Finkey's book is a thorough, scientific treatise, for it is not merely an account of impressions gathered, but utilizes the rich literature on the subject, too. There are but few minor errors in the book.

REVIEWS AND CRITICISMS

We often speak of the general disrespect of the American public for our laws and of the laxity in enforcing them. Prof. Finkey's impression is just the contrary. He states also that the adult offender is committed to state prisons, if he is sentenced for more than one year. This varies in the different states.

All these are trifles in comparison with the sympathetic attitude of the author towards our system of child protection, the thoroughness and methodic presentation of the subject.

The information contained in the volumes, "Correction and Prevention" (edited by Prof. Henderson), published by the Russell Sage Foundation, and many other works (mostly of American writers) and numerous reports were utilized also. Prof. Finkey states the evolution of the various phases of child protection in a historical and critical, as well as comparative way.

In short the book will serve as an inspiration to Hungarian jurists and law makers, to extend the functions of juvenile courts and of the institutions, divers social agencies, co-operating with the same in caring for and protecting the "wards of the state." The author's prophecy is, that the Hungarian law will borrow some more from the "sound shapelessness" of the American law (Vambery). Let us hope that this genuine, original achievement of American jurisprudence will bear fruit all over the continents. We can be but appreciative of Prof. Finkey's efforts in propagating in Hungary the results attained in America.

Cleveland, O.

HUGO E. VARGA.

BOOKS AND MONOGRAPHS RECEIVED.

THE THEORY OF SOCIAL REVOLUTIONS. By *Brooks Adams*. The Macmillan Co., New York, 1913. Pp. 240. \$1.25 net.

THE POWER OF IDEALS IN AMERICAN HISTORY. DODGE LECTURES ON THE RESPONSIBILITIES OF AMERICAN CITIZENSHIP AT YALE UNIVERSITY. By *Ephraim D. Adams*. Yale University Press, New Haven, 1913. Pp. 159. \$1.15 net.

PSYCHOLOGY IN DAILY LIFE. By *Carl Emil Seashore*. Appletons, New York, 1913. Pp. 226. \$1.50 net.

PROSTITUTION IN EUROPE. By *Abraham Flexner*. The Century Co., New York, 1914. Pp. 455. \$1.30 net.

DIE BEDEUTUNG DER HANDSCHRIFT IM CIVIL—UND STRAFRECHT. BEITRÄGE ZUR REFORM DER GERCHTLICHEN SCHRIFTEXPERTISE. VON DR. IUR. *Hans Schneickert*. F. C. W. Vogel, Leipzig. Pp. 144. M. 4.

DER OSTERREICHISCHE STRAFPROZESS MIT BERÜCKSICHTIGUNG DER RECHTSPRECHUNG DES KASSATIONSHOFES. Fourth edition, bearbeitet von *Dr. Wenzeslaus Grafen Gleispach*. G. Freytag, Leipzig, 1913. Pp. 378, M. 9.25.

IRRSINN UND PRESSE. Von *E. Ritterhaus*. Gustav Fischer, Jena, 1913. Pp. 245, M. 5.

DIE NATUR DES ECHTEN UNTERLASSUNGSDELIKTES UND DIE FOLGERUNGEN DARAUS. Von *Dr. Adolf Rohde*. Veit und Co., Leipzig, 1913. Pp. 100, M. 3.50.

REVIEWS AND CRITICISMS

MODERNE RECHTSPROBLEME. Von *J. Kohler*. Zweite Auflage, B. G. Teubner, Leipzig, 1913. Pp. 98, M. 1.25.

AMERICAN STATE TRIALS, A COLLECTION OF THE IMPORTANT AND INTERESTING CRIMINAL TRIALS WHICH HAVE TAKEN PLACE IN THE UNITED STATES, FROM THE BEGINNING OF OUR GOVERNMENT TO THE PRESENT DAY. Vol. I. Edited by *John D. Lawson*. F. H. Thomas Law Book Co., St. Louis, 1914. Pp. 836. \$5.00.

PRISON LABOR IN THE GOVERNORS' MESSAGES, 1912-1913. PRISON LABOR LEAFLETS No. 8. National Committee on Prison Labor, 1913, Pp. 101, 25 cents.

EDUCATION OF THE IMMIGRANT, U. S. Bureau of Education, Bulletin 1913, No. 51, Pp. 52.

ALCOHOLIC AMNESIA. By *T. D. Crothers*, M. D. Reprinted from *Medical Times*, October, 1912, Pp. 6.

A CONSTRUCTIVE POLICY WHEREBY THE SOCIAL EVIL MAY BE REDUCED. By *Harry Olson*, 1913, Pp. 16.

CONSTITUTIONAL IMMORALITY. By *Paul E. Bowers*, M. D. Reprinted from *International Clinics*, Vol. IX, Series 23, 1913. Pp. 14.

THE COLORED PEOPLE OF CHICAGO. By *Drucker, Boaz, Harris and Schaffner*. Juvenile Protective Association, Chicago, 1913, pp. 30.

HAVE WE A SPECIALTY? By *J. T. Searcy*, M. D. Reprinted from *American Journal of Insanity*, Vol. LXX, No. 1, July 1913. Pp. 8.