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Reviews and Criticisms

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LA IDENTIFICACION DACTILOSCOPICA. INFORME DE POLICIOLOGIA Y DE DERECHO PUBLICO. By *Fernando Ortiz*. Universal Press, Havana.

In this work the author outlines with painstaking thoroughness the different methods of identifying criminals. He reviews the earlier means which were used to this end, such as branding in the Middle Ages, and notes that Mentham favored governmental branding of all citizens in order to facilitate the identification and to remove the infamy which had attached to this method because of its being used only upon felons.

He then reviews the different methods of anthropometric identification, especially that of Bertillon, the best known, in which, however, he finds sixteen objections:

1. That it can be applied only to individuals who have attained their full physical development.
2. That its limitation renders it useless for all men under twenty-five years of age.
3. That this prevents it applying to many delinquents.
4. That it is liable to errors.
5. That the errors lead to a loss of time.
6. That, contrary to what Bertillon thought, his measurements often fit more than one subject.
7. That old age changes the measurements.
8. That the subject can render the measurements false.
9. That it is not a proof of identity.
10. That it cannot be applied to women.
11. That it is expensive.
12. That it cannot be effectively used upon an unwilling subject.
13. That it cannot be applied to corpses.
14. That it cannot be required of accused persons before sentence.
15. That for the above reasons its field is limited.
16. That it is very difficult to use internationally.

He also outlines the otometric system of Frigerio, the craneographic system of Anfosso, the geometric system of Matheios, the ophthalmostatometric system of Capdivelle, the ophthalmoscopic system of Levinsohn, the radiographic system of Levinsohn and the systems of Tamassia, Villebrun, Merciolle Dubois and Bert y Viannay.

In Chapter 5 he takes up the history of the dactiloscopic systems, noting that they were used nearly twelve hundred years ago in Corea and a thousand years ago in China and Japan, and gives credit to William J. Herschell, the governor of Bengal, for having first adopted it, in 1858, for the identification of the Hindustani. In 1880 Gilbert Thompson used this method in Arizona, since which time many systems have been made for the use of this method of identification.

Ortiz outlines the principal systems in great detail, giving plates showing the different methods by which the different marks can be

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catalogued. He finds that dactilography has many other advantages over any other system.

1. The marks on the fingers are not alterable. If the skin is destroyed, the new skin contains the same lines as the old one, and any attempt to destroy the marks by amputation is in itself a method of identification.

2. Lines appear upon the hands before birth and do not change, as we have said. They are never the same in any two individuals.

3. This method of identification can be applied upon unwilling subjects.

4. It can be used in cases of women and children.

5. The impressions are mathematically exact and do not depend upon the acuteness of the operator. There is no room for error or tolerance.

6. Any crime in which the hand of the criminal becomes bloody or dirty, it becomes a method of criminal research.

7. It is useful in police work.

8. It can be used in cases of habitual delinquency.

9. It is not libelous, as photography is, used under the Bertillon system.

10. It can be used on corpses.

11. It can be used upon the accused before trial.

12. It is very inexpensive.

13. It can be readily internationalized.

14. It makes the creation of national registry bureaus possible.

In Chapter 14, Ortiz takes up the particular instances in which a cheap and accurate method of identification is necessary and shows its use in identifying soldiers killed in battle. He adds to his book a full appendix, in which he sets out the laws of Cuba establishing this method of identification.

While the book is highly technical and is written in such detail as to render it impossible to review in the space permitted, it nevertheless contains such general information as makes it a most interesting work to those who are not experts in dactilography or police or criminal detection.

Philadelphia.

JOHN LISLE.

DER OSTERREICHISCHE STRAFPROZESS MIT BERUICKSICHTIGUNG DER RECHTSPRECHUNG DES KASSATIONSHOFES, von weiland *Dr. Friedrich Rulf*. Vierte Auflage bearbeitet von *Dr. Wenzeslaus Grafen Gleispach*. Vienna (F. Tempsky) and Leipzig (G. Freytag), 1913 pp. 362 and index.

Any law-book which has enough vitality of ideas or other qualities to perpetuate itself to a fourth edition already has something to commend it. The first edition appeared in 1884 and the third edition in 1895; and the fact that Count Gleispach after a lapse of eighteen years thought it useful to prepare a new edition of Rulf's book in a period of legislative ferment, instead of constructing a new work, adds some-

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thing more by way of favor to a first good impression. Yet, the editor encountered many difficulties in avoiding an entire reconstruction of form and substance of his text which might thus destroy its identity. These difficulties are commented on in the editor's preface which also indicates in a general way what contributions have been made by him to the original work. But if the question were in any way important, it would be a little hard to know always what is the work of the deceased author or of the living editor, without a comparison with the earlier edition.

As a work purporting to be an exposition of the law of criminal procedure as it is, and intended, perhaps, principally for students it can be highly commended. In 226 sections each with a separate title and hardly ever exceeding a page in length, a survey is provided of the entire field of criminal procedure from arrest to appeal and execution. No book in German, of course, ever omits the *grundlegende Begriffe*, and the present work is true to type, but usefully so. The early sections in a few pages also give a rapid historical review of criminal procedure from ancient times to the reform period of the latter days. The literary references, usually given at the head of sections, are carefully and sparingly used. Special care has been given to legislative references, and occasionally a procedural point is connected with a decision of the Court of Cassation.

From our standpoint, a work of this kind is of value to us, aside from direct information of the methods employed in a foreign country, in furnishing interesting points of comparison with our own system of law. For example, the topic (or rather, as it is with us, the major subject) of evidence is disposed of in this work in a few pages, not of detailed rules, but general principles. Continental legal literature does not know anything like the stupendous work on Evidence of Dr. Wigmore in five royal octavo volumes. In a bureaucratic country, it is the function of the judge not to sit idly by as an umpire in a contest of wits governed by a formalistic system of question and answer, but actively to seek to know the facts of each case. Our rules of evidence on the contrary are essentially restraints on the outward form of our democracy, and the chief function of the judge in a trial is to see that these restraints are properly applied as they are invoked by the parties, regardless of the issues involved. This system supposes that it contains a set of formulas accurately adjusted to the psychology of human nature, and inherently suitable to develop under the action of the antagonism between prosecutor and defending attorney, the right precipitate of truth without any variation of the formulas for the particular experiment in hand. It is clear that justice can be administered on a large scale in one country with the fewest possible rules of evidence and again in another with a complicated and elaborate mechanism of rules. Whether one system or the other is to be preferred cannot be answered on a priori grounds but rests upon a great variety of conditions essentially historical and in part accidental. In any event it may be profitable to know and to understand that there are different points of view.

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As further illustrative of the comparative value of such a work, it may be noted that in certain minor classes of cases the oath is replaced by a hand-grasp, that property damage may be adjusted at the same time the criminal case is heard, that the abuses surrounding the employment of expert witnesses are curbed by reasonable statutory provisions, that general verdicts may be supplemented by an auxiliary verdict and special interrogatories, that witnesses may be summoned by telephone, etc., that entirely private trials may be had for juvenile offenders, that the office of juror is a position of honor and that he receives no compensation, that a two-thirds verdict of a jury is sufficient for conviction, etc., etc. This limited enumeration (which might be considerably prolonged) is not given with any suggestion that the novelties, if any, indicated by these matters are necessarily such as are fit to be adopted, but they may at least correct the impression that Austria is a country of Mediaeval methods of justice. On the contrary, in many respects the system of criminal procedure there, shows signs of fertility of invention and a progressiveness which our system of law would find advantageous to imitate; but it must be remarked that little is to be expected of legislative invention inspired by the unconsidered and unreflected methods which have characterized the activities of American State legislatures. These activities must be supplemented by statistical, historical and comparative investigations. No doubt the importance of this truth will in due season impress itself.

When a book in the German language is provided with an index and especially a good index, book-review tradition requires that the fact be noted, and it is therefore dutifully set down.

Chicago.

ALBERT KOCOUREK.

DIE STRAFRECHTLICHE BEHANDLUNG DER JUGEND IN ENGLAND. By Dr. jur. *Karl Struve*, Gerichtsassessor. Otto Liebmann, Berlin, 1914. Pp. v+302. Paper m 7, bound m 8.

It is curious that one should find in this German volume the most complete and systematic description of juvenile delinquency in England. The preface, written in March, 1914, indicates that the book is the product of the author's observation of the problems covered during his study of the judicial life of England from October, 1912, until June, 1913. The description is limited to the jurisdiction of England and Wales, the procedure in which is, however, quite similar to that throughout Great Britain. The historical development is traced from the earliest mention of special provisions for youth in the eighth century down to the establishment of the first juvenile court in Birmingham in April, 1905, and the establishment of the present methods of caring for children and young people under the Children's Act of 1908 and the Borstal system of correction and training. On account of the special training of the author it is natural that the legal side of the care of juveniles should be very fully and carefully set forth. His breadth of interest is shown, however, by two-thirds of the volume being devoted to measures for the protection, punishment and disciplinary training of those who have not reached their majority, including

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descriptions of the places of detention, industrial schools, reformatories, probation and after care.

While Dr. Struve refrains from expressing himself as to the desirability of transplanting British methods to Germany, he comments quite freely on the conditions in England which he believes are most potent causes of delinquency. His statistical comparison of juvenile delinquency in England and Germany indicates more convictions in proportion to the population in England with certain striking differences as to the frequency of different offenses. In Germany there were 6,243 cases of dangerous assault and battery against 242 the same year, 1911, in England. Destruction of property was nearly twice as frequent in England while convictions of children for moral offenses were only 98 in England against 1,014 in Germany. The punishment of 2,328 youths for begging and playing has no parallel in Germany.

As general direct causes of delinquency in the large cities of England he sets forth especially the great social gulf between the lower and upper classes which is illustrated by 2% of the children under 16 in England and Wales receiving poor relief. The second main cause he finds to be alcoholism which he finds mentioned either simply or in combination with other offenses in over 150,000 cases in one year in England. "Truly nobody is so truly a product of environment as the youthful lawbreaker of the great cities of England." As secondary causes he discusses the absence of proper physical and mental recreation and the passion for moving picture shows, betting and gambling. He even finds the view expressed that the juvenile lawbreakers are so much better cared for by the public than those in the same station in life who are not offenders against the law, that some parents are inclined to use the industrial schools as a means for training their children. From the instances cited one feels that the author has perhaps paid undue attention to the unfavorable conditions, although the criticisms made are offered in the friendliest spirit and indicate how the conditions impress one who is familiar with the stricter discipline of youth in Germany. An excellent nine-page classified bibliography covers the literature and reports on juvenile delinquency in Great Britain.

The University of Minnesota.

JAMES BURT MINER.

THE PROBATION SYSTEM. By *Cecil Leeson*. P. S. King & Son, Orchard House, Westminster, London, pp. 191.

In the introduction of this book Mr. J. H. Muirhead states: "Probation is one of the most interesting of the signs of our times. It is a recognition, all too tardy, in the field of crime and punishment, first, of the sensitiveness of unformed character to the influence of circumstances; second, of the responsibility of society itself for the direction of this influence; and, third, of the superiority in certain well-defined cases of the method of home oversight to any form of prison discipline as a means of improvement."

Mr. Leeson's book is a clear, brief and instructive presentation of the probation system. The author was a probation officer in England and in addition spent two years in studying probation work in the

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United States. The great value of the book is the comparison, which runs all through all the chapters of the English and American probation systems. For example in the first chapter on "Probation and Probation Institutions," a comparison is drawn between the Chicago Juvenile Court, which is a Chancery Court, and the English Courts which are provided for by the Children's Act of 1908.

In the Chicago Court the children appearing before it are not viewed primarily as offenders deserving punishment, but as wards of the State needing protection. The English Courts are still, strictly speaking, Criminal Courts, though the proceedings are usually considerably modified and softened. The author states: "In England, the chief consideration is the offence of the child; in America, the chief consideration is the offender."

Considerable space is given to the discussion of the discovery and treatment of defective offenders. In this discussion the statement is made that, "Physically and mentally defective offenders, though relatively few as to number, form the group from which habitual offenders are chiefly recruited. The problem of the recidivist, therefore, becomes to a large extent the problem of the defective juvenile delinquent."

It is further stated that none of the four possible methods in England of dealing with the defective delinquent are satisfactory. The four methods are—probation, Home Office School, prison and discharge.

The writer of this review knows from his experience in the Chicago Court, that most of the States of the Union have no satisfactory way of dealing with the defective delinquent type. They are discovered and become wards of the States—patients of the States—but the States provide no satisfactory places for their treatment.

An excellent comparison of the Adult Probation Laws and systems is given. The English Probation Act leaves the Court free to apply the system to any reclaimable offender, and, for any offense, as it thinks expedient, whereas the tendency of recent American Probation Laws is to limit the discretion of the Court in these respects. The former laws have been successful in England and in Massachusetts and New York—the States which were the first to pass probation laws.

It is interesting to note that in Colorado the Chancery procedure has been extended to certain adult offenders and that neither in England nor the United States has any adult probation law ever been repealed.

Concerning the selection of probation cases the author concludes that the preliminary inquiry should be sufficient to answer these principal questions:

(1) Do the offender's character and antecedents show him unmistakably and fixedly depraved, or do they indicate but a tendency to depravity?

(2) Does the offender, having regard to his disposition and to the surroundings in which he lives, afford reasonable promise of becoming law-abiding?

(3) If, owing to his present disposition or his present surroundings, or to other circumstances, this cannot reasonably be hoped of

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him, can such changes be effected through the agency of probation, as to make it reasonably probable that he will become law-abiding?

The above questions show that the author feels that probation is only one of many treatments which may be applied to offenders and that it is by no means the proper treatment for every offender.

Emphasis is laid upon the necessity of having experienced and well-trained people with strong personal qualifications as probation officers.

Various statistical tables are given to show the results of probation in England and America leading to the conclusion that "Whether one compares the results to society of the probation system and the gaol system, or whether one looks at the lives of the offenders themselves, the probation system shows advantageously as at once the more educational and more economical method."

The unsuccessful probation cases are classed as (a) Those who are returned to Court by the probation officer for breach of conditions; (b) Those who are arrested by the police and convicted of a further offence; (c) Those who abscond.

For the treatment of those cases it is recommended that long term industrial training centers be established both for the offenders who suffer from physical defects and for those who are normal physically.

The defects in the probation system are stated as being (a) Unsuitable probation officers; (b) Unsuitable cases; (c) Too short probationary periods; (d) Inadequacy of organization and control.

The Probation System by Cecil Leeson is an accurate and valuable handbook on the practice and procedure of Courts having jurisdiction over cases in which probation orders may be entered and on the work of probation officers.—It is highly recommended.

Chicago.

JOEL D. HUNTER.

VERBRECHERTYPEN: 1 BAND, 2 HEFT. SAUFER ALS BRANDSTIFTER, von H. W. Gruhle und K. Williams, Heidelberg; und G. L. Dreyfus, Frankfurt a. Main.

1 BAND, 3 HEFT. Zur Psychologie des Massenmords Hauptlehrer Wagner von Degerloch. Eine Kriminologische und psychiatrische Studie von Professor Dr. Robert Gaupp, in Tubingen. J. Springer, Berlin, 1913, pp. 101. M. 2.

The second and third monographs in the above series, continue the analysis of criminal types. In response to criticisms, the authors now disclaim any intention of presenting the bases upon which the types are worked out. Their aim will be to give as clear a picture as possible of the actual (not an ideal) type, using their "experience" as the guide. This makes of the present series, then, a literary product. It leaves us in the dark as to how much of the characterization of the type lies in the imagination of the authors, how much is due to the methods of procedure in securing the information, and how much is actual fact. The scientific studies upon the broad questions of *Milieu oder Anlage* will appear as Heidelberg *Abhandlungen*, two volumes of which are now ready.

The problem is to present the material in such a way as to give a

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complete picture of the type. For this purpose the heredity, the early history and environment, the educational advantages, and the details of recent life must be examined. In each of the four cases presented in the first of the two papers above mentioned, the heredity is in some degree defective. But while giving this fact due weight, the authors pass on to the questions of criminological fact and examine the habits, the dispositions and attitudes of each individual, and present such of them as stand in close relation to the final act. The treatment is limited to a characterization from the diagnostic point of view. It is not within the province of the monograph to discuss means of correction. It is found, therefore, that a gradual onset of chronic alcoholism ends in delirium and an explanation of this act is given in terms of the mental and physical background. But one incongruous note appears in this series of presentations. In the case of Bitter, by Prof. Dr. K. Wilmanns, it is asserted that no interesting psychological problems are presented and apparently for the reason that there are so many cases like this one. As against this belief, there is a conviction among psychologists that it is among these exaggerated and commonplace cases that we are likely to find the solution of some of the most perplexing psychological problems; for here the "stamping in" process (of the experiences throughout the earlier history) has been most thoroughly effective. The authors carefully avoid any superficial conclusions as to the causation of crime by alcohol, and it seems clear from the descriptions that they regard alcoholism as merely one of the expressions of an underlying defective character.

A very suggestive and useful addition to this monograph appears in the appendix. Two charts are given in colors, from which one may read at a glance the life history of the criminal, the amount of time he has spent during his life in the house of correction, in prison, in a hospital, in an institution for the insane, etc.

In the second of the above monographs appears the life history of Wagner von Degerloch, a school teacher, 40 years of age, of excellent reputation and possessed of many friends. He stabbed his wife and four children while they were asleep, proceeded thence to a neighboring village in which he was formerly employed as a teacher, and after setting fire to a number of buildings, he took his stand near a schoolhouse and shot at every man who appeared, sparing the women and children. Eight men were killed and twelve wounded. He was overpowered after a fierce struggle in which he was beaten into insensibility and finally was sent to a psychiatric clinic for examination. The results of the investigation conducted by Dr. Gaupp are given as presented by him to the trial court. The paper consists of some 200 pages, together with a classified bibliography of 99 titles, each with a critical note, on the subject of wholesale murders.

The family history in this case shows psychopathic taint but the character development of later life shows clearly the effects of early association with the mother, a woman of strong emotional nature with antisocial tendencies. The history is traced through boyhood, adolescence and manhood. His educational history, his examinations for

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positions as teacher, the details of sexual perversions, events leading up to marriage and an unhappy domestic life, are fully set forth.

His teachers and associates both professional and social speak highly of him. He was regarded as an ambitious man, of keen and observant mind, tending to philosophic and literary ideals. He kept a voluminous diary in which he expressed somewhat fully his hopes and fears, his plans and ideals. During the later years he became dissatisfied, morbid, suspicious. He ranked himself high among German literary men, conceived a hatred for government and social restraints, and practiced sexual perversions. After an enforced marriage, which necessitated removal to another village, he gradually grew away from friends and developed a morbid mental existence apart from the world of affairs about him. This phase of his life shows religious touches in which he compares himself with Christ. He finally came to believe that his life was ruined through his wife's tattling to her friends in the neighboring village, and decided to end it by putting out of the way all who knew her and her reports. The plan was a deliberate one, worked out in detail for every step and for every minute of the day and was frequently mentioned in a diary kept by the patient.

At the clinic he was diagnosed as a Paranoiac, but it is recognized that the exception of the women and children in the wholesale shooting shows an unusual characteristic for Paranoia. It is supposed that the paranoiac system became so widespread through frequent rehearsal that the motivation changed, and the scheme of justification for the deed necessitated the annihilation only of those men who he believed had held him in scorn, and of the children who might inherit his own defects. The study is an excellent analysis of a certain type of worry and its effects.

Yale University.

A. H. SUTHERLAND.

SOCIAL LAWS OF PENNSYLVANIA. By *Ward Bonsall*, member of the Allegheny County Bar. Published by the Associated Charities of Pittsburgh and the Philadelphia Society for Organizing Charity, 1914. Pp. ix, 146. \$1.50.

Complaint is frequently made that social workers waste much valuable time through ignorance of the law. The complaint while just, seems in a fair way to be placed in the past tense, if we may judge from such a book as Mr. Bonsall's. Its purpose, in brief, is to present as concisely and untechnically as possible those statutes and the process of their enforcement, which bear upon the social relationships and conditions of families and persons which social workers are called upon to serve and deal with in their daily rounds. To be sure it is in no sense a "Handy Lawyer," designed to obviate recourse to competent legal advice. It is designed to offer the social worker just that familiarity with the commonwealth's resources in law which will enable him to walk wisely, and will direct him where to go when he needs expert technical guidance. Moreover, it is significant as an experiment in co-operation between two well known social agencies and a lawyer whose social services have already been distinguished.

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The content of the book is distributed over a dozen special topics, the chief of which are Children, Desertion and Non-Support, Poor Law, Mental Defectives, Public Health, Criminal Law, Collection of Debts, Labor, Marriage, Divorce and Married Women, Decedents, Immigration and Naturalization, Liquors and Special Police. The chapter on Criminal Law covers a digest of crimes, alphabetically listed, a summary of the chief elements in criminal procedure, and sections on search warrants, extradition, and adult probation. The modernist suffers a distinct shock as he reads the statutes on, say, blasphemy or common scolds!

The method of presenting the mass of laws, amendments and court interpretations is clear and concise. Citations from statutes and cases accord with the general method followed by legal writers. The historical sweep of legal development in Pennsylvania is made clear by a valuable chronological list of statutes. And an intensive index manifold the serviceability of the volume.

Any criticism of so good a piece of work might seem gratuitous; but since the book may be adopted by other states as a model, it might be well to hint that wider margins and a more substantial binding would improve its life and looks. The typography is pleasing, with only here and there a slight lapse in proof-reading.

It is sincerely to be hoped that other lawyers may follow Mr. Bon-sall's lead. Social work will be immensely lightened, and will avoid many deadfalls with such competent legal guidance.

University of Pittsburgh.

ARTHUR J. TODD.