

1915

Reviews and Criticisms

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Recommended Citation

Reviews and Criticisms, 6 *J. Am. Inst. Crim. L. & Criminology* 308 (May 1915 to March 1916)

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REVIEWS AND CRITICISMS.

DIE GEMEINGEFÄHRlichkeit IN PSYCHIATRISCHER, JURISTISCHER UND SOZIOLOGISCHER BEZIEHUNG. (THE PUBLIC MENACE IN PSYCHIATRIC, JURISTIC, AND SOCIOLOGIC RELATION.) DR. JUR. ET MED. *M. H. Goring*, BERLIN, JULIUS SPRINGER, 1915. pp. 150. M. 7.

Goring's study deals with the most vital issue of "man as a public menace," the legal means of preventing harm and the determination of those conditions in which we can demonstrate distinct abnormality or disease.

The concept of *Gemeingefährlichkeit* or public menace (i. e., the fact that an individual is a danger to the community) is the central point of much of the modern effort to regulate the rights and obligations of the individual as a member of a community and state. As criteria Birkmeyer uses the life-history of the person, the character of the delict, the multiplicity of transgressions, the motives and certain peculiarities and the demeanor after the act. Liepmann specifies the person who has shown by repeated crimes that even slight motives lead him to crime.

These persons are either sane or insane—a distinction which means little as long as the result is assured, except that it is easier to show the need of care in the second case.

It is obvious that no absolute definition can be expected, but only a relative one, both with regard to the nature of individuals to be considered and the type of acts which ought to receive attention.

Part I (pp. 2-7) reviews the existing and proposed laws and a number of published decisions concerning public menace, the conditions which must be fulfilled and the actions which must be anticipated to constitute the state of being a public menace.

Part II presents the casuistics of 145 case records from hospitals and prisons: the cases based on hallucinations, those based on delusions, those due to deliria (*Dammerzustände*) and acute excitements, those due to imbecility, and those due to criminal tendency. The cases are very well summarized and show to a remarkable extent the great variety of problems and decisions and how the conclusions stood the test of time.

Part III discusses the actions which allow one to designate a person as a public menace, the prognostication of the future from the "*Gesinnung*" or disposition and the manifestations of disease in the normal, the juvenile and the insane; and the factors which make for an aggravation or a reduction of public menace; the types directed against definite persons or committed to definite places.

Goring distinguishes cases who are a public menace in the narrower sense of the word, those who are a public harm, and those who are a public nuisance. He also includes the protection of patients who are dangerous to themselves. The act as such and especially the

kind and frequency of its recurrence must be considered, and also the actual disposition of the person if sane, and the morbid condition if mentally abnormal. The mere disposition is disclosed by previous acts and the reactions; in first offenses the estimation is more difficult, especially in the juvenile.

Among those predisposed by mental disease the outbreak can be without warning beyond the fact that states of bewilderment, fits, or light excitements may have preceded. Drinking at times serves as a warning. Usually the act constituting a public menace is ushered in by symptoms which are readily recognized: evidence of hallucinations and sense-deceptions, ideas of persecution, depression and jealousy, and acts suggesting that the patient tries to protect himself.

In feeble-mindedness and psychopathic or constitutional inferiority the mental examination will also include the examination of the mental disposition. In criminals this disposition often cannot be sufficiently judged after one deed; on the other hand, in the insane the existence of public menace can often be foretold before any act is committed; in borderland cases it may often be necessary to take chances and to wait for the commission of at least one criminal act before an issue can be made.

Many acts constituting a public menace occur only on more or less provocation, personal or situational. Especially alcohol plays a role. The duration of the condition of public menace may be determined by improvement, or by accidental restrictions, or it may be only temporary during menstruation. There is absolutely no justification in the assumption of "once a menace always a menace."

Part IV (pp. 111-140) deals with the treatment and prevention of the condition of public menace. The degrees mentioned in part III require more or less energetic interference. The most radical measure is detention to be used only where the other measures are insufficient, and lasting only as long as absolutely necessary. For this an indeterminate measure is absolutely essential for all criminals and defectives of this category. The detention does not necessarily require closed institutions, but may also be carried out in sanitarium for alcoholics as in workhouses and on parole.

The admission to hospitals for the insane is delayed oftenest by the relatives and at times through the fault of physician or lawyer, through the unfavorable location of many institutions, the lack of admission hospitals, or owing to cumbersome regulations of admission. It should be possible to admit emergency cases without formality, but in view of the public sentiment about institutions an officially valid examination must take place as soon as possible. In persons who cannot be punished on account of mental disuse, the judge must be in a position to send the patient to an institution at least as a preliminary measure.

The conditions for release are often difficult to determine. Release should be granted only conditionally. Guarantees of relatives alone should not be accepted. At Giessen the director of the psychiatric clinic has the right to call and examine witnesses to decide the advisability of discharge.

In order to avoid delays of admission and premature discharge

due to fiscal difficulties, Göring proposes provisions for state support in these cases.

He further discusses the use of guardianship as a supervisory measure; in the case of mental disease the guardian should be under the supervision of a trained state inspector with psychiatric training. As substitutes for commitment, Göring reviews the restrictions of domicile, the removal from the home, the placing of children, change of occupation and interdiction of saloons. The latter necessarily requires means of supervision.

One cannot help admiring the presentation as well as the organization of public life brought out by the casuistic material and the writer feels that similar studies on American material would do a great deal to clear the chaotic state of this problem among us.

ADOLF MEYER.

Johns Hopkins University.

LE CLASSEMENT MONODACTYLAIRE, ET LA RECHERCHE DES MALFAI-
TEURS PAR L'IDENTIFICATION DES TRACES DIGITALES. (MONO-
DACTYL CLASSIFICATION, AND THE DISCOVERY OF THE OFFENDER
BY IDENTIFICATION OF FINGER MARKS.) PAR LE *Dr. Eng.*
Stockis, AGREGÉ SPECIAL DE L'UNIVERSITE DE LIEGE, MEDECIN
LEGISTE. BRUXELLES, VEUVE. *Ferdinand Lacier*, EDITEUR, 1914,
pp. 17.

The pamphlet under review was originally a communication to the Belgian Society of Medical Jurisprudence at its sitting of the 31st of January, 1914. It was afterward printed in the *Revue de Droit Penal et de Criminologie* of April, 1914, and now appears in this form. It is an attempt to prove the validity and the applicability in general, rather than universally, of the method of the single finger print to the detection of crime. It is the contention of Dr. Stockis that defective though the method now be it has been greatly improved within very recent years, and is approaching infallibility, combined with ease of application. It is true that the criticism of Gasti is well taken that the method is not yet unerring. But this, Dr. Stockis contends, is due to the imperfection of our tools rather than to the wrongness of the method. If we were to heed the call of some gentlemen to stop investigation in the monodactylic method because it has been found wanting, we should act as one who threw away a saw simply because it was blunt. We must sharpen our tool, not bury it. In dactyloscopy we must get clearer impressions of the fingers, and obtain more percise details.

One striking fact confronts us at the outset: the newness of the finger print system, in its application to criminals. This does not mean that the story the finger print tells was formerly unknown. The reader will find a hint of the antiquity of the knowledge in that monumental pioneer work in Anglo-American evidential jurisprudence, the value of which will begin to be recognized only fifty years hence—"Principles of Judicial Proof," pp. 79-83, by Dean Wigmore. But the search for and the discovery of a criminal from traces left by the fingers upon

objects the criminal touched in the commission of the crime are matters of very recent origin, indeed.

"In 1905," says Stockis, "when I published, with Corin, the first case which occurred in Belgium of the identification of a criminal by his finger prints left by him on the place, the subject of finger print examination of the spot in which the crime had been committed, and comparison of those finger prints with others kept on file, was almost unknown. * * * In this first case the method came in aid of other elements of the accusation, to bring about a verdict of guilty. But in 1907, for the first time in Belgium, the Correctional Court of Liege convicted a burglar on the proof furnished by finger prints alone, and in spite of the denials of the prisoner. Since then the value of the method has been admitted."

There are two cases to consider; one where a certain person is suspected; in which case a print may be taken of his fingers and a comparison made with the prints left upon the locus of the crime: the other where no one is suspected, and the only evidence is the finger prints on the criminal locus; in which case a comparison is made of those prints with the ones on file. What prints ought to be on file is the question. It would be ideal to have the finger prints of the whole population. The author believes that some day we shall arrive at that blessed state where every one's finger prints will be recorded and placed on file. This would work for the discovery of the guilty, and the exoneration of the innocent. In America there are constitutional mountains to be scaled; but even here we shall some day scale them.

What method shall be adopted in the struggle against crime is, indeed, a puzzling question. The Bertillon anthropometric method is, in the belief of the author, insufficient. "We showed the insufficiency of the method when the question of its introduction into this country was mooted; and the demonstration of the discovery of the perpetrators of the burglary by means of their finger prints, served in great measure to cause to triumph the dactyloscopic crusade which we are carrying on parallel with that of Locard in France."

But there is a further consideration. Shall the method be monodactylic or decidactylic: shall it, that is, be based upon a classification according to one finger, or according to ten fingers? The author finds the ten finger method unreliable because cumbrous and complicated, and the one finger method reliable, because simple and easy. Due credit is given the Spaniard, Olorez, for the phrase, "monodactylic classification," and for the first experiment with the method that phrase signifies. Olorez was not completely successful. He himself admitted that of sixteen errors committed by him, five were excusable, but eleven were not. The author here makes his appeal, already noted, for the perfection of the instrument of investigation.

The density of population in the industrial basin around Liege makes it easy for malefactors to evade the law after a crime is committed. "The method of decidigital classification is too difficult of application, and uncertain besides. Notwithstanding the limits of the "monodactylic classification of Liege" we have been fortunate twice to discover the identity of criminals upon whom there rested no suspicion, and whose prints were not on file. They were arrested upon

the evidence of the dactyloscopic proof alone, convicted, and sentenced."

One example will suffice. In August, 1912, at Liege, burglars entered a villa, broke the furniture, plundered the cellar, and stole some articles. "We found in the place, many traces of fingers on the furniture, boxes, bottles, tumblers, and other objects which the burglars had touched. We took three different finger prints. These belonged to the same individual, whose prints had some time previously been taken when he was arrested on a charge of vagabondage. The guilty person was arrested upon our information. And we found his accomplices, whose finger prints had never been taken. * * * One can see, therefore, the great interest one ought to have to see the extension of this perfectly appropriate weapon against malefactors."

The classification of Locard at Lyons, France, is decidigital. But Locard says the ideal would be the monodigital system, as Olorenz established it at Madrid, "where the prints are classified one by one and where the searches are in consequence, extremely simple." And Dr. Stockis adds: "That is our advice, too, and we should wish to see the idea applied outside of Liege."

The organization in Belgium of this system—how is it to be effected? Is there to be a central Bureau, or several bureaus, each crown office seat having one? The author decides in favor of several because of the greater ease and surety with which the identification can be made. Crime is, in general, committed, he says, by persons who belong in the locality where the crime is perpetrated, or in its vicinity; so that it will usually be unnecessary to go beyond the crown seat to discover the prints in the rogues' gallery. "It would not be difficult to create at the seats of the great judicial centers, a file of records of the criminals of the region, just as we have done in Liege."

"A file containing prints of the palm," concludes Dr. Stockis, "ought to be the extremely useful complement of such a service, which would be neither very complicated nor very costly to organize, and which would provide justice with a precious and certain weapon against criminals, the impunity and the increasing number of whom trouble the whole nation."

"We have deemed it useful to draw the attention of the juridical world to this question of present importance. Our country, which has recently rallied to the dactyloscopic method, may give the example of an organization, indeed precious, for the public security."

ROBERT FERRARI.

New York City.

SEXUELLE ANOMALIEN, IHRE PSYCHOLOGISCHE WERTUNG UND DEREN FORENSISCHE KONSEQUENZEN (SEXUAL ANOMALIES, THEIR PSYCHOLOGICAL AND THEIR FORENSIC CONSEQUENCES). By *Ludwig Frank*. Julius Springer, Berlin, 1914. pp. 74, M-2.

It would lead one considerably beyond the scope of a conventional review to do full justice to the author's very interesting and important medico-legal study of the sexual anomalies. This contribution reflects an appeal to the legal profession to view the offences against society,

which result from the expression of sexual anomalies, from a biologic standpoint rather than from a purely moralistic one.

As result of an extensive experience of many years in dealing with the various sexual anomalies in the capacity of a psychotherapist, the author agrees with the conclusions reached by the followers of the psycho-analytic school, namely, that the various anomalies in the psycho-sexual development of the individual, such as fetichism, exhibitionism and acquired homosexuality come about in the same manner as do the better known psychoneuroses. For this reason it is quite obvious that these abnormal sexual manifestations should be looked upon as disease phenomena and not as types of criminal behavior. This is the essence of the author's argument which he develops with lucidity and scientific acumen. The author gives a detailed description of the mode of origin of the various sexual anomalies and illustrates his theoretic considerations by a number of well rounded out and interesting case histories.

The dangers of coming into conflict with the law to which these unfortunates are subject are numerous and varied, and society has accordingly at all times endeavored to protect itself from this class by numerous laws and statutes. It is very questionable, however, whether the law is the proper channel through which this social evil, so called, should be approached. If one agrees with the author, and agree one must, that sexual anomalies are disease manifestations and not criminal traits, it follows that they should come within the purview of the physician and not of the jurist.

If one studies the developmental history of the various sexual anomalies, one cannot escape the conviction that these unfortunates are driven by a biologic, instinctive necessity to express their sexuality in their particular anomalous manner, which to them has a like, if not greater value and significance as normal sexual activity has for the normal individual. Whatever our personal inclinations and feelings in this matter may be, we must, as a civilized people, take cognizance of the biologic determinants back of the sexual anomalies. Neither are we to allow ourselves to be led into believing that because an individual is sexually perverse he is necessarily a degenerate in the popular, misused sense of this term. On the contrary those who have had experience in dealing with these unfortunates can readily attest to the fact that many of them belong to the most moral and intellectual members of society. And yet the persecutions and agonies which these unfortunates suffer as result of their anomalous makeup are almost beyond belief. Especially is this the case in some of the European capitals where the homosexualist is at the mercy of every charlatan and blackmailer.

The remedy for this barbarous attitude of society towards these unfortunates lies first of all in a recognition that these individuals are the victims of a constitutional anomaly, that they have no more control over the development of the psycho-sexuality than has normal man over his psycho-sexual development, and lastly, that whatever hope there may be for checking the spread of sexual anomalies lies primarily with the physician and not with the jurist.

Of course, Society has to protect itself from such depredations

as may result from an exhibition of perverse sexual tendencies, but it would seem that in basing its laws covering these matters principally upon the proposition that all sexual relations between members of the same sex is criminal because it does not serve the purpose of propagation, society has overshot the mark. If this view is a rational one, the law ought to consider as criminal all extramarital sexual relations in which propagation is not the direct aim, and by the same token all relations between man and wife which do not result in race preservation. It seems that the only time when the law could really have cause to interfere with the sex activities of these unfortunates would be when such activities result in direct injury either to society at large or to the individual.

When two homosexuals of the age of consent carry on by mutual consent the expression of their biologic, instinctive sexcravings, it is difficult to see how there may be room here for legal interference. And yet the laws of most civilized countries still consider such behaviour as criminal, to be dealt with by law.

Frank's monogram is bound to do considerable towards bringing about a more enlightened attitude towards these unfortunates and one only wishes that an English translation of this important study were available.

BERNARD GLUECK.

Government Hospital for the Insane.

STUDJ E LEZIONI DI PROCEDURA PENALE. (STUDIES AND READINGS IN PENAL PROCEDURE.) By *Marcello Finsi*. Turin: Fratelli Bocca, 1913. pp. , 238.

This volume is divided into two parts, the first consisting of certain studies in Italian criminal procedure which, the author explains, were originally published in various reviews and are now revised and amplified, and the second of certain lectures on the same subject, given in the Universities of Ferrara and Bologna.

The studies deal with three distinct questions, arising under the late Code of Criminal Procedure: (1) the purpose, scope and interpretation of Art. 184, which permits the judge to order a suspected offender ("*imputato*") against whom he is issuing, or has issued, a summons, or preliminary warrant ("*mandato di comparizione*") to keep away from a given locality upon pain of being subjected to a definite warrant of arrest ("*mandato di cattura*"); (2) whether, in certain cases, the Attorney-General ("*Procuratore del Re*") has the same powers as the Judge of Instruction with respect to domiciliary searches and seizures and (3) the meaning of the word "absent" in Art. 191, which provides for service of the "*mandato di comparizione*" by posting a copy on the court house door edictal citation), in case the suspected offender has neither residence nor domicile nor fixed abode in the state, or is "absent from the state," etc. In the lectures the author considers the "*mandatto di comparizione*" and the "*mandato di cattura*," their nature, issuance, execution and revocation.

On January 1, 1914, following the appearance of the present volume, the new Italian Code of Criminal Procedure went into effect.

The changes thereby introduced have of course diminished the value of the book as a contribution to the literature of practice. But the author, discounting the approaching event, finds—and soundly—his justification for the publication in three things, namely, the proposals of reform to which his discussion extends, the clarification of the existing law as an indispensable condition of its intelligent modification, and the utility of the inquiries from a scientific standpoint.

For the most part, the topics comprised in the studies are of too specialized a nature to attract the English or American reader, but from time to time there opens up a vista of general interest. Such, in the first study, is the survey of comparative legislation of a cognate character and the review of the antecedent Italian legislation (p. 13-22). Such, too, is the author's analysis of the quasi-exile here involved. He compares it with local exile (the "*certorum locorum interdictio*" of the Roman law), and points out that while there is an intrinsic resemblance between the two, local exile imports a change of residence on the part of the offender, which is not true of the quasi-exile contemplated by Art. 184, since the locality forbidden to the offender under this provision may not embrace his place of abode. For the same reason the quasi-exile of Art. 184 differs from expulsion ("*relegare ex loco*"). It is altogether unlike "*relegato in locum*" (the "*confino*" of the Italian Penal Code), for the latter always requires the offender to remain for a certain time in a given place (pp. 41-43.) A similar general interest attaches to the bibliographic note on searches and seizures which concludes the second study (Pp. 101-112), as also to the altogether too brief foot-note on edictal citation occurring in the third study (pp. 118).

The broader field covered by the lectures lends itself to more elementary treatment. Originating in the class-room, the exposition does not presuppose on the part of the reader any intimate knowledge of Italian criminal procedure. The manner of statement is admirably lucid, and the forms which are given impart a comforting sense of reality. With due allowance for the provisions of the new code, this part of the book ought particularly to commend itself to any one desiring a clear and simple explanation of the writs in question.

Such works as this, with its painstaking study of detail, force us unreservedly to confess the superiority of our Continental brethren in all that regards the juristic study of criminal procedure.

Chicago.

ROBERT W. MILLAR.

ALFONSE BERTILLON, par le DR. ENG. STOCKIS (Liege) p. 6.

This pamphlet is a reprint of an article Dr. Stockis contributed, in April, 1914, to the *Archives Internationales de Medecine Legale*, published under the auspices of the Medico Legal Society of Belgium, and edited by G. Corin of Liege, and F. Heger-Gilbert of Brussels.

The first reflection I make is totally disconnected with the subject in hand. It is this: Reviewers for this JOURNAL are frequently supplied with reprints to comment upon. If the authors of these reprints had to depend upon exchanges, the probability is that many

of their articles would go unnoticed. This would undoubtedly be a loss both to the readers of this JOURNAL, and to those authors to whom it is but fair to give the just reward of their labors. But I daresay that the writers for our own JOURNAL have a mighty hard time of it—if it be a hardship not to be reviewed—perhaps it may be rightly considered a boon for some of us—in America and in Europe. It is obviously out of the question to comment upon single articles in the ordinary course of exchanges. The *Archivio d'antropologia, psichiatria e medicina legale* has an interesting summary of the contents of issues of this JOURNAL, among others. But the summaries are, because of the meager space that can be devoted to them, devoid of all but the merest generalities. And, in general, the JOURNAL does not get the comment the JOURNAL itself gives to many issues of Italian periodicals—like the *Scuola Positiva*, and *La Giustizia Penale*.

This is a matter which concerns both the contributors to this periodical, and the periodical itself. If the Institute could afford to give reprints, the authors of the articles would have their work submitted to the test of those who would otherwise very likely never see that work at all, and the JOURNAL would the better carry on the work for which it was established. It is nothing short of scandalous that while it is the general custom of medical journals throughout the country to supply their contributors with reprints of articles, this JOURNAL must refer its contributors to the printer for terms. The men responsible for the JOURNAL have valiantly labored for the abolition of this condition. But the astonishing fact is presented that while wealthy people are squandering their money in all sorts of futile enterprises, and "philanthropies," the field of this JOURNAL has been untrod, unseen and uncared for.

Passing now from this outburst of indignant and righteous feeling in which some readers will very justly see revealed an infinite personal grievance, and an illimitable offense, I come to the interestingly written biographical notice—by Dr. Stockis. In simple, flowing, and compact language, the author outlines the main facts of Bertillon's life work.

The son of a physician, Bertillon inherited his love for anthropological science. In 1877, at the age of twenty-four, Bertillon entered the Bureau of the Prefecture of Police of the Seine, where the first department of criminal photography had been established three years before. In 1881, he published with his brother, Dr. Jacques Bertillon, and with Chervin, a study of the practical application of anthropometry, which produced such an impression that Bertillon was requested to experiment with the method he had expounded, upon those in his prefecture who had been arrested. He demonstrated his method in 1883, at Amsterdam, and in 1885, at the Penitentiary Congress in Rome. Bertillon now added to anthropometric measurement, precise terminology, and the methodical description and explanation of exterior marks. He followed a nomenclature which has remained to this day a model of precision in matters of legal medicine.

Galton and Vucetich influenced Bertillon, though he would not

for long admit that the dactyloscopic system could be substituted for anthropometry as a basis of the classification of characters. Once convinced, however, of the usefulness of finger-prints as a means of identification, he rapidly invented improvements. Yet anthropometry, which had been his first love, continued to interest him; and the result of this interest was shown in the minute anthropological researches into the several regions of France in 1909. In his last years he established a criminal museum at the Prefecture of Police, a museum which was of the highest interest, and which was the place where instruction to magistrates and to the police was first given.

Criminal museums are sadly needed among us. The probability is that we shall soon be up to date in matters of this sort. In New York, after a long wait, we have the beginnings of a school of scientific police; and the museum, though kept discreetly locked, and though containing few articles of interest to the scientist, and little aid to the explanations of the various articles, will some day form the nucleus for a good collection.

New York City.

Robert Ferrari.

VOCATIONAL AND MORAL GUIDANCE. By *Jessie Buttrick Davis*. Ginn & Company, Boston, 1915. Pp. 302.

This is a valuable book in its special field. Not only so, it is of great worth to the student of criminology. The work is divided into two parts. In Part One the author discusses vocational and moral guidance through education. In Part Two we find ten contributions from as many authors under the general subject, "How Some Practical Workers Have Obtained Results." Once we are convinced that vocational education is a means to the development of moral character, this Part Two is a section of great interest. At the end of each chapter in the course of Part One, we find a bibliography of titles relating to the subject of the chapter. The book deserves commendation to all who are interested in the development of our youth.

PROBLEMS OF CHILD WELFARE. By *George B. Mangold*. The MacMillan Co., New York, 1914. Pp. 522. \$2.00.

This volume is divided into six parts as follows: The Conservation of Life, Health and Physique, Training and Education, Child Labor, Juvenile Delinquency, Problems of Dependent Children. Obviously the portion of this volume that is of most interest to the readers of this journal is Part V., Juvenile Delinquency. Here the author traces the evolution of the concept of the juvenile delinquent the conditions underlying juvenile delinquency, the development of the juvenile court, its extension and organization, etc. He briefly describes the juvenile court in other countries, and devotes fourteen pages to the probation system.

OUT OF WORK. By *Francis A. Kellor*. The Committee for Immigrants in America, New York, 1915. Pp. 559. By mail, \$1.65.

This volume is a study of unemployment in America, and presents a program in chapters 12 and 14 for dealing with it. This program includes National Action as to Public Works, Employment Exchanges, Immediate Relief by Opening Immigrant Stations, for Housing, etc., Municipal Action Covering Public Works, Municipal Bureaus, Lodging Houses, etc. The program includes also a federal city system of employment bureaus, the regularization of industry and unemployment insurance.