

Spring 1926

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, 17 *Am. Inst. Crim. L. & Criminology* 156 (1926-1927)

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

THE NEW DECALOGUE OF SCIENCE. By *Albert Edward Wiggam*. Copyright 1922-23 by The Bobbs-Merrill Co., Publishers. 303 pages. Price, \$3.00.

This thought-provoking book has already had wide reading by students of science, social work and government. It is the fruit of Dr. Wiggam's long study of scientific eugenics. While non-technical in terminology, it seeks to carry over to the layman, and especially to the lay executive of government, the spirit and significance of recent scientific findings in the field of eugenics.

It has been said of this book that the author has gone into the inner temple of science, imbibed its spirit, and has then come out upon the temple steps to declare that spirit to the people in language that can be understood by all. Or, as Dr. Glenn Frank, in the *Century Magazine*, stated: "Here is a book that deals brilliantly with the central issue of our generation—the social use and moral control of the new knowledge that has been thrown up in the fields of the living sciences of biology, psychology and anthropology. In it Dr. Wiggam takes the man in the street on a tour of the laboratories and explains in words ordinary human beings can understand what a fascinating and human thing science is."

A unique feature of the book is that it is addressed particularly to "Your Excellency, the Executive," and is an appeal to all executives of cities, states and nations, to recognize the important relation which should exist between the findings of modern science and the administration of modern government. The author pleads with his excellency to "look beyond the next election to the next generation." He calls attention to the fact that, while biology is the science of life, statesmanship is, or should be, the science of the control of life.

The volume contains several startling statements in the form of warnings to the "Old statesmanship." Two of the five warnings given are: "That the advanced races are going backward," and, "That the Golden Rule without science will wreck the race that tries it."

These statements may seem dogmatic, though they are not so intended, and considerable pains is taken by the author to summon expert testimony in support of them as proven fact. As coming from the laboratory—the "New Mount Sinai" of modern biology—these declarations of discovery should be regarded with a sense of sacred finality, rather than empirical skepticism.

In his apparent feeling of awe for all things supposedly scientific, the author comes close to the recent statement of Burbank that "We shall be saved, if saved at all, by science." When one recalls the ever-recurring new deductions of science, forced upon it by new discoveries, the reader is likely to join the man who said: "I'd rather not know so much, than to know so much that isn't so." In other words, finality

will scarcely be found in the shifting sands of material science, but rather in the more fundamental ethical basis of human behavior and government, which the author, after all, acknowledges.

However that may be, the fact remains that the general trend of scientific discovery, Dr. Wiggam believes and ably argues, is all in the direction of loss to the race through the haphazard, unintelligent reproduction of human beings.

Here is a vigorous reiteration of the obvious fact that we devote much thought to the proper reproduction and development of choice stocks of plants and animals, but none at all to the corresponding improvement of man. As a result, statistics abundantly show there is a bountiful increase from poor, defective stocks, limited in ability to provide proper environment and opportunity, and a constantly decreasing reproduction among those who are fit and able to develop all the possibilities of their offspring. The remedy for this situation, the author thinks, is "slow race improvement through the decrease of the badly-born and the increase of the well-born." To accomplish this desired end there must be adequate social control, by government and by birth control, in the one case, and on the other hand, less selfishness and the assumption of proper responsibility on the part of those qualified to assume it.

Many of Dr. Wiggam's assertions are highly disconcerting to the optimist, yet his vision of the bigger and better possibilities is such that it is impossible to set him down as merely an alarmist or hopeless pessimist. For *The New Decalogue of Science* is none other than the duty of scientific reconstruction of the human race. This commandment is so far from practice or realization as to make it appear to many as a futile hope—a distant dream.

To those who may be appalled at the task, who realize the human equation that must be surmounted; the inability of present government to even assay the problem, Dr. Wiggam's book will be a real tonic, a vigorous inspiration. The spirit of the man is so fine and big and fundamental that every thoughtful student of life, of science and of government will profit immensely by reading *The New Decalogue of Science*.

Chicago.

F. EMORY LYON.

EL DERECHO PENAL DE LOS MENORES: LOS TRIBUNALES PARA NIÑOS.

By *José Guallart de Goicoechea*, assistant professor in the University of Saragoza. Pp. 163. Saragoza, La Academica, 1925.

This is an excellent summary of the progress of theory and practice during the last 25 years in the treatment of juvenile delinquency. A special virtue is its ample documentation of literature, and a special value is its inclusion of all Europe and North America in its survey.

Its text is divided into two parts: I, juvenile delinquency and its causes, and II, the treatment of juvenile delinquency by the state. The second part deals first with the preventive, penal and curative measures, and then with the tribunals of justice. Under the latter head are four chapters devoted to describing the progress of the juvenile court

idea in all countries. At this point we are gratified to note that the author has sought the most reliable authorities in narrating the history of the movement in the United States. It began in this country; more than that, in the State of Illinois, with its Act of April 21, 1899. And still more (we ever take pleasure in reminding the public), its key-device, the substitution of chancery methods (the paternal method, as the author calls it) for ordinary criminal court methods, was the legislative invention of Harvey Hurd, professor in the Law School of Northwestern University, and also the ingenious inventor of the Sanitary District legislation and the adapter of the Australian Land Title Registration method—the most inventive jurist that Illinois ever possessed, until Albert Kales, a professor in the same university. This paternal court method, originating in Illinois, has in 25 years gone literally around the world, culminating in the Spanish law of 1918 and other later ones. This history is now apparently on a safe basis; which is worth knowing, because in a 1925 pamphlet authored by Judge Ben Lindsey, the world's most famous juvenile court judge (though he abhors the phrase "juvenile court"), the claim is again publicly advanced that the first juvenile court law dated in Colorado, April 12, 1899, nine days before the date of the Illinois law. We prefer to believe that the Illinois law came first, and was the model, in its distinctively chancery feature, for subsequent laws (1901) in Pennsylvania, Kansas, Rhode Island, Wisconsin, (1902) Louisiana, Maryland, Virginia, (1903) California, and *then* Colorado. Some J. D. thesis may some day verify the chronology.

We close by noting that the author, though amply familiar with the literature in many languages, has apparently not found that important work of Dr. William Healy's, "The Individual Delinquent," which has certainly crossed the Atlantic long ago.

JOHN H. WIGMORE.

BOLETIM DO INSTITUTO DE CRIMINOLOGIA, 3d year. vol. v, 2d semester 1924, and LEGISLACAO SOBRE MENORES DELINQUENTES DESDE 1871 A 1924. Edited by *Rodolfo Xavier da Silva*, medical director of the First Section of the Institute of Criminology. Lisbon, 1924, pp. 241-464, and 198.

This number of the Boletim is notable for its illustrations of the progress that is everywhere making for the juvenile court idea. Two articles in the Boletim consist of the annual reports, for 1922-23, of the juvenile court judges of Lisbon and Oporto, Portugal's largest cities. At page 109 of the volume containing the successive laws for 50 years is printed the law of May 27, 1911, containing 184 articles, and covering the whole subject of juvenile treatment by the state. This was the law which created the juvenile court for Portugal. The terms of the law are interesting. The title given to the court is "Children's Guardian" ("tutoria infancia"). Art. 2 reads: "The Children's Guardian is a special court, distinctively of equitable function, which aims to watch, defend, and protect minors who are in moral peril or are abandoned or delinquent, with the motto 'education and

work.' This court gives judgment according to its conscience, as a good father of a family, in the love of truth and justice, and always in the best interests of the minor." Further articles provide elaborately for taking over all parental authority, and define the several varieties of cases which give jurisdiction. Altogether its features present an interesting and novel variant from the American type.

The Portuguese Institute of Criminology, from which these publications emanate, was founded in 1922, and already exhibits creditable activity. Its *Boletim* has reached its fifth volume (semi-annual), and it has also published two studies, "The Convicts of 1914," by R. Xavier da Silva, editor of the *Boletim*, and "Some Criminal Cases," by João Bacelar. Besides this, it has started a "Library," of which Vol. I is entitled "Crime and Prisons," and Vol. II is the legislation above cited. The present number of the *Boletim* contains 16 articles on various topics of criminal anthropology, psychiatry, sociology, legislation, and police.

JOHN H. WIGMORE.

REPORT OF THE CRIMES SURVEY COMMITTEE. Law Association of Philadelphia, 1926: pp. 476.

This is a report made to the members of the Law Association of Philadelphia pursuant to a request of the judges of the courts of common pleas. It is signed by Theodore F. Jenkins, Francis S. Brown, and John H. Barnes. It deals with the following topics: Agencies of criminal administration (sheriff, coroner, etc.); Pursuit of offenders (investigation of crime, prosecution, etc.); Adjudication; Securing the presence of witnesses; Criminal execution; Statistics; and Criteria of successful criminal administration.

The report states that the committee held many meetings and examined a large number of persons whose testimony was represented by 2,491 pages. The report itself does not show what this testimony was or what effect it had on the conclusions reached. In the main, the report is a brief which sets out descriptively the state of the law in statutes and cases under the topics above enumerated—all this as a rule without comment or suggestion. When, exceptionally, a comment or suggestion is interpolated, it is often a cautious one. The report ends with a few pages of recommendations. These recommendations are sanely and conservatively put.

It is evident that the committee which signed the report did not share the alarm that criminal justice (at least in Philadelphia) has broken down. Indeed, the last words of the report say that the survey of "the criminal administration in Philadelphia shows that generally it is admirable." Three major defects are found: (1) the number of unprosecuted offenders; the magisterial system (and just what is meant here is a bit cloudy) does not command public respect; and the absence of statistical information concerning crime. On the whole, the report finds little to complain of in the substantive or procedural criminal law of Pennsylvania, but how this system works in actual practice so far as concerns the benches and the bar that administer it is hardly dis-

closed, although the impression conveyed on that point is an optimistic one; and nothing appears of the surrounding factors that bear on criminal administration. In this respect the present report differs widely from the crime survey published in 1922 by the Cleveland Foundation.

Having in mind the fact that this survey was made at the request of public officers, it may appear to some readers that the report is a diplomatic or friendly 'whitewash.' That could, of course, be true, and while it is asking much of human nature to paint an ugly picture where the sitter requests a portrait, yet we have no doubt either of the value or honesty of the report. If the social side of the problem had been investigated, it is not improbable that the conditions in Philadelphia would be found to be not much unlike those in Cleveland, San Francisco, Chicago, or any other large city.

This report is printed without a title page and its value, for comparative purposes especially, is much lessened by the absence of an index.

A. K.

