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Reviews and Criticisms

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REVIEWS AND CRITICISMS

THORSTEN SELLIN, ED.

A SELECTION OF CASES ON CRIMINAL LAW. By *Francis Bowes Sayre*. xxxix+1135 pp. The Lawyer's Co-operative Pub. Co., Rochester, N. Y., 1928.

During the last few years there has been an increasing amount of comment concerning the inadequacy of "cases" as a basis for the study of law. Many suggestions have been made for substituting other types of material or at least for adding to the conventional collections of decisions. Recently an inquiry made of a number of leading teachers of criminal law, revealed that a large percentage of them were, in one way or another, teaching criminology as a part of the course in criminal law. A number of them confessed difficulty in finding suitable material; one assigned a textbook in criminology for collateral reading, still others referred to law review articles and other less orthodox sources.

Mr. Sayre's, the newest of the criminal law case-books, is unique in the extent to which the cases have been supplemented by other material. In large part, of course, the book is indeed a case-book, many of the old familiar names of cases used by Professor Beale appearing again. In addition there are to be found numerous quotations of English and American Statutes, the latter taken largely from the United States Criminal Code, Massachusetts General Laws and New York Penal Laws. Quotations appear also from twenty-one textbooks, including not only Blackstone, Coke, East and Hale, but also such modern works as Glueck's "Mental Disorder and the Criminal Law" and Pound's "Criminal Justice and the American City."

An introduction by Dean Pound is designed to impress the student with the importance of a proper administration of criminal justice, and, perhaps, to persuade him that a knowledge of criminal law is of more fundamental consequence in the equipment of a lawyer than might have been supposed from the unsympathetic teaching from which the subject has suffered in the past.

Mr. Sayre's introductory chapter is composed entirely of excerpts from texts and newspaper editorials. Thereafter the book is more conventional in character. One wishes that it might have been plentifully interspersed with more of the same material. Certainly the Journal of Criminal Law and Criminology would have provided much that would have been useful.

A year's experience with it has convinced the writer that the book is well arranged for teaching, and that the cases are generally well chosen. It is designed for use in schools where no separate course is given in criminal procedure or administration. A section on "The Juvenile Court"; a reclassification of cases on insanity; a more useful collection of cases on "Incorporation"; cases arising out of more modern situations, such as the Eighteenth Amendment, driving of automobiles and distribution of narcotics, are indicative of the efforts

which the editor has made to bring the book up to date and to satisfy the demand for a more adequate collection of source material.

University of Southern California, Los Angeles, California.

JUSTIN MILLER.

URSACHEN UND BEKÄMPFUNG DES VERBRECHENS IM URTEIL DES VERBRECHERS. Ein Beitrag zur Psychologie des Verbrechers und Verbrechens und zur Reform der Verbrechensbekämpfung. By *Walter Luz*. xxxvi+274 pp. Carl Winter, Heidelberg, 1928. M. 12.00.

This book is a study of the opinions of criminals regarding the causes of crime and the effects of punishment. It consists principally of extracts from autobiographies of prisoners in Württemberg and their replies to questionnaires. The material was secured by or with the assistance of prison chaplains and probably is colored by that relationship. No attempt is made to measure the importance of various factors which are discussed by the prisoners. The factor which receives the most space in the book is the lack of training and education; ninety pages of documentary material on that point are presented. Twenty-five pages are devoted to the elaboration of the theme "I would not be here if I had not abandoned my religion." Smaller amounts of space are given to alcohol, failure to follow the advice of parents, being giddy, bad companions, and inheritance. Recidivism is explained by the factors which explain the first crime, with the addition of the deteriorating influence of prison life, the alienation from parents and other relatives which results from imprisonment, and the hypocritical reactions of society.

These prisoners wrote also on the effects of punishment. They agree in general on the necessity of punishment but object to discriminations, especially the failure to punish the rich, and to the injurious effects of imprisonment. These descriptions contain numerous statements by offenders that when they were engaged in careers of crime they frequently desired to break away from that life and made efforts to do so but felt themselves bound and impotent to change.

University of Minnesota, Minneapolis, Minn.

E. H. SUTHERLAND.

THE PROBLEM CHILD AT HOME. A Study in Parent-Child Relationships. By *Mary Buell Sayles*. x+342 pp. The Commonwealth Fund, New York City, 1928. \$1.50.

This is the third study* based on the records of the Child Guidance Clinics conducted during a five-year period, under the Commonwealth Fund Program for the Prevention of Delinquency. It is also by far the most satisfactory in material and organization.

Any study based on case records is likely to become so lost in its stories that no point of view emerges clearly or to use its material in so cut and dried a fashion that the point of view is all that remains. Miss Sayles has struck a very fortunate medium in throwing emphasis on the general deductions in Parts One and Two while devoting Part Three to accounts of actual cases and the way they turned out.

*"Three Problem Children"; "The Problem Child in School."

In Part One, Miss Sayles discusses the emotional satisfactions which parents and children inevitably seek in one another and some of the problems in relationship which may easily arise in the average normal home. She is not concerned with "neglectful and vicious parents who are in great degree beyond the reach of the clinic's influence or the influence of a book like this." "Far more numerous and far more accessible to suggestion from outside sources are parents who love their children and mean to do their best for them, but somehow miss the way. It is with the experiences of such parents as these that the discussion that follows will mainly deal."

Miss Sayles assumes that the needs of the child are fairly clear and self-evident; "need of security, need of a chance to grow up, need of a concrete ideal to grow toward, need of adult companionship at all stages of growth." "No such assumption can be made regarding parents. The extent to which their childhood needs were met as they arose, their whole later emotional history, as adolescents and adults, help to determine what satisfactions they shall seek in their first child; and their experiences with this and with each succeeding child progressively modify the demands they make upon later offspring. In general it may be said that these demands for emotional satisfaction are either such as the child can meet while satisfying his own emotional needs or that they interfere with the satisfaction of those needs and hence with the child's normal development."

With this basis of approach, Miss Sayles goes on to discuss some of the situations which arise when parental love is exaggerated, when parental demands for achievement are unrelated to the child's interest or ability, when one or the other parent has a need to dominate which leaves the child no freedom and, finally, when favoritism, antagonism, or jealousy throws the family circle out of balance.

Part Two is devoted to the effect of certain mistaken ideas on parent-child relationships. Miss Sayles is very clear and convincing in her presentation of the newer points of view on heredity, sex education, discipline and the like.

Throughout Parts One and Two, case material is drawn on freely for illustration, but always to clarify the idea, not for its own sake. In Part Three, which to the reviewer is the least interesting, we have various types of problems presented in the manner of a case narrative showing, in abbreviated and therefore somewhat misleading form, the way in which the Child Guidance Clinics have worked with actual children in actual homes.

The reviewer has a feeling that the third section is too heavy. Too much material is presented for consumption by the average parent. The book would be more digestible, more effective if there were not such a multitude of complicated depressing family situations presented *in toto* as a final dose. One anticipates a sense of discouragement or fear as the possible reaction of the troubled parent who sees himself in every dark picture or who repudiates it all as too abnormal to have anything to do with his family life.

However, as compared with other attempts, "The Problem Child at Home" is particularly successful in its simplicity, its objectivity and freedom from extreme view points or strong emotional bias. One

feels that Miss Sayles has used her material with skill, sincerity and profound respect for the facts as she found them. She has no axe to grind, no culprit to convict. Her sympathy and understanding are extended to parent and child equally for which admirable balance we all owe her thanks.

Children's Aid Society of Pennsylvania, Philadelphia, Pa.

JESSIE TAFT.

REFORM DES STRAFVOLLZUGES. Kritische Beiträge zu dem Amtlichen Entwurf eines Strafvollzugsgesetzes. Edited by *Dr. iur. Lothar Frede* and *Dr. iur. Max Grünhut*. viii+264 pp. Walter de Gruyter & Co., Berlin and Leipzig, 1927.

The code of 1871 laid the foundation for criminal justice and penal treatment in modern Germany. The part dealing with penal treatment was, however, very brief and an attempt was made in 1879 to give it a more detailed formulation. The cost of the proposed changes were regarded as prohibitive and the plan failed of adoption. The *Principles* adopted in 1897 by the provincial governments had no doubt a powerful educational influence, but they were never elaborated in the form of a correctional code. A project for such a code was prepared by a committee of the Prison Officers' Association in 1913 but the war interrupted for the time being all constructive efforts.

The new Germany has been greatly preoccupied with the problem of law reform. A new penal code has been drafted and will soon be ready for adoption. Its counterpart, the code of penal treatment, the *Strafvollzugsgesetz*, was submitted in 1927, and is largely based on the new "Principles for the administration of institutional penal treatment" formulated by the provincial governments and published by the Reich Ministry of Justice in 1923. It is the 1927 project which the highly competent authors of this book subject to a searching examination in the light of modern penological thought. Lack of space prevents us from reviewing the various contributions in detail. It is hoped that the meagre information presented will make the student of modern penology go to the original source.

The first article, written by Professor Liepmann, whose untimely death last year is regretted by all interested in penal reform, is a splendid discussion of the educational task of penal treatment and of the inherent conflict between that task and that of punishment.

Professor Grünhut, writing on the legal guarantees in the administration of penal treatment, does not find in the project the legal rights and status of the convict sufficiently well defined, nor have the problems of convict labor and of disciplinary punishments been solved.

Professor Frede, in an essay on administrative questions, regards it as fortunate that the Ministry of Justice has been definitely assigned the task of control and supervision. While the classification of prisoners suggested and the measures proposed for the individualization of treatment appeal to him, he regrets that no limits have been set for the size of institutions. Although modern penologists agree that no institution should be made to accommodate more than five hundred inmates. He also feels that the entire question of the selection and training of the personnel has been neglected.

In another article, Professor Frede sees in the project the victory of the principle of rehabilitation and education over that of retribution and deterrence. The prisoner should by degrees be taught to become a law-abiding citizen. The project thus envisages the establishment of a progressive system, falling in line with the practice developed in Anglo-Saxon countries and finally approved by the International Prison Congress in 1890. Experiments have already been made with the progressive system. Bavaria, Thuringia and Hamburg introduced it in 1921-22. The author discusses methods of operating this system on a national scale and makes a special plea for the use of self-government in connection with its highest stage. It is significant that Hamburg and Thuringia have been using self-government for several years and that in 1927 Prussia adopted it in principle. The failure of the project to adopt the indeterminate sentence he regards as very serious; he proposes the introduction of definite minima but no maxima in the sentences imposed, finding in such a device adequate protection against the socially dangerous or the habitual criminal.

Dr. Gentz writes on the practical organization of the penal system. His contribution is the longest in the volume; it treats in considerable detail the various administrative problems of the institution. Alone among the authors he emphasizes the need for modern social case-work methods in the study of the offender preparatory to classification or in determining treatment and after-care.

Mr. Krebs, who writes on convict labor, defends a state-use system which would take full cognizance of the educational aim of penal treatment. His answer to the opponents of convict labor is, "The problem must not be viewed from the standpoint of any one social class but only from the standpoint of an entire people."

Dr. Starke commends the steps taken toward making the aid to discharged prisoners an integral part of the work of rehabilitation conducted by the state. He stresses the need for temporary homes for such prisoners, similar perhaps to those already established in Hamburg and in Bavaria.

Dr. Bondy in an essay on the penal treatment of young prisoners criticizes the project for not adopting the indeterminate sentence.

There are also articles on the limits of educability in penal treatment, disciplinary punishment, and reformatory and preventive measures, written by Dr. Villinger, Dr. Starke and Professor Exner respectively. The first mentioned incidentally gives a most interesting review and evaluation of Kretschmer's neo-Lombrosian theories of criminality.

Most of the authors deprecate the fact that the project does not pay more attention to the human element in the administration. No system can by itself attain an end. A machine is as good as its operator, a prison as good as its warden, and guards and teachers. Dr. Gentz voices the general attitude of the volume when he says, "About the buildings and cells for the housing of prisoners the project contains several paragraphs. About the qualifications of those responsible for the treatment the project remains silent. This indicates an underestimation of human beings and an overestimation of the system. All

reforms stay on paper if those who administer them are not properly selected and properly trained." If the wisdom in this statement could be imparted to our legislators we should have less pride in forbidding walls, fewer gigantic prisons and fewer politicians among those administering them.

University of Pennsylvania.

THORSTEN SELLIN.

DIE SELBSTVERWALTUNG DER GEFANGENEN. By *Clara Maria Liepmann*. xii+226 pp. J. Bensheimer, Mannheim, 1928. (Hamburgische Schriften zur Gesamten Strafrechtswissenschaften Herausgegeben von Prof. Dr. M. Liepmann, Heft 12.)

When the reformatory idea came to the fore in the treatment of offenders, moral and social education found a place in penal institutions. Recidivism was to be prevented not by instilling fear into the prisoner but by training him for a life of social responsibility. Among the instruments used to shape this end was that of "self-government," well-known to American readers through the experiments at the George Junior Republic, founded by William George, and at Auburn and Sing Sing prisons under the direction or with the cooperation of the late Thomas Mott Osborne.

Miss Liepmann has divided her book into two main parts. The first and larger of the two contains an account of the practical attempts at self-government made at various times both in the United States and elsewhere. Much of historical value is found in this part. We learn about the early experiments at the Wehrli training school in Switzerland, the Boston House of Reformation and the Rauhen Haus near Hamburg about a century ago. Considerable space is given to the work of Osborne and his contemporaries, among which the penal colonies of the Philippine Islands receive special mention. Finally, some recent German experiments are mentioned, especially those conducted at Hahnöfersand, a juvenile institution near Hamburg, and in the Thuringian prisons.

It is unfortunate, in a way, that Miss Liepmann has excluded from her study all countries outside of her own, the United States and the territories of the latter. Thus no mention is made of the work of Mr. Delierneux, Jr., at the Merxplas industrial reformatory for boys in Belgium, nor of the "Little Commonwealths" of England.

The second part of the book treats of the pedagogical value of self-government. A careful analysis leads the author to the conclusion that it is a necessary tool in the process of resocializing the offender and that it may be used in various forms under almost all circumstances. She very wisely underscores the fact that the living spirit of the idea may die if chained to any particular "system" and that ultimately its success depends on the professional training and the personality of the director and the sympathy and understanding of his subordinates.

Until Miss Liepmann's excellent book appeared, we had no comprehensive study of convict self-government. For us her book has peculiar interest, since much of the theory and most of the practice in working out the idea are of American origin. Let us hope that

some enterprising organization will find it worth while to translate this monograph into English. It merits a wide circle of readers.
University of Pennsylvania. THORSTEN SELLIN.

CONDITIONED REFLEXES. An Investigation of the Physiological Activity of the Cerebral Cortex. By *I. P. Pavlov*. Translated and edited by *G. V. Anrep*, Oxford University Press, Oxford, 1927.

The material which forms the basis of this book was presented originally as a series of lectures before the Military Academy in Petrograd during 1924. They were critically revised by the author, and published in Russian in 1926. In the present translation there are twenty-three lectures which contain a more or less complete and systematic account of the development, technique and results of the experimental investigations of cerebral functions conducted by Professor Pavlov and his collaborators during the last twenty-five years.

Although but little of this work has found its way hitherto into English journals, it is safe to say that there has been no other single line of physiological investigation during the last fifteen years that has exerted a greater influence upon the development of theory and technique in the field of cerebral physiology and physiological psychology. These investigations have not only contributed an experimental method which has become standard in physiological and psychological laboratories, but on the side of theory they have presented a body of explanatory principles which have contributed not a little to the offensive and defensive armament of the behaviorist, social psychologist, psychosociologist, criminologist and psychiatrist.

The elements of Professor Pavlov's theory are simple. Proceeding from the assumption that the individual organism begins as an aggregate of inborn reflexes, he shows that these mechanisms alone are inadequate to account for all the precise correlations between the organism and environment which the adjustments of complex existence demand. The types of response which demonstrate the existence of a more exact rapport between organism and environment are found in situations where the animal responds not only to stimuli which bring *immediate* benefit or harm, but to other agencies which *signal* the approach of these potentially harmful or beneficial stimuli. The instrument through which these important types of adjustment function is the cerebral hemispheres, i. e., these responses disappear in decorticated animals leaving only the simple undifferentiated reflexes. The most important distinction between these signalling responses and inborn reflexes is that the latter are present from birth, while the former are built up gradually during the course of the animal's individual existence. For example, although food, through its chemical and physical properties, when placed in the mouth evokes the flow of saliva—this is the primary inborn reflex—at the same time the sight, odor or sound of food may release the same response. It is to these signalling reflexes that Professor Pavlov has given the name *conditioned reflexes* to distinguish them from the inherited or *unconditioned reflexes*.

The salivary reflex has been used almost exclusively in all of

Professor Pavlov's investigations. By means of a simple operation it was possible to transplant the opening of the salivary duct from the inside of the mouth to the outside skin. The amount and rate of salivary secretion thus could be measured and recorded readily. In order to study the conditioning process experimentally, accessory stimuli of various types—auditory, visual, thermal, olfactory—were presented to the animal at the same time that food (unconditioned stimulus) was presented. After several repetitions, it was observed that the secretion of saliva occurred when the accessory (conditioned) stimulus was presented *without the presentation of the primary or unconditioned stimulus*. This is the basic experimental situation the investigation of which has consumed the major energies of Professor Pavlov and his students for many years, and the results of which are presented in the present volume.

The conditioned reflex is not an unmodifiable type of response, but is subject to a variety of external and internal influences both during and after its establishment. *External inhibition* of the conditioned reflex occurs when some other excitatory process occurs in the central nervous system, e. g., a disturbing stimulus unrelated to the experimental situation. To exclude these disturbing factors it was necessary to build a special laboratory in which the experimental rooms are insulated from each other. The dogs are isolated from the experimenter who mechanically controls the course of the experiment from another room. These precautions are designed to attain a complete control of the environment, and are regarded by Professor Pavlov as absolutely essential for the conduct of this type of investigation.

When the conditioned stimulus is presented several times without reinforcement, i. e., without at the same time giving the usual unconditioned stimulus, it becomes ineffective and is an example of *internal inhibition*. These inhibitory effects may irradiate over the entire cerebral cortex and even the lower centers.

The principle of internal inhibition together with that of irradiation become especially important as applied to those functional conditions known as sleep and hypnosis. Sleep occurs after repeated presentations of the conditioned stimulus without reinforcement from the unconditioned stimulus, and serves to protect the highly sensitive structures of the cortex from "dangerous functional destruction" resulting from "functional fatigue" of the cellular structures.

Hypnosis, which may be produced experimentally in dogs, is explained as a transition state between alertness and complete sleep. "We are dealing," says Pavlov, "with a complete inhibition confined exclusively to the cortex, without a concurrent descent of the inhibition into the centers regulating equilibrium and maintenance of posture; in other words the animal is in a state of catalepsy."

To those interested in conduct and conduct disorders, perhaps the most interesting lectures deal with the cases of functional disturbances, and the types of temperament manifested in dogs by the differences in response to the conditioning process. In the pathological cases there were produced experimentally behavior disturbances which were equivalent to neuroses and psychoses. All the symptoms of an

acute neurosis appeared in certain dogs which had been subjected to unusual and powerful stimuli or in which there was a conflict between inhibition and excitation which the cortex was unable to resolve. These experimental "break downs" lasted for long periods of time and resulted in the total incapacity of the animal for experimental work.

Professor Pavlov distinguishes various individual types of nervous system in his dogs which are equivalent to the classic "sanguine" and "melancholic" human personality types. These distinctions are based on the animal's mode of reacting, susceptibility to inhibitory influences, ease with which it is conditioned and the stability of its conditioned responses. These types are further differentiated on the basis of the course and character of the pathological disturbances which they develop.

In the final lecture is an extremely interesting discussion of the application to man of the experimental results obtained with the lower animals. These applications are in the fields of human learning, habit formation, abnormal behavior, suggestion and hypnosis. They are made with due caution—more caution, perhaps, than many of the behaviorists who have made extensive use of these concepts, are inclined to exercise.

Professor Pavlov's work is characterized by a rigid exclusion of all explanatory concepts and terms which imply the existence of any subjective factors. The organism is regarded as an aggregate of reflexes which may be released by interchangeable stimuli. Both the conditioned and unconditioned responses are mechanical and based upon a necessary connection between stimulus and response. The "higher" activities of the organism—those dependent upon the functioning of the cerebral hemispheres—are summed up on the single principle of conditioning, and the only path to scientific righteousness lies in the use of the "physiological" or "objective" method embodied in the conditioned reflex technique.

Professor Pavlov is doubtful as to the significance and scientific status of modern psychology. He is particularly impressed by the testimony of two witnesses to the truth of this position: the reference of William James to psychology not as a science but the *hope* of a science, and the opposition of Wundt (before 1913) to the separation of the Chairs of Psychology and Philosophy on the ground that it would be impossible for the professors of the new science to agree on a common examination schedule. The modern psychologist, with the rapid advances of experimental psychology of the past fifteen or twenty years before him, can view with equanimity this testimony, and even wonder at the naiveté which proposes it as evidence that psychology cannot claim to be a science.

Whether or not one may entertain the hope that all the complexities of behavior and experience can be envisaged under the relatively simple principles of conditioned and unconditioned reflexes, one cannot doubt that Professor Pavlov's work is remarkable both from the point of view of the exactness of his methods and the scientific insight shown in the sweeping character of his conclusions. The book is a remarkable and moving record of a life devoted to the search for truth.

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FRANKLIN FEARING.