

Fall 1931

## Briefer Contributions: Foreign Observations and Comments

E. R. Cass

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### Recommended Citation

E. R. Cass, Briefer Contributions: Foreign Observations and Comments, 22 *Am. Inst. Crim. L. & Criminology* 414 (1931-1932)

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may be considered a rough measure of it,"<sup>13</sup>

Then, too, all experiments in testimony suffer from the fact that a psychology laboratory is not a courtroom. A correlation of laboratory results in testimony with courtroom results is impossible, because in a laboratory what actually took place is known, while in the courtroom one can never be absolutely certain as to what actually took place in the incident concerning which the witness is testifying. Furthermore, the atmosphere of a courtroom is absent in the laboratory; there are no objections to testimony, no motions to strike out, no jury, no excited force of opposing counsel, and no oath. The factors of dishonesty and self-interest of the witness, which were disregarded in this experiment, further complicate the situation.

If the experiment was performed with sufficient care, we are forced to conclude that there is no necessary consistency in the testimonial accuracy of individuals. This conclusion is discouraging to those who hope to evaluate testimony objectively by measuring the intelligence of witnesses, because if a witness is very accurate in reporting one incident, and very inaccurate in reporting the next, no intelligence test could be helpful in predicting the probabilities as to the accuracy of that individual's testimony. Conceivably, a very rough approximation as to the accuracy of testimony of individuals widely separated in intelligence could be worked out by means of intelligence tests, but anything approaching fine gradations of the accuracy of testimony through

fine gradations in intelligence or any other test scores does not seem to be possible.

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## FOREIGN OBSERVATIONS AND COMMENTS

E. R. Cass<sup>1</sup>

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During the last few years crime has been conspicuously before the people of the United States, and there has been frequent inquiry as to foreign methods of crime treatment and institutional administration. A comparison between foreign and American methods is extremely difficult because of varying social and economic conditions, firmly fixed national characteristics and homogeneous populations. The difficulty is added to by the fact that American observers have not been able to give adequate time to the study of court and institutional procedure and their results, and are seriously handicapped by the difference in languages.

There is no doubt that the size and location of countries, the controlled movement of people from one country to another, and the greater fear and respect for governmental authority, are important factors in the control of crime in England and on the Continent. To the American visitor these factors are quickly apparent. The freedom of movement enjoyed by the people of America, in their country of nearly 3,000 miles from coast to coast, is not enjoyed by the people of European countries. Movement from place to place within countries and from country to country abroad is subject to governmental scrutiny. Foreign governments exercise the

<sup>13</sup>Robert M. Hutchins and Donald Slesinger, *Some Observations on the Law of Evidence—Memory*, 41 *Harvard Law Review*, 260.

<sup>1</sup>General Secretary, New York Prison Association.

right to inquire as to your identity, where you plan to go and what is your business. While it is true that with all this system of control, extremely rigid in many places, criminals do operate internationally, their operations are greatly curtailed. Visitors from foreign countries to America are at once impressed with its size and the freedom of movement of its people from one part to another.

As a delegate to the Tenth International Prison Congress the General Secretary of the Prison Association of New York visited institutions and conferred with officials in the following countries: England, Holland, Belgium, France, Germany and Czechoslovakia. The subsequent observations and comments are submitted as general first hand information. It is wholly misleading to be of the impression that perfection, or nearly such, is to be found in England or continental countries in penal matters. However, it is certain that there is something beneficial for the American to learn from countries abroad, and for the foreigner to learn from America.

The treatment of the criminal is still a serious problem in all parts of the civilized world. No country yet has developed a system that is satisfactory, even to its most enthusiastic supporters or the most impartial and friendly foreign observers. The civilized world is still groping with the problem of the criminal. We hear it said that the tendency in America is to make it easy for the confined law-breaker, and in contrast with that it is stated that the severity of foreign methods deters the law-breaker and makes him fear imprisonment. So far as can be determined, in countries

abroad the recidivist is still a conspicuous member of the institution population, even in countries where solitary confinement during a period of years of imprisonment prevails.

There is no question that America is being challenged in whatever claim it makes for leadership in penal reform. The strong tendency in countries like England and Germany is toward an enthusiastic renewal of penal experimentation, and a desire to know more about the individual criminal.

The following are some of the outstanding features relative to crime conditions and institutional administration which should interest the American public, heads of institutions and students of penology:

#### I.

##### *Prompt Detection of Crime and the Apprehension and Prosecution of the Criminal*

The inhabitants of foreign countries have a real understanding and an evaluation of the efficiency of the police and the crime prosecuting agencies. They do not gamble anything like as liberally as the people of America on the likelihood of escaping detection, apprehension and prosecution. Certainty and promptness of punishment is characteristic of England and most of the continental countries.

#### II.

##### *Shorter Sentences*

Regardless of the general impression that in England, for instance, severity is practiced by giving long sentences, the fact is that England is today giving shorter sentences than at any time since the war. Sentences of two or three years for a crime that

would result in a sentence of five, ten, or fifteen years in America, is a common occurrence in England. It can be safely said that there is a tendency to depart from the so-called rigor of the past in favor of a more liberal system of punishment, either through the giving of a reprimand, imposing of a fine, placing on probation, or the giving of a short sentence. In any event, however, the offender is made to realize that he has violated the law and must come face to face with the representatives of the law. Once again the elements of certainty, and of detection and promptness of punishment for the majority, as compared with, in America, unlikelihood of detection and punishment for most offenders, and increasing severity for the minority, those who happen to be caught.

### III.

#### *Systems of Central Control*

In countries abroad administrative policies and details operate mainly on a national basis. For example, the Home Office in London determines the policy and administrative routine of all the convict and local\* prisons in England and Wales. Likewise, the Prisons Department in Scotland determines for that part of the British Empire. This sharply contrasts with the variety of systems and administrative policies which we experience in the United States. The State of New York determines how it desires to house and treat the inmates of its institutions, and entirely independently do the States of New Jersey and Pennsylvania. Good or bad as these various policies may be, they are nevertheless entirely independent, and it therefore can be truthfully said that we have no fixed national

policy. While there are similarities in the various states in policy and procedure there are, however, a huge variety of differences. This is not so in England and Wales and Scotland. The respective central offices exercise complete and unquestioned control, and the outstanding result is uniformity and definiteness of procedure. Therefore, what is found to be good procedure in one part can be readily established in other parts, by order of the Home Office in the case of England and Wales, and the Prisons Department in Scotland. This is also true of the continental countries.

### IV.

#### *Tenure of Office*

There is a noticeable superiority abroad in the public attitude toward the importance of the prison systems and their personnel. There is unquestionably a more careful selection of the personnel to head these various systems and to administer the institutions. Selection is based on individual merit, and in accordance with high standards, and the incumbents are infrequently disturbed in their term of office. The frequent change of incumbents is common in America. Many times an official just begins to know his duties and problems when his successor appears. The advantage of the English and continental systems is that there results a more fixed administrative personnel and a continuity of program. The benefits of this need not be enlarged upon. In many of our American states we suffer from the lack of a policy, or if one is decided upon, the failure of its development or continuity. Therefore, too frequently, what one administration starts another neglects or discontinues.

## V.

*Size of Institutions*

The aim in countries like England and Germany is to have institutions housing a small number of prisoners. That number is usually less than 1,000, and in England, as a rule, does not exceed 700, and averages about 500. This is sharply in contrast with institutions in the United States, such as Sing Sing with a present population of over 2,400 inmates; the new prison at Jackson, Michigan, with accommodations for over 6,000, and other institutions in the various states housing 1,000 to 2,000.

In England and Germany the strong tendency is toward individual treatment of prisoners, an extremely desirable approach, long urged in this country and abroad, but without an appreciable degree of practical application. In the Borstal institutions (the brightest spot of the English system), housing young offender 16 to 21, the number of inmates is kept at about 300, and this number is divided into smaller units of 50 or 75 within the institution. The Borstal institutions might be referred to as the Elmira institutions of England. The idea which inspired their establishment (in 1910) is identical with that underlying the establishment of Elmira Reformatory (law passed 1869, institution opened 1876). Briefly that idea is to provide a separate institution for young and promising offenders, and thereby remove them from the contaminating influence of the prisons. England has kept faith with the idea of doing its best for young criminals requiring institutional treatment, by keeping its Borstal institution population down to a small number, so that the inmates

may receive the maximum of benefit that can be obtained through such a system. Whereas, for example, in the United States, at an institution like Elmira the population ranges as high as 1,500 or 1,600, and there is, therefore, no fair basis of comparison between what can be done in a Borstal institution with the smaller number and what can be done in an institution such as the Elmira Reformatory. The average combined population of the Borstal institutions during 1929 was 1,336 inmates. This number, it should be noted, is less than the population of one institution such as Elmira.

Individual treatment, opportunity for self-expression, close contact with the wholesome personalities of the institution staff, are the very essence of the Borstal system. The atmosphere resembles very much that of a well conducted Boy Scout camp. A very large success is recorded by the Borstal institutions, and the system as seen in operation supports the likelihood of these claims.

## VI

*Systems of Classification*

England, Holland, Belgium and Germany are increasingly recognizing the value of classification of prisons and prisoners. The trend in these countries is to separate more and more the hopeful from the less hopeful type of inmates. In England the classification of inmates is determined by a qualified staff identified with the Home Office. In Belgium the classification is somewhat determined through a clinic that has been in operation since 1907, and under the direction of Dr. Louis Vervaeck. The center for this clinic is located at the

Prison de la Forest in Brussels. In Germany various clinics are conducted for the purpose of learning more about the criminal as a personality, and in the operation of the Prussian system of grading clinical service will play an important part. Holland has established an institution (at Leiden) for mentally defective delinquents, somewhat paralleling the Napanoch institution in the State of New York. Holland has also established an institution (at Veenhuizen) for habitual criminals, and will house there for life those who give little or no promise of future satisfactory behavior. Commitments to this institution will be directly from the courts or through the Secretary of Justice, and a release cannot be effected except through the Secretary of Justice. A new prison is being built in Holland for young prisoners, 18 to 23 years of age, and some up to 25, who are considered too old for the Reformatory at Amersfort.

The grade system in prison administration in Prussia came into being by order of the Prussian Ministry of Justice, in June, 1929.

## VII

### *Probation and Fines*

Particularly in England the use of probation is increasing, and also the use of fines. The latter system is so operated that it is possible to pay fines on the installment plan. At the beginning probation was used mostly in the so-called police courts, but it is now being extended to the higher courts. In America, in some instances, the use of the fine system has proved a failure. However, it is found of increasing value in England. In the United States, in 1923, nearly

50% of the commitments to prison were for non-payment of fines. It can be easily understood how the freer use of the fine system in England does affect the prison population. It should be noted, however, that prostitution, drug addiction, and liquor law violations are not considered crimes in England. It is true in most parts of the United States, and with regard to these three offenses, that the fine system is a failure.

## VIII

### *Employment of Prisoners*

Idleness is not a common sight in English and continental prisons. In England prisoners are employed eight hours a day. It is held that if a trade cannot be taught, at least a very definite attempt should be made to develop the habit of industry. It is true, of course, that the labor assignments are overmanned, but there is a system of distribution which provides some work for every inmate. This does not always parallel the quantity of work that would be required of an individual on the outside, but rather than have prisoners idle, which would be considered detracting from punishment, and at the same time inhuman, the administrators of foreign institutions manage to find some employment for all inmates who are physically able to work. This is in glaring contrast with the large numbers of unemployed that are frequently found in American institutions. In one institution, in America, not so long ago, the writer observed a group of close on to 800 men who were kept in a stockade for hours each day because of unemployment. That scene would not greet the eyes of a visitor to a foreign prison.

## IX

*Education*

England, perhaps, is outstanding in its effort to have education in the broadest sense play an increasingly important part in treating its prison inmates. School classes are conducted at night, and teachers give their services voluntarily, there being about four hundred qualified and well vouched for persons going into the prisons at least one night a week to render this educational service. There is no worth while parallel to this in America. Education, in a broad sense, is an earnest effort on the part of the English prison system administrators.

In German prisons, especially among young prisoners, education is a fixed part of the daily program, but is not allowed, as is also true in England, to interfere with the working day. In Germany young prisoners awaiting trial are obliged to attend school at least one hour a day. That is the only time they are allowed to be in association. At other times they are kept in their cells. This observation was made in the Untersuchungsgefängnis in Berlin. Compared with this is the almost universal observation in institutions like the New York City Tombs and the county jails in America, where prisoners, young and old, awaiting trial or other court disposition for days and months, spend their time in promiscuous association in idleness; and without any wholesome educational effort being directed toward them. These institutions are sometimes referred to as schools of crime. This cannot be said of the institution in Berlin. It is evident that every effort is made to save these young offenders, between the ages

of 16 and 21, from mental and moral deterioration, and to point out to them through educational means a more wholesome way of living.

## X

*Physical Exercise*

In the English prisons special effort is made to preserve and develop the health of prisoners through a routine system of daily physical exercise. These exercises are held in the mornings and are intended to give the prisoner a good start for the day. It is to be noted also that in Holland, Belgium and France, where the solitary system of confinement in whole or part is in use, the need for systematic physical exercise is not overlooked. Generally speaking, this is not true in American institutions, except reformatories, that is, there is not a systematic form of setting up exercises for the entire population such as is found in English prisons. The exercise in American prisons is more of a haphazard, go-as-you-please procedure, half an hour, or one hour, or the whole afternoon in the yard. Of course there is baseball for those who have the skill and the liking, but that only affects a small part of the population.

## XI

*Riots in Prisons*

There have been in the recent past disturbances in English prisons, but nothing that could be classified as a riot or in any way comparable to the recent outbreaks in this country. However, at the Fresne prison in France, the Louvain prison in Belgium, and the prisons at the Hague and Haarlem in Holland, there is very little

likelihood of a riot because prisoners are kept in solitary confinement, and the most that the prisoner can do if he is inclined toward riot is to riot with himself. At the Tenth International Prison Congress, held in Prague, in August, 1930, frequent reference was made to the riots in some of the American prisons. If these references were intended to emphasize that there were no riots in the European prisons during the same period, and that therefore the system of administration is superior, it is quite proper to hold that this is not a fair basis of comparison. Those who frequently called attention to the riots in American prisons came from countries where there exists a system of solitary confinement, a system which requires that prisoners spend anywhere from one year to ten, and often more, in solitary confinement, eating alone, sleeping alone, exercising alone, worshipping alone, a system that would not be tolerated by the American public, and which was condemned and discontinued in America during the early part of the 19th century. The one striking difference between life within an American prison and that within, for example, the prisons at the Hague and Haarlem in Holland, and the big prison at Fresne in France, is that in the latter prisoners are kept in solitary confinement. This system has all the evidences of an extreme effort at classification.

## XII

### *Prison Architecture*

Europeans do not spend extravagantly in the building of their institutions. There is a general conservatism in keeping with the frugal characteristics of the people. The monumental type of prison building

is noticeably absent. However, they do build for permanence and with simplicity of design. The prison at Ghent in Belgium was first occupied in 1773 and is still wholly in use. The institution at Leiden, Holland, for mentally defective delinquents, was erected in 1660. Of course the interior has been somewhat renovated to meet present day needs. It is interesting to note that at this institution, and for the entire population, a cubicle or cage-like system of housing prisoners at night is used. However, it is suspected that this is more a matter of expediency than a desire to depart from the solitary system of housing and the usual type of outside cell arrangement. The outside type of cell, that is the cell built against the side walls of the building, and with a window at the rear opening on to a yard or a space between wings of the prison structure, is universally in use. The fronts of the cells are separated by a wide corridor, which is well lighted through a skylight arrangement in the roof. However, the fronts of these cells are of the solid door type, and the inmate receives no benefit from the light in the central corridor. The solid doors prevent communication between prisoners. Air and light is received mainly through a window at the rear of the cell, and in some instances through a small ventilator on one of the side walls.

There has long been a controversy between prison workers in America and in Europe as to the relative merits of the outside European type of cell and the inside American cell block. The European cells are usually larger and are generally more deserving of the title "room". However, this should be so, especially in institutions where the soli-

tary system of confinement is employed.

The prison Cellulaire de Forest, and the prison at St. Gilles in the city of Brussels, are good examples of outside cell construction. They are excelled only by the Camp Hill institution,\* on the Isle of Wight, in England, and the new prison at Brandenburg, a short distance from Berlin. The Brandenburg institution is Germany's latest product, and is typical of economy and simplicity of design. Its outstanding feature is the diversity of housing facilities. There are individual outside cells, but they are much smaller than the usual European outside cells. This is explained by the fact that the cells will be used only for sleeping. Then there are cells in which it is planned to house five or seven prisoners, with a bed for each. There are locker, lavatory and toilet facilities. The opportunity offered in this institution for classifying various types of inmates, through a separate wing arrangement and different types of cells, is a feature that merits serious study. The Germans have given here a very definite recognition of the need of individualization in dealing with the inmate population. Other facilities worthy of note are the receiving quarters, punishment section, workshops,

\*The local prisons in England and Wales are similar in function to the county jails in the United States. There are in England and Wales approximately 32 local prisons as compared with over 3,000 county jails in the United States.

The best institution physically in England. Authorized in 1908 to house recidivists for the purpose of preventive detention. The system, planned under the Preventive Detention Act, has not worked out satisfactorily, and the institution is soon to be used for first offenders.

rooms for visits from relatives, auditorium, a large kitchen and bakery. No provision is made for a common dining hall, it being planned to serve prisoners in their cells. This is the usual practice in England and continental countries.

### XIII

#### *Training Schools for Prison Officers*

In countries abroad, as well as in America, the establishment of a system of training prison guards has long been urged. Since 1925, England has maintained a training school for prison officers at the Wakefield prison, and with a very marked degree of success. This is further evidence of a recognition on the part of the British authorities as to the need of an efficient and high type of personnel to deal with the inmates of its institutions. England does not believe that every person is suitable for prison administrative responsibilities. This thought is shown in the selection of the personnel, from the heads of the system to the lowest ranking officer, and is in striking contrast with instances in America where the prison service is manned by those who have no other qualification than that of political affiliation. In America there has been too often evidenced the sentiment that anything is good enough for the prisons, whether it be inadequate appropriations, mediocre personnel, or bad administration. The increasing appearance of training schools for prison officers in America is a very hopeful sign.

### XIV

#### *Privileges.*

In the English institutions inmates are not, at the time of their reception, given the maximum of