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## Book Reviews

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## BOOK REVIEWS

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THORSTEN SELLIN [Ed.]

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SHOULD PRISONERS WORK? By  
*Louis N. Robinson*. xii+353 pp.  
John C. Winston Co., Philadel-  
phia, 1931. \$2.50.

In a society which cannot find jobs for honest men, we may well ask ourselves with Professor Robinson, "Should Prisoners Work?" In these times work is no longer a badge of servitude—it is the hallmark of genius and ability. Especially in the industrial states of the Union where organized labor is always struggling to keep its members employed, society no longer condemns criminals to prison at hard labor; indeed in some states, as Professor Robinson points out, it is fast reducing them to the menial tasks of the idle and unfit. To what extent this is true and what are its immediate causes Professor Robinson has contributed a painstaking analysis of the available facts. He shows that in state and federal prisons at least  $33\frac{1}{3}$  per cent of the inmates are idle and the remainder working only part time due to over-assignment; in the jails he concludes that 75 per cent of the inmates are also idle. The cause of this he lays to poor management, poor equipment, and overcrowding on the part of the prisons, and to the active opposition of certain groups of organized labor and manufacturers. With this as a premise, Professor Robinson proceeds to an examination and an evaluation of the principal

systems in use in prison industries—state use, state account, public works and ways, contract, piece-price, and lease. He then examines some of the important problems of prison and industrial management, and investigates the possibilities of various lines of industries in prison. The thesis around which his book is developed is concisely stated in the opening paragraph of his concluding chapter:

"One fact stands out above all others revealed by this brief study of a complicated problem, and that is the glaring discrepancy existing between the accepted theory that prisoners should work and the all too extensive practice of keeping them in idleness. Yet no one will or can deny the soundness of the principle that work is the basis upon which prison life must develop; never can a prison which keeps its inmates in idleness serve society in any but a pitiful and inadequate way. Even though it may be extremely difficult to put prison industries on a paying basis financially, they should always be set up as a part of a sane penological program. This fact has not been burnt into the consciousness of the country, and the apathetic public attitude prevailing towards prison idleness is a sad commentary on our state of cultural development. To make bricks without straw is easy compared with the task of making

decent citizens out of criminals without work."

Even a casual reader must be impressed with the wealth of evidence which Professor Robinson has gathered both in presenting the facts about prison industries and in support of his conclusions regarding them. Each of the 28 tables listed in the index and the hundreds of references in the text itself attest the careful combing of sources for every fact bearing on the question. To practical prison men, the actual case material presented under "Problems of Prison Industrial Management," "Costs, Wages, and Profits," and "Kinds of Work," is a valuable source of reference for current practice. It is a masterly and painstaking presentation of the facts in a field where reliable information is extremely difficult to obtain and where prejudice and loose opinion on all sides have run riot long enough. It is the most illuminating statement on prison industries which has been published since Carroll Wright issued his famous study of "Convict Labor" in 1885.

In the second place, it is refreshing to note the insight shown in the analysis of the facts and the definiteness with which conclusions are drawn. For example, Professor Robinson has not been fooled by the figures of employment so glibly supplied by official sources. Going behind these, he shows up the tragic realities which lie beneath "over-assignment" and "maintenance." Officially industrious—virtually idle houses. Again, the enthusiasm of free industry for state-use does not deceive Professor Robinson: . . . "all trade opposition to the employment of prisoners does not melt away with the adoption of the state-use sys-

tem [advocated by free labor and manufacturers] any faster than does opposition from the labor ranks. The attitude of the two groups is exactly comparable: official utterances exhale a reasonable and cooperative spirit but local action is selfish and unthinking." Referring to the resolution adopted by the 50th Annual Convention of the American Federation of Labor urging that convicts be excluded from constructing Federal penal institutions, Professor Robinson very keenly inquires, "If the construction of State and Federal penal institutions is not a legitimate form of state-use employment, what is? To permit prisoners to manufacture shoes and garments for state-use and not to work on state buildings seems an unfair discrimination against shoe and garment workers." The responsibility of prison managers is not overlooked: "The belief that anyone possessed of sufficient brute force can successfully run a prison belongs to the limbo of discarded superstition." And again—"It is of course only too true that the competitive aspect of prison industries has been very badly handled. There has been a heavy concentration of production in certain lines of goods." Nor does he except the prisoner from his searching analysis: "Taking the prison population as a whole it is apparent even to the casual observer that there is a goodly percentage of men whom no sane employer would hire on any terms;" and, "We should banish from our minds once and for all the idea that in a well conducted prison every inmate would learn a skilled trade to carry on when released." In this conclusion he takes a shy dig at the labor leader and manufacturer who "advocates trade

training for prisoners as a means of cutting down production and competition." To the professional reformer he points out—"Psychological, psychiatric, social and medical findings are for the administrator tools, not ends in themselves, and are useless unless applied to problems such as type of construction needed, kind of industry to be installed, and types of academic, therapeutic and trade instruction required." In the very important question of what the warden should do and what the central state bureau should have charge of, Professor Robinson settles an old controversy admirably by suggesting that the study of inmate population, the possible market for goods, the classification of institution jobs, the choice of industries and their allocation between institutions, the creation of a purchasing and selling organization and a production division should be performed by a central board. "But the assignment of the men, the decision as to working hours, and in short the full control of the prisoners should be in the warden's hands. . . . The institution is his and no board or department should by any arrangement or division of authority make him feel otherwise." Such a statement seems simple and logical enough, and yet for lack of so clear a statement of it, industrial programs in more than one state have gone on the rocks. Nowhere does Professor Robinson exhibit a keener sense of values in the discussion of the prison industry problem than in his treatment of systems of employment. For years prison reformers and others have advocated first one system and then another as the answer to the whole question. After carefully setting forth the

advantages and disadvantages of each of the major systems—contract, state account, and state-use—Professor Robinson says, "It should be emphasized that the installation of *no one system as such is a solution of prison labor problems.*" (The italics are his). "This is especially to be repeated in connection with the state-use system which is too often regarded as a panacea for all our troubles in the prison labor field. . . . Very few states and very few institutions at the present time make use of any one system exclusively. Combinations are not only used but they are desirable."

In view of the great significance being attached to the passage of the Hawes-Cooper Act, it is to be regretted that Professor Robinson did not apply the same searching analysis to that subject which he did to idleness for example. In the principal discussion of this Act (pp. 113-119) contained in the book, he apparently accepts the opinions of those who first assumed that the passage of the Act meant the abandonment of all contract industries in prisons. His only comment—"These excerpts show the situation which confronts all prisons now employing their men under contract, and state-account industries are faced with much the same problem"—is hardly borne out by the facts. Unless the Hawes-Cooper Act is followed by legislation in a larger number of states establishing the exclusive state-use system (which is very doubtful in view of the experience of New York, New Jersey, Pennsylvania and Ohio), the Act will only affect the importation of goods into a few states operating under exclusive state-use (at present only four in number). Only 35 per cent of the

goods now made in all state and federal prisons are sold in states other than where manufactured and prison industries in only 18 states sell any goods in other states than where manufactured.

Since industries in jails and houses of correction offer a problem quite distinctly different from that in state and federal prisons, it might have been less confusing had the sections in the various chapters on this subject been brought together into a single chapter. In some ways the even worse plight in which these sink holes find themselves would have been brought out more clearly. However, Professor Robinson touched significantly on the crux of this problem when he wrote: "It is our firm conviction that many changes in plant structure and equipment will have to be made before we can hope to see a majority of the inmates employed. Particularly is this so if a reasonable labor policy is to prevail in county and municipal jails. Undoubtedly they will in many instances have to be made to serve larger areas comprising several counties or, in thinly settled regions, the entire state."

On this and on two other points touched on in passing by Professor Robinson, the student of penology wishes he might have enlarged in the present book. These are (1) the development of vocational training in prison industries, of which there are a number of excellent examples; and (2) the experience of various states with committees or boards representing free industry and the prison in the management of prison industries. After all vocational training is one of the most important justifications of prison industries and in any discussion of the subject it deserves a

place commensurate with "Costs, Wages, and Profit." Again, it is likely that prison industries will continue their present deplorable state unless free industry adopts a policy of cooperation in place of its present indifference or downright antagonism. Prison managers need all the information available on this important subject. One other point which Professor Robinson did not touch on at all and which may loom large, especially in states adopting the exclusive state-use policy, is the development of avocational pursuits as an answer to idleness.

To those concerned with the general philosophy of our prison system, one is struck in general with Professor Robinson's apparent acceptance of the industrial prison as the type of institution to which we should look for the future. The progenitors of the industrial prison and most people today, as pointed out by Professor Robinson, believe that "hard labor" is the cure for crime. In many cases undoubtedly this is true and certainly normal work of *some* kind is essential to any sane prison program. It is possible, however, that we have over-emphasized the importance of industry—or certain forms of industry—in our simple faith in the reforming power of work. Assuming that the main purpose of prisons is to correct men of their criminality, it may be that prison therapy should have to do primarily with industry in only a part of the cases. In other cases it might have to do primarily with academic, civic, ethical, or vocational education or re-education, with the treatment of personality difficulties, or with medical, recreational, domestic or avocational needs. Such a prison program will be concerned with industry as one major type of treat-

ment; otherwise industry will be incidental to other forms of treatment. In discussing the warden's responsibilities in the prison industrial system, Professor Robinson says, "he is charged with producing men." Perhaps we shall find when this philosophy is really accepted that industries will assume a place of lesser importance than they now hold and some of the problems which Professor Robinson seeks to solve will have disappeared.

The question "Should Prisoners Work?" is not merely rhetorical. It is quite possible that work, which has been offered as a panacea to all ills, is after all only one means to that end.

HOWARD B. GILL.

State Prison Colony,  
Norfolk, Mass.

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CONVICTING THE INNOCENT: ERRORS OF CRIMINAL JUSTICE. By *Edwin M. Borchard*, professor of law in Yale University, with the collaboration of E. Russell Lutz, research assistant. Yale University Press, 1932. Pp. XXIX, 421.

Some 20 years ago the author initiated a beneficent proposal for the rectification of errors of criminal justice; rectification to consist in a public acknowledgment of the error, in vindicating the character of the innocent victim, and in a grant of compensation to requite his unjust suffering.

But this beneficent proposal was constantly met with the objection, "There *are* no such errors", or at least not enough to call for any regular method of repairing them.

In the meantime, and especially during the last few years, the author has devoted himself to accumulating authentic data that would

demonstrate, even to the incredulous, the frequency of such miscarriages of justice and therefore the moral duty of the State to provide for their requital. This book is the fruit of his researches.

By correspondence with governors, judges, police and other authorities, and by the study of the testimonial records and the sifting of the evidence, he gathered a very large number of modern instances which authentically support the justice of his proposal. Out of this number, he here presents 65; of these, 50 are narrated with some fullness. They represent the justice (or injustice) of nearly every State in the Union; no State can set itself up as immune from the chance of such errors.

These tales of the innocent who have been wronged are replete with the thrills of detective romances and with the tragedy of everyday life. Whether on our journey to our daily tasks, or on our return from harmless pleasures, this shadow of possibility of a mistake of justice hangs over us. And, though the more effective pursuit of the ruthless criminal is today the chief concern of public opinion, and a stricter procedure is everywhere demanded, this book reminds us that the same ineffective procedure may also be a source of error. Unpunished crime is a serious social menace. But no consequence can be more tragic than the condemnation of an innocent person to imprisonment or to death.

The author has not stopped with the narration of these striking instances of error. His introductory chapter has classified the causes of the errors, and we are enabled to draw some inferences as to the remedies needed and practicable. His closing chapter sets forth the

history in all countries of the State's measures for indemnifying victims of the State's errors, and expounds the laws (scanty in number) that have in recent times been enacted in our own States to give effect to this duty so long neglected.

We congratulate the author on the final appearance of a book which will do much to promote the reform that he has so long advocated with such devotion.

JOHN H. WIGMORE.  
Northwestern University.

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PRESTUPNOST ZA GRANITZOI IV S. S. S. P. [Crime Abroad and in the U. S. S. R.] By *M. N. Gernet*. 187 pp. "Sovietskoye Zakonodatelstvo," Moscow, 1931. R. 3.00.

This is the third volume within a decade by Professor Gernet dealing with comparative statistics of crime in Russia and other countries. The first entitled "Moral Statistics" appeared in 1922, the second "Crime and Suicide During the War and After" in 1927. The latest work is similar to the earlier two volumes in its plan and method of handling the material, but it is much more comprehensive in that it endeavors to bring together statistical data as far back as available. From that point of view the volume is extremely useful to a student of criminology, offering a very handy source book of statistical information, but suffers inevitably from the language limitation, there probably being very few experts in criminal statistics who are familiar with the Russian language.

The volume is divided into two parts, of which the first consists primarily of a set of statistical tables with rather scant comments presenting the absolute figures of arrests, misdemeanors, crimes, convictions,

etcetera, in Germany, England, France, Italy, Belgium and Russia.

The second part undertakes a somewhat more analytical treatment of the statistical data, particularly of the problems of juvenile crime and delinquency, crime and sex, crime by social status, an analysis of crime in cities and urban communities. In this analytical part comparatively greater attention is paid to modern Russian data and for that reason the book may present special interest to the student of social conditions in Russia.

The treatment of the material throughout is mostly objective and limited to comments on the tables and diagrams presented. This is both the virtue and the fault of this work as well as of the previous works of the same author. The book appears to be rather a collection of statistical data than a scientific study of crime. A more proper title might have been "Statistics of Crime Abroad and in Russia."

A very comprehensive bibliography both of European and Russian sources adds to the value of the work. It is to be regretted that no consideration has been given to the situation in the United States.

Not the least interesting part of the volume is the one page preface signed by the publishers, "Sovietskoye Zakonodatelstvo" meaning Soviet Legislation. According to a well established tradition a contributed preface usually is expected to recommend the book. Not so, evidently, in Russia where the one page preface offers a rather pitiless criticism which if translated might perhaps furnish a better review of the book than the writer of these lines is capable of.

Say the publishers "The author of this work is not a Marxist."

(Than which, of course, there is no greater crime for a scientific sociologist to be charged with in the Soviet Republic.) "In his philosophy and methodology the author is clearly a positivist. His positivism is obvious in every page and in every statistical column . . . He is entirely dominated by a deep empiricism . . . The last two decades saw much in great historic events, the war itself, the revolutionary changes, the embittered class struggles, the civil wars, all these find a very weak reflection in Professor Gernet's book or are rather disregarded altogether . . . In the use of official statistics and other bourgeois sources, mostly apologetic rather than scientific, the author does not criticize or even question this data. He does not disclose the lies, hypocrisy, of the bourgeois criminal statistics. He does not warn and arm the Soviet leader against bourgeois."

To which criticism the much abused Professor might meekly reply: "I am only a statistician" if there were no danger that the reply might appear to be counter-revolutionary.

The benighted reader might innocently ask, if that is what you think of the book, why publish it?

I. M. RUBINOW.

Cincinnati, O.

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THE STORY OF MY LIFE. By *Clarence Darrow*. ix+457 pp. Scribners', New York, 1932. \$3.50.

Clarence Darrow has done scant justice to himself in his autobiography. Those who have been privileged to know him will find in the book but a pale reflection of his colorful personality, for Darrow's fame, without minimizing his ability and skill at the bar, is due rather to

his greatness as a human being than as a lawyer. The story of the man who gave up his position as general attorney for a large railroad to undertake the unpopular defense of Eugene V. Debs, who threw away the rewards and reputability of an assuredly successful orthodox professional career to devote himself to the defense of the downtrodden and the oppressed, is a story strange in the annals of the bar. Perhaps some day it will be written more objectively and completely. Autobiography must have been a difficult task for a man of Darrow's humorous cynicism.

Darrow's life has been replete with excitement. As leading counsel for various large labor bodies his professional experience threw him into the center of strife and turmoil that contrasts startlingly with the more placid activities of the ordinary practitioner. He tried cases in all parts of the country, in large cities, in rural communities and in hostile mining centers. At times he was obliged to remain away from home for as long as two years. It is a pity, however, that he has made such ineffective use of his fascinating material. The chief value of an autobiography, aside from the unintentional insight it gives into the individual himself, should lie in the presentation of intimate factual material otherwise unavailable. There is little in this book that could not be found in greater detail and more vividly told elsewhere. The story of the Loeb-Leopold case for instance, one of the important criminal trials of recent years with unusual psychiatric implications, is set forth sketchily and inadequately. The complete story written frankly might have been an important contribution to criminology. But the author seems obviously to have been



hampered by his professional obligations. The confidential relationship between lawyer and client, whatever its merits may be, does not encourage interesting memoirs. The result is that the stories of the Scopes case, the Moyer case, the Haywood case and the Sweet murder case are merely condensed narratives. The framework is there but they lack life.

The latter part of the book is made up largely of excerpts from the author's debates and lectures on Prohibition and Criminology. They reveal him as a delightful but incurable sentimentalist. Darrow's approach to the problems of crime and punishment is primarily an emotional one. It is too bad that he did not see fit to give the reader the benefit of his long and varied experience as a trial lawyer. Perhaps, like many lawyers who achieve forensic success, he is but vaguely conscious of his technique. Nevertheless there are occasional illuminating bits, as, for instance " . . . no one ever wanted a fair juror; at least no lawyer ever did. The state wants a juror who has grown cold, serious, unimaginative and a Presbyterian, if possible. The defense wants a man who is alert, witty, emotional and who is a Catholic or without any religious faith whatever." There should have been more of this sort of thing.

There is a grand story in the life of Clarence Darrow. Perhaps some day it will be written.

NEWMAN LEVY.

New York City.

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EXPERTISES JUDICIAIRES EN MATIÈRE PÉNALE. By *J. Tchernoff* and *Jean Schonfeld*. Paris, Sirey, 1932. 328pp.

Both of these authors are mem-

bers of the Paris Bar; the former is evidently the senior of the literary partnership, for he has already written nine other books, while the latter has written one only (not counting articles in periodicals). Some of the former's works deal with the protection of aliens in France (and his name is therefore one to remember when we go abroad). But his principal former work deals with financial crimes; and it is evident that the present work is composed in the light of much experience in using expert testimony in the criminal courts.

It has the best Table of Contents that we have yet seen in a Continental book. In the first place, every paragraph of the text has a catch-word heading, and all those headings are reproduced in the Table (a reader's help which is often neglected by United States authors, as witness a recent book on International Law that has given us much needless trouble on that score). In the next place, the figures by which the paragraphs are located are given in two columns, one for the paragraph number, the other for the page-number.

The plan of the book is as follows: Chap. I explains the function of financial experts. Chap. II sets forth the rules for all kinds of experts, common to both criminal and civil cases. Chap. III summarizes the general principles of evidence in their application to experts. Chaps. IV and V set forth the special practice for financial experts. Chap. VI introduces us to the medico-legal expert and the commercial fraud expert; and Chaps. VII to XI complete the treatment of medico-legal experts; Chap. XII (which is too short) offers something on hand-writing experts. Chap. XIII

discusses the medico-legal expert in comparative law; and here, as usual, the United States law, by its complex 48-cylinder machine, deters the learned author from attempting anything at all,—though Mexico and Turkey and Russia are included. Chaps. XIV-XVII have to do with fraud-experts (who seem to be needed chiefly in cases of imitation of trademarks, pure-food offenses, etc.) And herein Chap. XV elaborately explains about "prélèvements"; this is the process of taking samples of the suspected goods; naturally, the process must be safeguarded to avoid abuse and to guarantee authenticity; and this chapter is a revelation of the systematic formality with which the whole subject of experts is invested in French law.

The book also reveals to us that the general notion, prevalent in this country, about the French system of official experts, is no longer correct. Their official list, from which the experts must be chosen, is by no means a limited one. Modern legislation has given flexibility to the system. Apparently the official listing is in effect a certificate of assured skill and competence. Moreover, since the accused person may also select one from the official list to be added to the expert committee, it is evident that the official list offers a wide range of choice, and is not merely a limited coterie of favored officials.

The author devotes a chapter to the history of the system. Had we here the space to expound the system in full, it is possible that in some features it would offer points that might well be borrowed by United States law. We have always been of the opinion that the Continental system was wholly incompatible with our traditions, and

that the occasional proposals by our medical men to cure our evils by adopting the Continental system were impracticable. But this book gives us the impression that the French practice, which has been much liberalized by legislation during the past generation, now combines flexibility with thoroughness in a manner well worth consideration in any plans for the improvement of our own practice.

JOHN H. WIGMORE.

Northwestern University.

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WEIBLICHE KRIMINALITÄT UND EHE. By *Hans Krille*. 64 pp. Ernst Wiegandt, Leipzig, 1931, M. 2.40.

This monograph on *The Female Criminal and Marriage* is the fifteenth in a series of discussions on criminology edited by Dr. Franz Exner, Professor of Law at the University of Leipzig. In accordance with the fundamental point of view of the editor, viz., that contributions to criminal psychology had too long come from the medical profession and statisticians and not from the legalist who should be the leaders, the various monographs are written with the intent to stimulate the younger jurists and to win them over for this type of research.

The present volume raises the question in how far the status of marriage restrains women from committing criminal offenses. The issue had been raised many years ago but had not been settled. As early as 1884 the official statistics of the German government indicated that, "with reference to women the assumption cannot be confirmed that marital status deters from criminal activities." Five years later, however, the official reports questioned the earlier con-

clusion and again, in 1908, the governmental statisticians flatly denied that one could draw any conclusion as to the influence of family or marriage status on the female crime rate.

Thus, Dr. Krille was led to the investigation of the problem. He makes use of the government's data of the years 1883-1912. The material is arranged in ten-year periods. The author also computes the percentage of single, married, divorced, and separated women-offenders to the non-criminal groups. (The crime statistics of the government give only the absolute numbers of female offenders.) Such crimes as perjury, abortion, assault, libel, robbery, forgery, fraud, receiving stolen property and murder are compared for the various groups according to marital status as well as age. Five age groups are considered, viz., 21-25, 25-30, 30-40, 40-50, and 50-60.

Viewing the criminal activity of women as a whole one finds no uniform effects of family and marriage status. One may recognize certain tendencies even though their significance is not quite clear. Thus, the older age groups of the widowed and divorced (classified as one group in the official statistics) commit more crime than the single or married women. (It is only in the oldest age group, from 50-60 years, that the crime rate of the widowed and divorced women, for half the crimes considered, equals or falls below the rate of the married women for that age group.)

In offenses against property, where the greatest amount of female criminality occurs, the older classes of married women are charged with more crime than the single women. The crime rate of these two groups, i. e., the single and married, is about the same for

the age group of 30-40 so far as crimes against the person are concerned. Again between 40-50 the married women reach their highest crime rate for some crimes and the unmarried or single show their greatest decline. For example, *in crimes against property the married women reach the highest crime rate between the ages of 40 and 60 whereas the unmarried reach their highest rate between 21-40 years.* On the other hand, for forgery the relationship is turned around. Between 21-25 years the married women commit the greatest amount of crime and the high point in that offense is reached by the unmarried women between the years of 25-40. From 40-60 the rate for forgery is about the same for both groups.

The results are indeed confusing. No clear and definite picture is obtained. Even when one discovers that in certain specific crimes one class leads, the fact cannot become significant until its relation to family status is ascertained. The author stresses the point that in considering statistical data so far as they relate to family status there is danger of overlooking the influence of many other non-familial factors such as, for example, personality traits (*Charaktereigenschaften*). Dr. Krille recognizes that reciprocal influences between environment and personality operate continuously and and that it would be necessary to set up some kind of control group before valid conclusions concerning crime rate and marriage status could be established.

The author is willing, nevertheless, to suggest an interpretation of what appears to be the general trend of crime rate as between the married and unmarried women. Single women commit more crime than the married women of the same age groups

below 40. Such crimes usually involve physical courage and energy. This is the case in crimes such as murder, robbery, assault, and larceny. The social setting of the unmarried women approaches more closely that of the man rather than that of the married woman. The activities of the unmarried woman, the need for earning her livelihood, impose upon her stresses and strains which the relatively sheltered life of the married woman obviate. The unattached woman must provide for herself. In this process she acquires traits which serve as focal points for the development of a criminal career. In the author's opinion the relatively high rate of criminal-mindedness of the unmarried woman can be lowered only by improving her social position through activities suitable to feminine character (?).

The reviewer cannot refrain from adding his own impression of this study. This monograph gives me the feeling that I have experienced many times in the past year or two while reading some of the criminological literature on Germany. On the one hand, many of the German students realize the great importance of rigid methods in reaching valid conclusions concerning crime problems and on the other, there seems to be an irremediable and ineradicable desire to speculate nevertheless. This tendency, to be sure, is not unknown among American students. Is it expecting too much to ask that for the present students be satisfied with the quest for method rather than the quest for certainty?

NATHANIEL CANTOR.

University of Buffalo.

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THE INSANITY PLEA. By *Edward Huntington Williams, M. D.* xi

+169 pp. Williams & Wilkins Co., Baltimore, 1931. \$2.00.

Although the plea of insanity as a defense to criminal charges is invoked comparatively rarely, it is employed from time to time in cases of so great notoriety that it has achieved a prominence in the minds of the public which is not only unpleasant but out of all proportion to its real frequency and importance. In view of the recent employment of this defense in two extremely well advertised cases (in one of which the author acted as an expert witness), the present volume is a timely exposition, written for the laity, of the theory and practice of the defense of insanity.

Dr. Williams, the author, has had a long psychiatric experience which has brought him into close touch with a considerable number of criminal cases. (His previous volume "The Doctor in Court," has been widely read). He is, as well, a thoughtful observer, and therefore a critic, of the present state of the law so far at least as it touches on mental medicine. In describing the practical results of the California practice, for example, which provides for a jury trial for the commitment to a mental hospital of person suffering from mental disease, he points out that when it is a question of determining the existence of such disease and the need of treatment, "the decision is placed at the discretion of utter ignoramus." As for the jury's attitude toward mental disease, as compared with engineering or astronomy or even other medical topics, he points out that to the average juror, not to know a crazy man when you see him "is considered a reflection on one's intelligence."

There are illuminating comments

on the uncomfortable status of the partisan expert, the difficulties of diagnosis, the befuddling effect on the jury of the sort of cross-examination of experts so frequently indulged in by the attorneys, and the bearing on that metaphysical concept, "responsibility," of epilepsy and various other nervous and mental disorders. Numerous illustrative cases are described at length in a very readable manner.

It is to be regretted that Dr. Williams fails to seize the opportunity to make clear to the reader that insanity is a legal term; that psychiatrists have long since abandoned it and speak of mental disease; that the two terms are not necessarily synonymous, and that the types of mental disorder are legion. To speak, as does the author, of "the most important and elusive of maladies, insanity," is at least misleading. The author might well, too, have indicated that the legal and medical professions alike are not blind to the defects of the present system, and that such organizations as the American Bar Association, the American Medical Association and the American Psychiatric Association have for several years been engaged in a coöperative study of the matter with a view to seeking remedies. Although California has one of the most sweeping laws permitting the appointment by the court of impartial experts in civil and criminal cases, one gathers from Dr. Williams that this law is not much used, and that (in spite of favorable court decisions elsewhere) the mental status of such experts as are so appointed is carefully kept from the jury. That the problem is more nearly solved elsewhere, as by the well-known "Briggs Law" of Massachusetts, is a note of en-

couragement which the author does not strike.

Nevertheless, Dr. Williams has furnished a clear, highly readable, and thought-provoking presentation of a topic which though widely discussed is all too generally misunderstood.

The book is somewhat marred technically by more typographical errors than are usually found in the productions of the publishers.

WINIFRED OVERHOLZER, M. D.  
Massachusetts Department of Mental Diseases.

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DOTTRINA SOCIOLOGICA DEL REATO.  
[Sociological Theory of Crime].  
By *Giovanni Lombardi*. xxiv + 351 pp. Libreria Internazionale Guida, Naples, 1931. L. 20.

Mr. Lombardi is a sociologist and jurist who has written several books on the interactions of sociology and law and has in this book presented an outline of his doctrine of crime. It is not a new doctrine, being quite admittedly the result of modern Italian views which stand upon Lombroso and Ferri. But Mr. Lombardi feels that he has avoided the excesses of the founders of his school and is convinced that he has indicated more clearly than they had, the factors that determine crime and govern the social attitude to it. He gives us first an historical summary of criminal theories since the Illumination and, then, in five chapters, discusses the psychological basis of crime, its psycho-social origins, the relation of social evolution to crime and morality, the static and dynamic inference of the environment on crime and the suggestive effect of social custom.

It is to be noted that in the foregoing I have used "crime" as the equivalent of no fewer than three

Italian words *reato*, *delitto* and *delinquenza*. Our imperfect terminology is a reflection of the insufficiencies of our theoretical examination. The Anglo-Saxon hostility to any theorizing on practical problems has its drawbacks.

There is much information in Mr. Lombardi's book and many clear and forcible statements. But I am afraid that his clarity and force are the rather cheaply acquired virtues of an over-simplified construction. Mr. Lombardi is not very critical and has accepted large blocks of school doctrine from various sources, most of which specialists in the field have long rejected. He still holds the hasty generalizations with which Bachofen made *Mutter-recht* so complete a key to early society. He regards the monosyllabic character of the Chinese language as a primitive survival. Further, the primitive tribes whom he constantly cites by way of illustration are wholly instinctive and quite incapable not only of reason but even of observation (!). Indeed, he is so sure about developments about which we can scarcely hazard a plausible guess and his schemes are so precise and definite that he finds himself settling problems which more cautious scientists are just beginning to formulate. He would be well advised to forego some of his facile enthusiasms in favor of a little salutary criticism and, if it must be said, in favor of a more thorough investigation of his data.

And there is another thing he might well forego and that is the rather naive nationalism which he and others of his contemporaries exhibit. Italians have done so much in criminology in an unbroken line from Beccaria and Filangieri to Ferri and beyond, that it is quite

unnecessary for anyone to insist upon the merits of Italian achievement in this field. It may well be taken for granted. Reference to *la genialità italiana*, the frequent use of *nostro*, can only serve to render controversial what otherwise would be nearly axiomatic. Patriotic ardor has a way of destroying the tone of sheer objectivity which Mr. Lombardi cultivates as an ideal and it is even worse when this ardor becomes militant as well as expansive. A summary of penal philosophies that does not do so much as name Kant, Feuerbach or Liszt, not to mention Birkmeyer and Radbruch, and for which none of the newer schools of psychology except Freud, appear to exist has not got much beyond the preliminary stage. Mr. Lombardi will have to dig deeper before he can expect us to have any confidence that his doctrinal structure is on a firm foundation.

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COURTS AND DOCTORS. By Lloyd Paul Stryker. xxv+236 pp. Macmillan, New York, 1932. \$2.00.

This book, unlike many books with similar titles, deals, so to speak, more with the effects of the law upon the physician than with the reverse. It is written, the author informs us, "to meet the oft-expressed desire of my many friends of the medical profession for a short statement of the essential legal principles by which their work is governed. Its reading, it is hoped, may serve for the medical man to throw some light upon his legal rights and duties as a practitioner, and may help to prevent such part of the litigation as is preventable." The author is eminently qualified to

speak, having been for many years general counsel for the Medical Society of the State of New York, and having had personal charge of the legal policy of the Society and the defense of its members who were sued for malpractice. He is, therefore, not only an experienced attorney, but also one who is thoroughly conversant with the legal problems which arise in the practice of medicine.

The general headings are: The Practice of Medicine; The Relationship of Patient and Physician; The Action for Malpractice; Defense of Actions for Malpractice; Expert Testimony; The Doctor on the Witness Stand; The Doctor and the Criminal Law. There are references to statutes, notably the Federal Laws relating to narcotic drugs and alcohol, and numerous citations to pertinent judicial decisions. These latter are arranged alphabetically for the volume, and also as references by chapters.

The volume is highly informative, compact, and extremely well written. It might well be read, and with profit, by every judge; it certainly should be carefully studied by every medical student and by every physician, no matter what his specialty.

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DOSTOJEWSKY UND TOLSTOI ÜBER PROBLEME DES RECHTS. [Dostoevsky and Tolstoy on Problems of Law]. By *Boris Sapir*. vi+110 pp. J. C. B. Mohr (Paul Siebeck). Tübingen, 1932. M. \$5.40.

In the field of world literature, Dostoevsky and Tolstoy occupy permanent places not only because of the artistic merits of their works, but equally, perhaps more so, owing

to their penetrating analysis into the nature of human emotions, in all their obscure complexity.

Mr. Sapir made a laudable attempt to discover in the creations of the two Russian giants such psychological data as might guide the criminologist of our day in his enquiries into the vexing problem of crime causation.

The author justly contends that Dostoevsky's conceptions of crime and criminality cannot be dissociated from his general philosophy in which God is the focal idea. According to Dostoevsky, faith in a Supreme Being preordaining and governing the destinies of our lives, although deriving its origin from the individual's quest for Truth, is a social necessity, since the loss of the religious ideal inevitably leads to the structuralization of that Napoleonic psychology which is expressed in the classical formula: "Everything is permitted." But Dostoevsky suggests that the formal or logical operations of the integrative mind are incapable of conveying any kind of sanction to an ethical norm, while every attempt to evolve a mode of behavior upon the sandy foundations of Godless morality necessarily assumes the form of crime (Raskolnikov, Ivan Karamazov, Smerdiakov, etc.)

Recognizing, then, the psychogenetic origin of the criminal propensity, Dostoevsky also stresses the fact that punishment, in its crude form of social coercion, does not lead to individual betterment of the criminal, a result which can be achieved only by repentance. On this point, Tolstoy is not only in accord with Dostoevsky, but he goes a step further by condemning the very principle of state punishment on the general ground that evil cannot, and should not, be overcome by

another evil. This thesis is but a logical deduction from Tolstoy's religious anarchism, which, in turn, is the keynote to his whole ideology. Nor does Tolstoy pause here: Twisting Ihering's formula: *Das Ziel des Rechts is der Friede, das Mittel dazu—der Kampf*, Tolstoy declares that the struggle for right is evil and its realization results in strife and social discord, so that right and might are conceived, as it were, as two phases of one and the same proposition.

The weakest part in Mr. Sapir's account is that which deals with his attempt to draw a parallel between Tolstoy's criminological, and, generally, legal conceptions, and the system of Soviet law, if such be existent at all (pp. 90-94). In fact, there is no excuse for raising in a pamphlet of this sort the question of Sovietism, which certainly has very little in common with either the lofty ideals of Dostoevsky or the religious doctrine of Tolstoy.

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#### THE MENACE OF NARCOTIC DRUGS.

By E. George Payne. ix+293 pp.  
Prentice-Hall, Inc., New York,  
1931.

The two cornerstones upon which this book is built in order to attain its objective are weak. One is fallacious and the other ineffective. The stated objective is "to remedy the problem (addiction) by means of the schools" by presenting "a textbook for teachers to provide them with materials and the method of including in the curriculum instruction in this important field of education."

With the exception possibly of colleges and universities, on which major emphasis of this book does

not seem to be placed, solution of the problem will not be approached through education of school children. By the very statistics presented the actual facts show that addiction in school children is almost negligible. (It is confusing that the unfortunate statement, misleading to the ignorant reader, that "addiction is actually found in some cases among school children" is made, notwithstanding the statistics and logical deductions of Professor Thrasher, who states that "the conclusion drawn from the present study is that the use of drugs among younger adolescents is extremely rare" and that "it is also the opinion of psychiatrists, social workers, physicians, psychologists, probation officers, and other workers in this field that the use of narcotic drugs among younger adolescents is extremely rare.") Psychological and sociological principles assure us that the mere formal academic presentation of facts such as could be offered in the school concerning the detrimental consequences of sensations not yet experienced will not safeguard the child in later years when he is brought face to face with temptation. As Professor Thrasher states "it has been proved that a mastery of health information in school does not in any sense carry over into actual health practices and behavior in pupils." Beyond such negative results, such a procedure actually might contribute to the development of addiction in school children through stimulating the curiosity of the child.

Granting even for the sake of argument that the school is a suitable medium, what knowledge is available to impart? Certainly the pharmacological actions of these drugs do not convey an accurate picture of the nature of addiction. Scien-



tifically who knows the mechanism by which opium in any of its forms after repeated use makes it necessary for the individual to continue its use in order to avoid the physical as well as mental suffering its withdrawal entails? Rather give nothing than the inaccurate distorted pictures commonly available in the literature concerning the causes and nature of addiction and the types of individuals predisposed to its development.

Beyond containing no fundamental material of assistance in this direction, the book on the whole is a repetition of information on the history of the use of the drugs and the international, federal, state and other methods of control of distribution already available in other sources.

This review should not be closed without expressing respectful admiration for the masterly presentation by Professor Thrasher of the sociological angles of the problem. Attacks on these vital spots which comprehend the social fabric of the adolescents' environment will accomplish more in the direction of solving the problem of "social" addiction than all of the emotional exaggerations of the International Narcotic Education Association, devoid as they are for the most part of fundamental truths—clamors for a house built upon sand.

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WOMEN'S MISDEMEANANTS DIVISION  
OF THE MUNICIPAL COURT OF  
PHILADELPHIA. A Report by the  
Bureau of Municipal Research of  
Philadelphia of a Study Made by  
It as Agent of the Thomas Skelton  
Harrison Foundation. Report  
Prepared by *Ruth Topping*. xxvii

+310 pp. Published by the  
Thomas Skelton Harrison Founda-  
tion, Philadelphia. 1932.

This report on the Women's Misdeameanants Division of the Municipal Court of Philadelphia embodies the results of one of a series of studies which the Philadelphia Bureau of Municipal Research has made in an intensive survey of nearly all phases of the Court's organization and activities. The report has been made after much careful study, the findings are presented in a clear, concise manner; procedure and records have been studied.

The chapters on Detention, Medical Work, Preliminary Investigations and Habitual Offenders in particular, contain much valuable information and constructive criticism.

One of the discouraging things in considering the report as a whole is that because of inadequate personnel, because of failure of the personnel to be able to appreciate the possibilities of a socialized court, the people of Philadelphia are wasting large sums of money for a piece of public machinery which is operating futilely whereas with a proper personnel alive to its possibilities it might be a most important factor for community betterment.

The reviewer does not agree with the author on the difficulties of carrying out successfully a suitable program of instruction, training and recreation in Detention Houses. It is being done in some communities under able leadership. Nor is the author justified in discounting the work of many communities that have gone beyond the condition described in the report where it is stated, "It would be difficult to predict through what experience we

must travel before we see in penal measures the index of our immaturity, ignorance and fear." There are many communities where effective preventive measures are functioning, where individualization of treatment in penal institutions with parole and follow-up work are proving helpful, and these communities are not satisfied to have the courts simply try the offenders and fix sentence but that the judge must know the community facilities and be willing to use them for the rehabilitation of the persons coming before him.

The report brings out the futility of trying to evaluate a court by making a casual visit of a few hours or a day. Only by extending the period of observation as Miss Topping did, by noting what was not done, as well as what was, by analyzing the results of the efforts made may one determine how effectively a court is actually functioning or how adequately it is rehabilitating delinquents. Miss Topping gave 15 months to the study. Her findings should be of interest to communities which are trying to work out better methods of caring for delinquents.

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DIE PSYCHOLOGISCHE SITUATION  
BEI LOHN UND STRAFE. [The Psychological Elements in Rewards and Punishment]. By *Kurt Lewin*. 67 pp. S. Hirzel, Leipzig, 1931. M 3.50.

From a background of observation of children, Lewin has discussed the relation of reward and punishment in the handling and character development of children for social conformity. The first section deals with the relations of punishment and

development and here the author emphasizes the development of conflicts and barriers by the punishment method. Command accompanied with the threat of punishment is equally effective in the development of conflicts in the mind of the child. Questions of the effects of the combination of command with the prospect of reward and of prohibition with the threat of punishment are also discussed. The final section entitled reward, punishment and the true mixture of interests contains the authors conclusions regarding the handling of these problems. With Lewin's thorough background of observation of the child, the book is full of excellent analysis and gives many practical suggestions for the solution of this important problem. It would be interesting to determine if these ideas, which Lewin finds applicable to the development of the child, could not also be applied to the problem of criminal law and punishment of the non-conformed adult.

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PROGRESS OF THE LAW IN THE  
U. S. SUPREME COURT: 1930-1931.  
By *Gregory Hankin* and *Charlotte A. Hankin*. xv+525 p. Legal Research Service and the Macmillan Company, New York, 1931. \$5.00.

This is the third annual review by the authors on the work of the Supreme Court of the United States. As the cases which come before the Court do not follow any logical order but concern many phases of our social structure the authors seek to find "connectives" among the cases and so organize the random opinions that a critical analysis becomes possible. As a result we find in this

volume separate chapters dealing with such topics as "railroad problems," "federal taxation," "labor problems," "prohibition," "political problems," and the like.

One short chapter is devoted to "Criminal Cases," (pp. 393-413). During the term there were 81 criminal cases of which 62 were Federal cases and 19 were state cases. Of the 62 Federal cases, 29 involved prosecutions for violation of the National Prohibition Act, and the next largest class of cases, ten in number, involved prosecutions for using the mails in furtherance of schemes to defraud. There were five cases involving the Harrison Narcotic Act. In few of the above cases were there decisions on questions of importance. Most of the remaining cases were cases of bribery or violations of the Motor Vehicle Theft Act, The Bankruptcy Act, or the Anti-Trust Act, but there were a few scattered cases of perjury, counterfeiting, and violations of the immigration law, revenue laws, and the Federal Radio Act. Very seldom does a case go to the Supreme Court of the United States which is a "criminal case" in the usual sense of the term.

The cases of most interest discussed were *Duncan v. United States* involving a prosecution for using profane and obscene language over the radio, *Aldridge v. United States*, which raised the question whether or not the trial judge should examine jurors as to whether they entertained racial prejudices, and *Fall v. United States*, in which the former Secretary of the Interior was found guilty of accepting a bribe.

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A MANUAL OF CRIMINAL LAW AND CRIMINAL PROCEDURE FOR POLICE. By *Ernst W. Puttkammer*. v. +94pp. University of Chicago Press. Chicago. 1931.

In less than one hundred pages, Mr. Puttkammer describes briefly, and in most elementary and concise manner, the criminal law of Illinois and the rules governing the swearing out of complaints, arrests, search, indictment, preliminary hearings, trials, in fact, the whole administrative process involved in bringing a man to trial. The Manual was written primarily to serve as a textbook in criminal law and in criminal procedure in police training schools. For this purpose it should prove most useful, but, as the author himself states in his Foreword, "it was inevitable also that the need for brevity would lead to general statements that were not universally true or accurate." It seems to me, therefore, that such a manual is not adapted for use by police officers as a reference book, and that consequently it should not be recommended for that purpose.

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MURDERS AND MYSTERIES (A Canadian Series). By *W. Stewart Wallace*. 333pp. The Macmillan Company of Canada, Limited, at St. Martin's House, Toronto, 1931. \$3.50.

Apparently the flood of mystery yarns and revivals of famous trials and detective exploits did not include many Canadian hair-raisers. Mr. Wallace has compiled 26 cases, largely murder, which have been selected from Canada's experience. An interesting comparison may be made of "The Arch Fiend of the

Century" in Rowan's "The Pinkertons", and "The Case of H. H. Holmes" in this collection, which is the same case. For those who are intrigued by mystery stories, or who enjoy delving into the famous trials of the past, this book will be interesting.

J. P. SHALLOO.

Univ. of Pennsylvania.

tory of imprisonment, dealing particularly with the Amsterdam workhouse and the similar institutions created in Germany on the Amsterdam plan. That study which appeared in Germany's then leading journal on criminal law, the *Zeits. für die gesamte Strafrechtswissenschaft*, has in this pamphlet been partly reprinted.

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AMERICAN FAMILY LAWS. Vol. II. DIVORCE AND SEPARATION. By *Chester G. Vernier*, assisted by *Benjamin E. Duniway*. xxvii+523 pp. Stanford University Press, Stanford University, California. 1932. \$5.00.

This is the second of what is planned as a five-volume work. The first volume on marriage laws has already been issued. Of special interest to the criminologist will be those sections dealing with causes of divorce and separation, such as adultery and imprisonment or conviction of crime. The plan of the work as a whole makes it an admirable reference source. A similar series on crimes and punishments would be most useful in giving a conspectus of the criminal law of today in the American states.

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PLANS FOR CITY POLICE JAILS AND VILLAGE LOCKUPS. By *Hastings H. Hart*. 27 pp. Russell Sage Foundation, New York. 1932. \$1.50.

This book, published posthumously, testifies to the practical interest in the jail problems which animated the late Dr. Hastings H. Hart. The book contains architectural plans for police stations in three cities of different sizes and for a village lockup. It is a worthy companion volume to the similar work on the architecture of prisons and reformatories which Dr. Hart issued a decade ago.

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DIE ENTSTEHUNG DER MODERNEN FREIHEITSSTRAFE UND DES ERZIEHUNGS-STRAFVOLLZUGS (The Rise of Modern Imprisonment and Educational Penal Treatment). By *Dr. R. von Hippel*. 80pp. Frommanschen Buchhandlung, Jena, 1932. (Schriften der Thüringischen Gefängnisgesellschaft, Heft 2).

In 1897, Professor von Hippel published his fine study on the his-

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DIRECTORY OF PSYCHIATRIC CLINICS IN THE UNITED STATES. Compiled and edited by *The Division on Community Clinics of the National Committee for Mental Hygiene*. 165 pp. The Commonwealth Fund, New York. 1932. \$1.00.

This is a revised edition, growing out of a canvas of the entire country. The type of clinic and its scope of work are indicated. In all, 674 clinics are listed as compared with 492 in the 1928 edition and 318 in the edition of 1925.

DIE BESCHLÜSSE DER INTERNATION-  
ALEN GEFÄNGNIS-KONGRESSE  
1872-1930 (The Resolutions  
Passed by the International  
Prison Congresses 1872-1930).  
Edited by *L. Frede* and *R. Sie-  
verts*. viii+139 pp. Fromman-  
schen Buchhandlung, Jena, 1932.  
M. (Schriften der Thüringischen

Gefängnisgesellschaft, Heft 1).

This book is most useful in that it gathers the scattered and sometimes inaccessible material on the decisions taken by the International Prison Congresses and thereby facilitates a survey of progress in the international opinions on penological questions.