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Book Reviews

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BOOK REVIEWS

THORSTEN SELLIN [Ed.]

CRIME, LAW, AND SOCIAL SCIENCE.

By *Jerome Michael* and *Mortimer J. Adler*. xxix+440 pp. Harcourt, Brace and Company, New York, 1933. \$4.50.

This is an interesting book that bristles with interpretations and challenging propositions in regard to the nature of science, of law, and of crime and penal administration. Into its writing has gone some very pertinent history. Early in 1929 the Bureau of Social Hygiene appropriated a sum of money to defray expenses in connection with an investigation into the possibility and present desirability of establishing an Institute of Criminology in this country. After considerable discussion a survey staff was selected, consisting of fifteen prominent American scholars and research workers in the field,¹ with Jerome Michael, Professor of Law, Columbia University, as Director. Several members of the staff conducted individual surveys of various aspects or phases of the fields of criminology and criminal law administration, submitting reports and recommendations to the Director. These reports were then subjected to analysis, criticism, and integra-

tion by the Director, in collaboration with Dr. Adler. A preliminary copy of this critical appraisal was circulated among the members of the staff for suggestions and criticisms and at a later date a revised printed copy was given wider circulation for additional criticisms and general review. The book under review represents the final publication of this report after the authors had the benefit of this extensive review and rebuttal criticism. The present book, nevertheless, just as the earlier preliminary reports reflects the critical judgment of the two authors only, and can not in any usual sense of the term be taken as the report of the survey staff. It is presented as such with neither the Bureau of Social Hygiene nor the members of the survey staff taking any responsibility for the judgments rendered or for the recommendations made.

The authors undertake the serious task of doing the necessary hard-headed business of "thinking through" the problems of the interrelations of crime, law, and science as a fundamental condition to the intelligent answer to the question of whether an Institute of Criminology should be established. That their answers and conclusions tend to be largely the expressions of a personal philosophy and reflect the evident professional bias or prejudice best described by the term "the legal mind," does not make the book any the less important nor diminish its practical value. Basic questions of intellectual orientation are here

¹The survey staff consisted of: Jerome Michael, Director, Mortimer J. Adler, Boris Brasol, Charles E. Gehlke, Alexander Kidd, George W. Kirchwey, Raymond Moley, Morris Ploscowe, Thorsten Sellin, Bruce Smith, A. Warren Stearns, Edwin H. Sutherland, William I. Thomas, Agnes Thornton, Leon A. Tulin.

discussed which the serious student must face calmly and decide for himself, thankful for whatever of clarifying suggestions this or any other book may have to offer. The critical examination of approximately two hundred "research" studies of varying merit and appropriateness also serves to make this book deserving of careful consideration.

The authors start with a legal definition. "Crime is . . . behavior which is prohibited by the criminal code. . . . We do not mean to say that all persons convicted of crime are criminals or that all criminals are convicted of their crimes: we mean merely to say that both for practical purposes and for theoretical purposes we must proceed as if that were true" (pp. 2-3). There is no science of criminology now in existence, due mostly to the misconceptions or inadequate conceptions of scientific method held by criminologists. It is the business of science to address itself to problems of etiology. Present work in criminology is descriptive but not etiological. Criminology is largely dependent upon the subject matter of psychology and sociology, and it is therefore impossible to have a science of criminology until these basic fields have been developed as empirical sciences. Psychology and sociology have failed to develop as sciences primarily because of the methodological errors of "raw empiricism." Raw empiricism means "an exclusive emphasis upon observation to the total neglect of the abstractions of analysis. . . . In its insistence upon the evidential or observational element in empirical science it has ignored that other indispensable component, theory and analysis" (pp. 69-70). In order to have a rational criminal code and a rational administration of the crim-

inal law, it is necessary to have empirical knowledge of the causes of criminal behavior and of the effects of the various forms of corrective treatment. Present day psychology and sociology do not supply this information and it therefore becomes necessary to construct a science of criminal law as well as a science of criminology. An Institute of Criminology is needed, and should be established, with the definite purpose of accomplishing this two-fold objective.

The personnel of such an institute, in the criminological division, should consist, ideally, it is said, of psychologists and sociologists who would combine the knowledge and experience possessed by: (a) a logician skilled in theory and formal analysis and interested in the methodology of empirical science; (b) a mathematician whose major interest is applied mathematics; (c) a statistician who has worked with psychological and sociological data and who is competent to devise new statistical techniques; (d) a theoretical physicist with knowledge of empirical physics who has an understanding of what is involved in the construction and use of theory in an empirical science; (e) an experimental physicist who is acquainted with the problems of experimental research and who is competent to invent observational techniques (pp. 404-408). Since there are no psychologists or sociologists who possess this combined knowledge and experience, it is suggested that the staff consist of at least one able scholar from each of these fields plus a mathematical economist, a man from the field of psychometrics, and, as an after-thought, a criminologist "who has wide acquaintance with the literature of criminology, preferably one who has not himself

engaged in criminological research" (p. 406).

All this is merely a round-about way of saying that there is no science of criminology because psychology and sociology are not scientific. These fields are not scientific because the men who do work in them do not know or understand scientific methodology. To make them scientific it is necessary to import men who understand the methods of empirical science. They will make psychology and sociology scientific, and will then construct a science of criminology, if such a science can be constructed. ". . . we recommend that criminological research of the kind which has been and is now being done, *should not be continued*" (p. 401).

Varied reactions to these propositions may be expected. Few will object to the observation that present day psychology and sociology are not definitely developed empirical sciences. Most workers in the field are well aware of the shortcomings of materials and present research procedures. Valid reasons appear, however, for objecting to the proposed corrective. If there is no science of criminology now, it would seem highly absurd to expect a staff of technical experts, who have had no previous experience with the materials or problems of this field, to set about making science to order, out of whole cloth as it were. This view ignores the fact that the history of all science is one of stumbling growth and change, not one of rational premeditated development. Necessity is never, in any intelligible way, the mother of invention. The demonstrated need for a science does not make it possible to engage appropriate experts to proceed to invent one.

In the humble judgment of this

reviewer, the authors display a lamentable dogmatism in the theoretical discussion of the nature of science and scientific methodology. "Prior to the existence of a theory it is impossible for scientific research to be done" (p. 65); "The literature of criminology clearly illustrates the impossibility of scientific research in the absence of a theory" (p. 65); "Raw empiricism is the most prevalent misunderstanding of the nature of empirical scientific method. It is responsible for the failure of investigations in the field of psychology and the so-called social sciences to eventuate in scientific conclusions or in the construction of sciences appropriate to those fields" (pp. 69-70). In all this carefully worded profundity the authors do not succeed in clarifying the confusion arising in practice from the inevitable interdependence of induction and deduction. Theories do not arise out of a vacuum—a body of facts, or what passes for facts (perhaps the authors' "raw empiricism"), is just as essential to the making of theories as theories are for the collection of facts. One reads this book in vain for clues as to how to avoid the confusion inherent in this interdependence.

It needs to be recognized that the problems of human behavior, including criminology, are not ones that are advanced very much by talking about "raw empiricism" and the fatal absence of "theories." They are largely problems of basic data, how to observe and how to measure and record the observations made; how to adapt to a social and political order that is not in any sense scientific; how to utilize available information, such as it is. The abstract ideal of constructing a rational theory and then setting about

by empirical means to test the theory, either establishing it or disproving it, is one that has little relation to reality. No known social or political order will permit the setting up of direct control groups and a truly experimental technique in dealing with crime. To define scientific criminology in terms of this procedure comes dangerously near being a flight from reality. Whatever is done by way of making research work in criminology more nearly scientific (whatever that may mean), it must be recognized that all such work must start with the practical everyday world of what is. Otherwise one might as well include as one of the prerequisites of a scientific criminology the creation of a scientific social order.

One further point needs to be noted. Implicit in the discussion is the assumption that the causes of crime lie in the individual or in his objective environment. This view fails to recognize that in many cases the etiology of criminal behavior is identical with that of non-criminal behavior. It is frequently not a question of behavior at all in the individual sense, but a clash of codes and conflicting group definitions of what constitutes approved conduct. Thus, for example, a college fraternity requires a boy to steal a certain number of specified articles of table silverware before initiation into the privileged ranks of the few. The boy is caught, convicted, and fined, or placed on probation, or whatever the sentence may be. That would be criminal behavior in terms of the authors' definition of crime—yet the etiology of that behavior would be identical with that for other normal social activities, identical with the range of activities upon which rest our "pillars of society."

Organized society is a welter of confused elements. Interested groups whose codes and definitions are hopelessly diverse are in constant conflict, jockeying for position and influence to secure the assistance and approval of the state in making the view of some one group the accepted "law" of the political community (e. g., prohibition). Basically law is the compromise that results from this clash of group interests and ways. Crime and punishment (treatment) similarly represent merely more advanced steps in this same underlying process of social conflict. Reducing the baffling problem of why group codes are what they are and why individuals are loyal to their groups to the methods of empirical science constitutes a large order. Psychologists and sociologists have been struggling with these problems for several generations—with admittedly no great amount of success. The proposition that a professional staff, compounded according to the specifications suggested, can deliberately set about to make empirical science of this appeals to the present reviewer as sheer nonsense. If criminology should ever develop as an empirical science, it is likely to do so by building on the experience of the past, and not as a theoretical construct blossoming out of the fertile brain of any research or institute staff.

The question of the interrelation of crime, law, and social science is very real and one that needs careful attention. To the extent that this book directs attention to this problem it will serve a valuable end. As a statement of what that interrelationship is, or should be, it has distinct limitations. The book providing an adequate statement of that

relationship remains to be written.

GEORGE B. VOLD.

University of Minnesota.

HANDWÖRTERBUCH DER KRIMINOLOGIE (Dictionary — Encyclopedia of Criminology). Edited by *Alexander Elster* and *Heinrich Lingeman*. Walter de Gruyter and Co., Berlin and Leipzig, 1933.

This dictionary will comprise in encyclopedic form all of the more important knowledge of criminology and its allied fields. There are to be about fifteen separate sections (R. M. 6 for each) which will, when all are issued, be published in two large volumes. The present comments deal with the first six sections already published.

It is obviously impossible to describe the contents of such work other than to refer generally to the character and the quality of the various contributions. The practical aspects of criminological work occupy the most important place in this compilation. Over two hundred of the leading criminologists, penologists, judges, lawyers and university professors have joined in this enterprise. The subjects covered include criminal-biology, criminal-anthropology, statistics of crime and criminals, legal medicine, police practice, police "science," penal law and penal procedure as well as the principles of penal administration.

A listing of some of the outstanding titles may convey a fair picture of the nature of the Handbook. The first 672 pages of the first six issues include articles on abortion, superstition in its relation to criminals, crime statistics, the concept of "asocial," pardons, habitual criminals, building problems, probation,

biological research characterology, deportation, detectives, descriptions of specific crimes such as arson, forgery, burglary, etc., crime in relation to marital status, family and age, parole, discharge, unemployment, eugenics, exhibitionism, women police, prison architecture, graphology, the psychology of imprisonment, the influence of intoxicants on crime and the classification of criminals. This list by no means exhausts the wide range of subject matter. While most of the material is concerned with German criminology many of the articles contain comparative materials of the chief countries of Europe.

Each reader will naturally select several contributions which appear to him of especial importance. The reviewer, for example, would choose the articles on the history of prisons, by Dr. Lothar Frede, former Minister of Justice in Thuringia; the discussion of the psychology of imprisonment by Dr. Rudolph Sieverts of the University of Hamburg; the critical review of characterology by Prof. Hans Gruhle of Heidelberg University; and the numerous statistical studies of Dr. Ernst Roesner of the German Bureau of Statistics as outstanding contributions.

This dictionary of criminology is the first of its kind published by any country. German lawyers, judges, penal administrators, police officials, social workers and students of criminology will find it, I believe, a source of information that cannot be duplicated. For the American student it offers the best opportunity to become better acquainted with German practice. In the United States it is almost impossible to obtain information dealing with German criminology and penology because of the lack of general textual material. University and public li-

braries now have the opportunity to make available for students a description of the contemporary movements in German criminology and penology.

NATHANIEL CANTOR.
University of Buffalo.

RURAL CRIME CONTROL. By *Bruce Smith*. viii+290 pp. Institute of Public Administration, Columbia University, New York, 1933.

The writer of this book is well qualified because of his wide studies in various parts of the country to give us a good book on the agencies at present engaged in rural crime control.

He points out that the machinery of rural justice in this country on the whole is that which was adjusted to a rural pioneer community. The offices which became established in rural England centuries ago and which were brought over and adapted to the situation in the colonies of this country have, with some modification, continued. The chief rural agencies of justice are the sheriff, the constable, the county constabularies, the coroner, the justice of the peace and in some states, in the attempt to adapt the old system to a new situation, the state police. He points out the inadequacies of those old offices to meet the situation in a civilization which is becoming mechanized and urbanized. In the sheriff's office the fee system still prevails to a very large extent. The sheriff, as a police officer in modern society, is a failure. The county jail, with some slight improvements, remains pretty much what it was when John Howard discovered its deficiencies. Criminal identification is not pos-

sible in any effective way in a sheriff's office. The constable adapted to a small community is even more out of date than the sheriff. In certain parts of the country the shortcomings of the sheriff and the constable in combating organized and mechanized crime has led to the development of county bank guards and regional police programs. The coroner has outgrown his usefulness and in some places has been displaced by a medical legal official called the medical examiner who can do his work in a very much more effective manner. The justice of the peace, once the creature of the king, has undergone some changes but, except in rural communities which have retained very much of their pioneer aspect, have been reduced to certain simple civil cases and petty crimes. It is an office which is poorly adapted to the demands of the present situation.

On the other hand the state police force has been devised to meet the new situation brought about by the automobile, good roads and organized crime. While the state police force has been criticized by the labor people for its use in some states as strike breakers, Mr. Smith points out that it is not necessarily a menace to labor and that it has the possibilities of development on modern lines of an efficient police force for the rural districts, for the development of scientific criminal investigation and, the control of rural crime.

The control of rural crime should become a function of the state. The coroner is doomed to pass away and his functions devolve upon the county prosecutor through the attachment to the latter's office of a scientific medical examiner. The sheriff, the constable and the cor-

oner may have to be discarded entirely, at least their functions greatly limited if not entirely given up in the control of rural crime. The real obstacle in the way of an efficient system of control of crime in rural communities is rural politics.

J. L. GILLIN.

University of Wisconsin.

ANN VICKERS. By *Sinclair Lewis*. 562 pp. Doubleday, Doran & Company, Inc., Garden City, New York, 1933. \$2.50.

Following graduation Ann refuses an instructorship at a college for women and instead accepts employment in a New England woolen mill, where she learned "humility." As a foundation for a social work career she studied nursing for a year, and then took up the cause of woman suffrage. Her arrest, in a small Ohio town, with three other leaders for disturbing the peace, marks the beginning of her interest in those imprisoned. The local suffrage leader, "member of a prominent family and daughter of a bishop," who also participated in the meeting, was dismissed by the judge although she claimed to be equally guilty. While serving two weeks in the county jail Ann found no cruelty, but waste and stupidity, ignorance on the part of the sheriff and his associates, and constant, sneaking, sickening, amorous approaches by the deputy sheriffs. The women's wing was lofty, ill lighted, dreary and cold. There were two tiers of cells, mattresses made of straw and damp sacking, rickety chairs, greasy tables, a rusty stove, and cracks in the walls alive with lice. Constantly she asks herself, "What does the State accomplish by shutting one up here?"

On release Ann goes from suffrage to settlement house work in New York. During the World War she met a man about to depart for camp, became pregnant, and an abortion followed. Her interest in social work continued, and, finally, she secured a position in a New England reformatory. This institution she found to be overcrowded, antiquated, and a fire hazard. Two prisoners in each of the wooden cells, behind steel barred doors, cots used in the corridors to provide for the overflow, and while so serious a situation existed the legislature debated "what ought to be the fine for a person catching short trout." She found the officers valiant fighters, who got rid of the contract labor system, instituted vocational training, and made dope fiends eager to go straight.

Moving on, Ann takes a course in sociology at Columbia and is impressed by a professor's statement that "there are no good prisons! there cannot be good prisons" . . . "What is to take the place of prisons?"—"probation and parole"—"no more reason for punishing the ethically sick than the physically sick." his course changed her views from striving to make "good" prisons to more constructive work. She secured a position as educational director and chief clerk at Copperhead Gap, in a State whose patron saint was William Jennings Bryan. The State is not named, nor is the institution. "Why, it's a palace!", thought Ann, as she views the driveway to the pillared entrance, edged with lawns and rosebeds, the bronze gates of the main building, and the warden's office, a handsome, tall apartment, with oak pillasters, a carved oak fireplace, and portraits, one of which was the Good Shepherd being merciful to his lambs.

The warden, Dr. Slenk, was previously a veterinarian. He was very much submerged by his Deputy, Captain Dringooole. At the back of the marbled lobby of the entrance hall was a steel door opening into a corridor of cement and brick, damp, and lighted only by electric lights in small, fly-spotted globes. A spiral steel stairway led to another steel door. To Ann's amazement she was at the focus of a building like a gigantic Y, each arm of the Y three hundred feet long and fifty feet wide. Here was a circular lobby, open to the roof, from which one could look up at three stories of barred cells, stretching in two double rows the length of each arm. The heat was sickening—"stinks of sweat, old food, old toilets, slops, cheap pipe-tobacco, crushed cockroaches, and disinfectant." The women's division occupied three floors at the end of one arm of the Y. Eighty cells occupied by a hundred women; in each cell a double decker bunk of steel piping, rickety stool and wooden table, tin bowl and pitcher, and a large tin bucket. Cockroaches and rats scuttled about. Matron and assistants, as well as officers, profit by graft. Matches sell three for ten cents, although smoking is forbidden. Skimmed milk used to the profit of the kitchen custodian. Shirt shop under contract system, contractor paying forty-five cents a day for labor of prisoners, of which five cents goes direct to the prisoner. Cleanliness and balancing of diet somewhat improved by Ann, although the head matron and superintendent refused to recognize many conditions existing, one of which was homosexuality. Shirt shop riot, resulting in several convicts being sentenced to solitary confinement, enabled Ann to gain

entrance to the whipping room and the "Hole," which she never before had been allowed to see since the authorities were suspicious of her motives. The whipping room, like the centre of a hollowed block of cement. In the center of this cement cube "a wooden upright, with a cross arm at each end of which were manacles,"—the whipping-post, "splashed with dried blood." The "Hole" had no windows, ventilation was had through four holes six inches square. It resembled a "pirate" cave, a chamber eight feet high, windowless, utterly dark, of stone and brick, with a damp cement floor. Four cells with neither bed or stool, each with a night pail, a thin and dirty blanket, a cup for water, filled once a day, and accompanied with two slices of bread. One woman, dying of pneumonia, had been ordered out by the prison physician, but this order was ignored. Ann attempted to report conditions to the State Board of Control, which refused to listen to her. On her return from this disappointing journey she fell into a frameup plan by going to the room of the prison physician, who was reported to her as being seriously ill. Leaning over his bed, only to find him intoxicated, she was photographed. This precipitated her resignation, but not until she had forced the superintendent to remove the women from the "Hole."

Ann wrote three short articles on her experiences for a "distinguished liberal weekly," the *Statesman*. Among the responses was the following: "It is sentimentalists like you, who want to turn prisons into picnics, who are largely responsible for the present crime wave."

Later Ann became superintendent of an Industrial Home for Women in New York City. Through

her book, "Vocational Training in Women's Reformatories," she had become well known to all sociological and juridical groups in America, and received the degree of Doctor of Laws. She makes a hasty marriage and finds herself unhappy. Later she meets Judge Dolphin, who had been instrumental in her appointment as superintendent of the Industrial Home. They were instantly attracted to each other, and, although he was a married man with two grown daughters, they were constantly together. A child was born to them. During this time an investigating committee found the judge to be guilty of accepting large bribes and he was sentenced to prison. After serving a part of his sentence he was pardoned by the Governor, and Ann and he agreed to live together and let the scandal start. "I'll be fired," said Ann, "but I'll have such a happy time showing up all the politicians, including a state senator that offered me ten thousand dollars to let a girl escape. . . . And then I'll be ready for another job."

Thus, briefly, is Ann's contact with the jail and prison problem. While she justly criticizes public indifference and makes a wholesale indictment of the systems and their personnel, she also is critical of the conduct of the inmates toward each other. Naturally there follows the question: Is what Ann Vickers sets forth typical of American jails, reformatories and prisons? The plain answer is yes, where such conditions prevail, but they do not prevail, even south of the Mason and Dixon line, as generally as the average reader would be led to believe.

A fair criticism of Ann Vickers is that it is too general in its attack. The author does not admit first hand observation, as is indi-

cated in a prefatory note, but very cautiously says "And while it is believed that an entirely accurate account is given of prisons, settlement houses, and suffrage organizations, none of the institutions described refer to actual institutions." This suggests that he has consulted literature, or talked with those who may or may not be informed, or who may or may not be fair in their estimation of conditions. He is not writing about what he saw or experienced. Yet, Mr. Lewis, proceeding apparently on hearsay information, makes an indictment that characterizes every prison head as a weakling, every head of a board of managers as an egotistical fossil, every assistant superintendent or deputy warden as a blackguard, every prison physician as a drunkard and misfit, and every prison matron as a grafter. In other words, everybody is bad. Now this is no more true of the institutional world than it is of the outside world. There are people in institutional work who do not measure up in whole or part to accepted standards, but there are those who do, and out of appreciation for their interest, intelligence, and devotion to service and human welfare, the reviewer protests the general tone of Ann Vickers. More good would have been served if the author had departed even slightly from his iconoclastic style and given more credit where credit is due, and, above all, made even sharper comment in specific instances, naming the institutions and the States. The public wants to know, and should know, but time and time again it has been shown that the public has little or no patience with blanket indictments.

As a seller Ann Vickers is a success, largely, perhaps, because of

the reputation of the author; as a fair picture of prison and reformatory conditions and as an instrumentality for prison reform it is lacking and unserviceable.

Another question that must be asked is whether Ann Vickers is representative of the average woman. Ann, the flighty and unconventional woman, who reaches for freedom and outlet, engages in free love, practices abortion and adultery, plays the role of reformer, and then relapses to the unconventional—to concede that she is typical of the average woman is to blast our faith in womanhood.

E. R. CASS.

Prison Association of New York.

II. FONDAMENTO DELL' IMPUTABILITÀ (The Basis of Punishment).

By G. *Montalbano*. viii+212 pp. Fratelli Bocca, Turin, 1933. L. 22.

This book, as its title implies, concerns itself exclusively with a discussion of penal philosophy. Its scope, however, is not broad but is limited to a consideration of Italian penal philosophy and represents an attempt to bring under critical review modern Italian penal theories while substituting for these theories the author's own. It is difficult to understand exactly whether the book is philosophical or juridical and it is probably best for the reader not to concern himself too seriously with the task of classifying the author's opus.

Montalbano points out that the purpose of his book is twofold: (1) to expound the philosophy of Cosmo Guastella and (2) to apply Guastella's philosophical system and critical method rigorously to the field of penal law so as to abso-

lutely annihilate every metaphysical conception be it spiritualistic or materialistic, positivistic or idealistic. Before plunging into this task the author takes time to settle once and for all the question of whether penology ought to remain entirely outside of the field of philosophical concepts. There is no doubt in the author's mind that the problems pertaining to the foundation of punishment belong to penology, but there is also no doubt in his mind that in order to understand these problems it is necessary to first settle what he considers important philosophical questions because, the problems of punishment are intimately connected with those of moral responsibility and those of the moral evaluation of human behavior. Being thus in nature, their analysis must involve a study of the concepts of good and evil which are primarily philosophical in character. Montalbano has little sympathy with the present prevailing concept among Italian penologists which makes imperative the divorcement of penal law from philosophical speculation. In his opinion the fact that the different Italian schools of penal law regard freedom of will a condition of penal responsibility makes it impossible to leave out of consideration the philosophical aspects of this concept. Further, the author does not believe that these philosophical problems are unsolvable but attempts to demonstrate that he can solve them by applying to their solution the principles of causality just as rigorously as they are applied in the field of physical phenomena. These principles are reducible to the already very well known concept that certain antecedents are invariably followed by certain sequences.

A great portion of the book is

given over to a philosophical discussion of the problems of knowledge, of causality, of freedom of will, and of determinism. Thus, the first chapter deals entirely with epistemological questions in which the author attempts to point out how we know what we know when we know, and finally comes to the conclusion that induction is the method to be used to arrive at truth. In the second chapter the author, after leading us through a maze of philosophical arguments whose purpose is to disprove what he terms metaphysical or instinctive concepts of causation, points out that the empirical concept of causation is the only legitimate one. The third chapter reviews the problem of freedom of will in its historical aspects. In this chapter the author briefly outlines the development of this concept from Pythagoras to Kant and in the following chapter the author sets forth his criticisms of the concept. After a lengthy discussion Montalbano concludes in chapter five that volition is conditioned by physiological, psychological and social factors and that the controversy over the concept of freedom of will is reducible to a conflict between induction on the one hand and intrinsic evidence on the other. Induction makes it imperative that we admit the reality of determinism and, intrinsic evidence the reality of freedom of will. However, in making this assertion the author distinguishes between activity due to volition and phenomena of nature in which is included instinctive behavior. The former is characterized by variability because activity due to the will is aimed at some definite end to be achieved by the use of definite means making it possible for the individual to choose the

means to achieve the end. The choice of means, however, is dependent upon many conditions. This does not imply, according to the author, fatalism but rather a determinism confirmed by experience whereas fatalism presupposes a divine predestination.

The first five chapters set the philosophical stage for the sixth chapter in which Montalbano gives us what he considers the basis of punishment. Briefly stated the author believes that punishment and ethics are based upon the same thing, namely the moral conscience of society which in his opinion is the real creator of the criminal world and of the non-criminal world. Punishment is justified whenever the moral conscience of society has been outraged. And, according to the author, this theory explains why penal codes soon become antiquated. Punishment, being based upon the moral conscience of society is by nature a developing and changing process whereas codes are fixed and unchangeable. Consequently, soon after a code has been promulgated it begins to be out of harmony with the changing morality of society.

The remainder of the book is concerned with a criticism of the various Italian schools of penal law beginning with the humanistic school whose chief exponent is Lanza and ending with the school represented by the Code of 1930 whose author is Professor Alfredo Rocco. Montalbano proceeds in this part of his book to sweep aside the various theories of these schools by the use of his theory developed in the first part of the book and he modestly implies that the job has been a thorough one. There is little of value in the theories of these schools according to Montalbano since these

theories are based on metaphysical concepts whose experiential confirmation is impossible. He does, however, agree to some extent with the concepts of the humanistic school. This, however, is understandable since he admits that some of the concepts of this school have served as an inspiration to him.

The reviewer of this book agrees with the criticism made of it by Professor E. Carnavale whom the author quotes as saying that the philosophical part of the book is too long for a work which is supposed to be juridical in nature. The reviewer would even go further and question the utility of this philosophical part. In the last analysis it is difficult to see how the theories created by Montalbano differ from those of the cultural school of sociology prevalent in some parts of America, nor how they differ from the theories of the school which Sorokin, in his *Contemporary Sociological Theories*, calls sociologistic. There is relatively little that is new or arresting in the book.

E. D. MONACHESI.

Fellow, Social Science
Research Council.

THE ADMINISTRATION OF CRIMINAL
JUSTICE IN OREGON. (Report
No. One.) By *Wayne L. Morse*
and *Ronald H. Beattie*. xi+227
pp. University of Oregon
Press, Eugene, 1932. \$3.00.

Being allotted the modest sum of \$2,500 for the first year's work on a survey of the administration of criminal justice in Oregon, Wayne L. Morse, Dean of the Law School of the University of Oregon, and Ronald H. Beattie, Research Assistant, confined themselves to a statistical analysis of the disposition

of the felony cases in one county over a period of two years. Thus the report considers only a relatively small number of cases, the 1,771 felonies subjected to judicial process in Multnomah County in the years 1927 and 1928. But the disposition of these cases is scrutinized in far greater detail than has been customary in most of the surveys of the administration of criminal justice. To the usual inquiries into the disposition of cases from the time of arrest to the time of trial and final disposition are added such significant studies as an analysis of the disposition of cases on the basis of crimes charged, studies of continuances and time intervals in the disposition of cases, a study of the differences in the use of the sentencing power by various judges, studies of the differences in the treatment of the cases involving male and female defendants and a study of the relation between age, nationality and occupation and the crimes charged and their disposition.

The general results of this survey make it apparent that criminal justice in Oregon exhibits the same tendencies and characteristics as in other states in which surveys have been made. Of the 1,771 cases, 54.2% were eliminated at some stage of the proceedings, the majority of the eliminations occurring in or before the preliminary hearing. In only 45.8% of the cases was a conviction of any kind obtained at all. In 28.5% of the cases the convictions were for misdemeanors, leaving only 17.3% of the original felony charges in which a conviction for felony was obtained. This result may be compared to 18.1% felony convictions in New York and the 20.6% felony convictions in Illinois.

If we take Multnomah county as

typical, in Oregon as elsewhere, the prosecuting attorney plays the dominant part in the disposition of cases. This is evident first from the large percentage of cases which are permitted to drop by the wayside with no action taken, and secondly, from the large number of cases in which pleas of guilty are accepted by the prosecutor. Oregon, too, is familiar with the common practice of striking a bargain with defendants whereby they plead guilty to lesser offenses, receiving more lenient treatment in return for giving the prosecutor an opportunity to dispose of cases quickly.

In Oregon as elsewhere it also is proper to speak of the "vanishing jury trial." Of the original 1,771 cases, only 76, or 4.3% were tried by jury.

The bail study indicated that bail dispositions were seldom made according to the needs in the individual case. Judges and police officers tend to adopt a bail schedule for the various crimes and apply it uniformly. Thus many defendants could safely have been released on smaller bail bonds. A much higher proportion of defendants could also have been released from custody on their own recognizance. Success or failure to obtain release had considerable influence on the ultimate disposition of the case since the survey finds that fewer cases were eliminated where the defendants were detained than where they were at liberty. This is explained by the fact that a defendant in jail is much more susceptible to bargaining with the District Attorney for a plea.

The survey revealed that the individual judges varied considerably among themselves as to the sentences imposed for each type of crime. The individual judge also varied to a significant extent in suc-

cessive sentences which he imposed for the same type of crime. The investigators could not find that these variations could be explained on the basis of any thorough analysis of the behavior problems of the individual offender.

It is to be hoped that later installments of this survey will include studies of the routine workings of the various institutions and agencies engaged in the criminal process. Studies should also be made of specific cases to find out just what has happened to them at various stages in the proceedings and why it has happened. The large drop between prosecutions instituted and convictions obtained is taken as an indication of inefficiency in the administration of justice wherever it is found. Now it is time for surveys to attempt to allocate responsibility for this inefficiency among the various institutions involved in the criminal process.

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SOWJETRUSSLAND KÄMPFT GEGEN DAS VERBRECHEN (Soviet Russia Battles Crime). By *Lenka von Koerber*. 212 pp. Rewohlt Verlag, Berlin, 1933.

The last paragraph of this book describes generally the limitations and contributions of the work. Mrs. von Koerber writes, "When, for the first time, one seeks a path through an entirely new territory it is not possible to follow every lane to its end. I had only a half year's time for the study of the Russian penal administration and I had to limit myself to the repeated observation of what was typically fundamental. One cannot demand that this first book on the Soviet penal administration be exhaustive."

Accepting the author's own comments one regrets the absence of a description of the organization and structure of the Soviet Union's penal administration. On the other hand, Mrs. von Koerber, as she has proven in an earlier work (*Menschen im Zuchthaus*, which deals with German prisons) shows an extraordinary ability to sense, to describe and to transmit to the reader the fundamental spirit of the Soviet penal institutions as it reflects itself in the activities of the inmates.

Many commentators upon the Soviet Correctional Code have questioned the significance of the substitution of "measures of social defense" for punishment as the basic aim of penal treatment. They have maintained the difference is only theoretical that in practice the treatment of the inmate must necessarily remain punitive in character.

An unbiased reader, it seems to me, must become amazed as he reads Mrs. Van Koerber's descriptions of the prisoners' self-government in discipline, in the disposition of their free time, in the industrial planning; of the freedom allowed in the agricultural and labor colonies, of the vacations granted, of the spectacle of men and women inmates working side by side in some of the colonies and work shops. No fair-minded person can read this work without becoming increasingly convinced that something new in penal treatment is being unfolded in the Soviet Union. The avowed aim of penal treatment is to develop socially useful workers. All aspects of penal life are developed around this concept.

The Five Year Plan has exerted its dominating influence on prison activity as well. The educational and recreational activities emphasize the desirability of participating in

the building of a great social state. Competition to produce more as well as better materials exists in all workshops and colonies. The successful groups or individuals are publicly praised and rewarded while the slackers are held up to criticism and spurred on to greater effort. The placing of a great many of the discharged prisoners in trades learned or practiced while in confinement as well as the sending of other discharged inmates to schools to continue their studies evidences the sincerity of the Soviet policy, the rehabilitation of the worker or the creating of new workers for the state.

The spirit of social cooperation is quite evident in the treatment accorded those who violate prison rules. Generally such trials take place in the presence of all the inmates. Criticism is free on the part of the defendant as well as his judges. The following scene, according to the author (and many others are described), displays the spirit of the inmates. An illiterate prisoner, charged with petty stealing, is asked by the prosecuting attorney (an inmate), "Would it not be better for you to interest yourself more in study?"

"Why should I learn arithmetic?" replied the defendant, "I don't need arithmetic to enable me to steal."

The defense attorney stated "The fact that the defendant wants us to understand that he will continue to steal after his release implies a charge against all of us. We have not troubled ourselves about him. We have not attempted to influence him, to convince him that it is to his own interest to progress. Indeed, he has already received nine house-punishments but all these punishments indicate our own indifference" (P. 52).

I appreciate the skepticism of the reader who believes such scene too good to be true. I also feel certain that there are many cases of intractable inmates (the author is also aware of this). Yet it remains a fact that such scenes occur or else Mrs. von Koerber has manufactured dozens of similar scenes or has exaggerated or distorted the facts beyond belief. One of the tests of this spirit of social cooperation which seems to exist in the Soviet prisons will be the agreement of other observers with the reports of the author. But until such descriptions are available one must depend upon the skill of observation and the scientific integrity of the present observer. Several brief descriptions have appeared in the German periodical literature and, generally speaking, there is agreement. The impressions one receives from the fifteen photographs in the book support the descriptions in the text. Of especial interest is the illustration opposite p. 200 which reproduces the "wall newspapers" containing the uncensored criticisms of the prisoners directed against other prisoners or the administration. Pages 192-208 contain such criticisms. The photograph opposite p. 72 shows women physicians examining the male prisoners.

The author had received permission to visit any institution she cared to see, to speak freely with any prisoner and without any supervision. Her eight years work among the prisoners of Germany had given her the necessary experience in judging and estimating the value of the prisoners' own descriptions.

The author calls attention to defects as well. For example, she points out the lack of cooperation on the part of the prison authorities at

Tiflis (p. 57). She calls attention to the fact that she did not ask for permission to visit the political prisons for prisoners, stating that she had no interest for such prisoners either in Germany or in the Soviet Union.

Despite the fact that the Soviet penal system is less than fifteen years old, and assuming that the political prisoners receive differentiated treatment, that the author had visited only a small number of the 123 institutions, that many penal institutions exist in which the new penal aims have as yet not been carried through, it seems to me after reading this book, that the Soviet Union has contributed more than any other country to one of the important penal problems, viz., how can prisoners be socially rehabilitated?

Until, if ever, criminology and penology become sciences we shall not have "scientific" proof of the desirability of one mode or method of treatment as against another. In the meantime one must place one's faith in the common sense of sincere penal administrators who are willing to experiment. It is significant that so great a number of prison administrators and workers in the Soviet penal system were former inmates.

This volume of Mrs. von Koerber emphasizes on every page the sincerity, the enthusiasm and the prison officials' understanding of their tasks. The book should be translated and made available for all serious students of penology. It is the next best available source for what is happening in the Soviet penal system. The best way to find out is, of course, to make a personal and thorough study for oneself.

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THE MEANING OF RIGHT AND WRONG. By *Richard C. Cabot*. 463 pp. The Macmillan Company, New York, 1933. \$3.50.

A book by Dr. Cabot is always an event. In this case the author builds his ethics around the thesis that we should keep our agreements, both, tacit and explicit. The question of duty is really a question of what are our agreements. If a college man has made no promise to himself to amount to something, then "he is no more to blame than a hippopotamus." It is questioned whether Dr. Cabot has not underemphasized the obligation of the individual to become informed so that he can make higher agreements with himself. The ethical system outlined is largely individualistic rather than social. Nowhere are the consequences of social actions traced in which the individual is a partner in wrong because he is keeping his agreements. For example, on page 53 Dr. Cabot discusses the fat and hungry stock broker who eats a doughnut with internal difficulties, but nowhere does he discuss the ethics of watered stock, pool manipulation, or the inside lists of the Morgan firm. Nowhere is there discussed the problem of educating one's self to the larger social and ethical issues which arise because one lives in a social order which is essentially unethical.

Perhaps the most satisfactory feature of the book is the treatment of honesty, in which falsehood or deception of any kind is opposed. There is also a penetrating analysis of self-deceit. He claims that at the beginning we know we are practicing fraud, but gradually it becomes unconscious. (While this is often true, are not the social forces which make for fraud relatively over-

looked. A manufacturer may not realize that in using child labor he is committing fraud at all. He will unconsciously have accepted these things from the social milieu in which he was immersed.

The book as a whole is stimulating and will help to make people live better lives individually. (It will not educate many as to the larger social sins of our time.

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GEWERBS- UND BERUFSVERBRECHERTUM IN DEN VEREINIGTEN STAATEN VON AMERIKA (Vocational Crime and Criminals in the United States of America). By *Roland Grassberger*. vii+304 pp. Julius Springer, Vienna, 1933. RM. 15.40. (Kriminalistische Abhandl. herausgeg. von W. Gleispach.)

It is widely believed abroad and somewhat mistrusted at home that crime as a vocation may be pursued freely in the United States. Dr. Grassberger undertook to investigate this condition as it appeared to exist during the closing months of 1931 and the first half of the year 1932. In this book he gives us his observations.

The author concentrated his attention on those crimes which yield sufficient plunder to warrant in their perpetration the development of a skilled performance. He has discussed the prevailing types of gainful crimes, the methods by which they are carried out and the manner in which recruits are drawn to attempt them. He traces the development of the individual to a vocational status within each type. He details his characteristics with much insight.

The police, in this book as in American life, appear occasionally. Steps taken by them to control and suppress such crimes and criminals are discussed. The author marvels at the utilization by the American police of every latest means to promote celerity of chase and capture. That there should be police inefficiency he finds principally to be associated with lack of centralization of police power; with faulty practices in the collection and application of statistical information to the study of crime hazards and with inadequate police training. Also, the author believes, there are too few of them.

The American crime scene is so far as it may be observed in our major cities is compactly, vividly and faithfully depicted. The vocational criminal is presented starkly, gun and all, as the author found him. Believe it or not, there is nothing new here. It is the same old things just happening to different people, with variations and trimmings. Hence the picture will remain true for a long time. No conclusions are drawn concerning the causes that produce the vocational criminal. The reader is advised, however, that crimes which may seem exceptionally bold or frequent should be considered in the light of the active movement and flux peculiar to American life.

As a study in typical crimes and criminal types the book is well worth examination.

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A STUDY OF BEHAVIOR PROBLEMS OF
PUBLIC SCHOOL CHILDREN IN
ALLENTOWN AND IN THE JU-

VENILE COURT OF LEHIGH COUNTY, PENNSYLVANIA. Directed by *Leon Stern*. 133 pp. The Pennsylvania Committee on Penal Affairs of the Public Charities Association, Philadelphia, 1932.

Gross neglect of its delinquent children stamps this native-white city of nearly 100,000 population. The juvenile court stands at the 1910 level, without a trained probation staff, with court dispositions made usually in the absence of field investigations and with the use of the county jail as a detention place for children awaiting hearing.

The study itself presents a conventional treatment of the community aspect of behavior problems. It suffers from the lack of a unifying concept, being a miscellany of reports by separate investigators having divergent bases of attack and terminologies, and much of the material presented, while descriptive of the community as a whole, has in no way been related to the problem of delinquency. Furthermore, their use of a cross-section statistical method tells something of the composition of the problem group, but tells very little of the dynamic modes of life of the group or of their attitudes toward social institutions.

A range of progressive proposals are made by the authors, without however, utilization of a unifying concept of treatment, as by a municipal crime prevention bureau. The lack of a unifying concept probably dooms its sound proposals to piece-meal adoption over a score of years.

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