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Book Reviews

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BOOK REVIEWS

THORSTEN SELLIN [Ed.]

BOY AND GIRL TRAMPS OF AMERICA.
By *Thomas Minehan*. 267 pp.
Farrar & Rinehart, New York.
1934. \$2.50.

THE MIGRATORY WORKER AND FAMILY LIFE. By *Marion Hathway*.
xiv+240 pp. University of Chicago Press. 1934. \$1.50.

Here we have two books about the homeless. One has received wide recognition; the other is scarcely known except in professional circles. Mr. Minehan is a sociologist with a literary approach. Miss Hathway is a sociologist with a research approach. Mr. Minehan went about the country to learn about boys and girls on the bum. Miss Hathway confined her studies to migrant families in the State of Washington.

Elsewhere I have reviewed the boy and girl tramp book and therein described it as a colorful volume but not altogether accurate. In a sense it is an unfortunate book because it leaves the reader with a false notion about the number of boys and girls among itinerant homeless. It puts in bold relief one phase of a very important problem and other equally important phases are very much neglected.

Miss Hathway, a professor of social work at the University of Pittsburgh, has written a somewhat limited monograph about the families on the west coast that follow such occupations as lumbering, agriculture and fishing. These families go

about as the job possibilities beckon. Dr. Hathway has examined with considerable thoroughness the conditions of life and living found among the clam diggers, the berry pickers and other migrant families in the northwest.

Both books are thoughtfully written and each in its own way calls to our attention the urgency of facing this very important problem. It is true that a large segment of the American population is on wheels, going about the country, seeking work or adventure. It is also true that a large part of the homeless population is composed of old people who have no place on the labor market. They are confined to the urban industrial states largely. The young folks are found in the west and southwest. In these same regions may be found also many thousands of migrant families following the seasonal occupations. The welfare program of the Nation has very little to offer these people, although since these books were written the Federal Government has instituted a far-reaching program for transient individuals and families. This Federal program is attempting to deal with some of the difficulties presented by these authors. Some phases of this problem are being met. On the whole, however, there is much to be done before the entire problem is under control.

NELS ANDERSON.

Federal Emergency Relief Administration, Washington, D. C.

THE ENGLISH BORSTAL SYSTEM. By S. Barman. 269 pp. King & Son, London. 1934. 12 s.

Mr. Barman, a graduate of Calcutta and a member of the London Bar, presents the first comprehensive study of the Borstal system. His object is twofold: to place the system at the disposal of his fellow-Indians in the East, and to give a wider insight of the meaning and objects of modern reformative methods to the general public.

The first three chapters deal generally with the reformative tendencies of modern times, the problem of dealing with adolescent offenders, and the growth of the principle of individualization of treatment. Chapter four examines the various factors that distinguish the female from the male offender. The next chapter deals with the laws governing the Borstal system. The remaining chapters deal with the seven Borstal Institutions (differentiated according to the type of offender) and the Borstal Association which assumes the responsibilities of the after-care of the released offenders.

The study is neither historically nor analytically critical. I believe the following citations are a fair example of the critical standards maintained by the author. Lombroso, it is declared, studied the causes of crime as "purely anthropological" (p. 83). Ninety per cent of the girl offenders at Aylesbury (the only Borstal Institution for girls) have been convicted for stealing and "this shows how strong is the instinct of acquisitiveness in the female offender" (p. 116).

Despite the opinion of the author and the opinions of the administrators whom he quotes as to the success of the Borstal scheme and despite the statement that sixty-five

per cent of the Borstal lads are *never* (?) heard of again in a court of Law, one acquainted with the realities of reformatory *activities* will remain skeptical.

While Mr. Barman makes no contribution to our *knowledge* of the treatment of juvenile offenders, he does succeed in presenting a readable and detailed formal account of the principles and programs of the Borstal Institutions.

NATHANIEL CANTOR.

University of Buffalo.

ANCORA SULL'ANALOGIA NEL DIRITTO PENALE SOSTANZIALE (Further Discussion Concerning the Principle of Analogy in the Substantive Criminal Law). By *Gennaro Escobedo*. 35 pp. Tip. "Leonardo Da Vinci," Cieta di Costello. 1934.

So important is this question among European students of the Law and continental legislators that it is on the agenda of the next meeting of The International Congress of Penal Law (1936). The question to be discussed is whether it is desirable that the judge be granted the power to impose sentence for an act not expressly defined as criminal before its commission. Western European criminal law rests on the principle *Nullum crimen, nullum poena sine lege*.

The Soviet Union has broken with this historic maxim. Art. 16 of its Code declares that "when an act constituting a danger to society is not expressly mentioned in the code, the measure of importance and the foundations of responsibility for such act shall be determined, regard being had to the provisions of the code relating to those offenses which are most nearly analogous." Art. 7

declares, "All measures of social defense are applicable not only to persons guilty of acts constituting a danger to society but also to persons who are dangerous owing to their association with a criminal milieu or on account of their past record."

Professor Anossov has ably defended the "analogy principle."¹ The present brochure of Dr. Escobedo is a broadside attack on the principle generally and Professor Anossov's arguments in particular. Limitations of space prohibit a detailed description of the several arguments of the author.

His central theses may be simply stated. With respect to the normal offender it is essential that the deterrent effect of punishment be maintained. The abolition of the threat of definite punishments for definite criminal acts would remove the psychological motives which restrain one from the commission of criminal acts. The adoption of the principles of social responsibility and "social dangerousness" in the place of individual moral responsibility would remove the very basis of the criminal law. Furthermore to place such power in the judiciary would negate the legislative function. The public would be at the mercy of the arbitrariness of the court not knowing in advance whether certain behavior was criminal or not.

On the other hand Dr. Escobedo recognizes and agrees that where a developed moral sense and awareness of the criminal act is lacking, as for example, in the case of abnormals or delinquents, the court should be free to impose "measures of social security" rather than def-

inite punishments and in the latter instances the analogy principle might well be applied.

The author's chief objection to the adoption of the analogy principle is that it would destroy the very nature of the substantive criminal law.

NATHANIEL CANTOR.

University of Buffalo.

THE MEDICOLEGAL NECROPSY. Edited by *Thomas B. Magath*. 187 pp. The Williams & Wilkins Company, 1934. \$2.50.

These seven papers were originally published as the January, 1934, issue of *The American Journal of Clinical Pathology*. The amount of discussion and interest which they aroused was sufficient to warrant their reprinting as a separate volume. Like so many symposia, there is frequent repetition and two of the papers treat of material which has little direct bearing on the subject.

The introductory paper by Sondern discusses the two systems in force in the United States at the present time; namely, the Coroner System and the Medical Examiner System. The advantages of the latter, particularly in thickly populated areas, are pointed out. He goes further to give an interesting history of necropsy technique and procedure since the earliest days of experimental medicine and discusses the antagonism which has always been present between pathologists and undertakers, concerning the advisability of conducting a necropsy.

A paper under the title, "The Medicolegal System of the United States," by Dr. Oscar T. Schultz, again points out the deficiencies of the Coroner System in contrast to the Medical Examiner System. An

¹His most recent discussion appears in the July-August, 1934, number of the *Monatschrift für Kriminalpsychologie und Strafrechtsreform*.

interesting discussion of legal questions involved in the conduct of necropsies, constitutes the larger portion of the paper. This is largely abridged from the bulletins published by the Committee on Medicolegal Problems of the National Research Council (1928-1932).

A comparatively short paper by Dr. Charles Norris, Chief Medical Examiner of New York City, gives a general non-technical discussion of the medicolegal necropsy. A subsequent paper by Dr. A. V. St. George, under the title of, "Performing the Medicolegal Necropsy," constitutes an excellent though very much abbreviated discussion of necropsy technique, particularly as it applies to medicolegal cases. Rather brief papers by Drs. E. L. Miloslavich and A. O. Gettler give general resumes of the pathology of drowning (in technical terms), and the usefulness of toxicological tests in the medicolegal necropsy.

The most lengthy, and perhaps the most interesting of the papers constituting this symposium, is that of Dr. Harrison S. Martland, Chief Medical Examiner of Essex County, New Jersey, under the title of, "Medical Examiners' Findings in Deaths from Shooting, Stabbing, Cutting and Asphyxia." This paper constitutes over half of the entire book and is written in a semi-technical style, which will be readily understood by the non-medical reader. His paper is amply illustrated with excellent photographs, many of which are very gruesome but all of which are quite instructive. His discussion of gunshot injuries is probably as complete as anything written in the English language. Dr. Martland's technique of investigating death by strangulation or hanging, through the method of making a median section through the head

and neck, is excellent for the purpose of illustrating the cause of death, although in communities where the Coroner System is still in vogue, it would be utterly impossible because of the necessary mutilation of the body.

Although there is much excellent material contained in the book, a student of pathology who turns to it for a complete technique in conducting a medicolegal necropsy, will be disappointed. It does not attempt to give detailed instructions as to the exact methods to be employed in conducting the examination, such as are given by W. S. Wadsworth in his "Postmortem Examinations" (1915), or by L. Hektoen and E. R. LeCount in their chapter on, "The Technic of the Medicolegal Post-mortem Examination," in Peterson, Haines and Websters, "Legal Medicine and Toxicology" (1923). Attorneys who are interested in medicolegal cases will find much important, useful and up-to-date information in the book. Its minimal use of complicated medical terminology will make it doubly valuable to the legal profession.

C. W. MUEHLBERGER.

Scientific Crime
Detection Laboratory,
Northwestern University.

THE DETECTION OF CRIME. By *Walter Else* and *James Main Garrow*, with Foreword by *G. Roche Lynch*. xv+195 pp. The Police Journal, London, 1934. \$1.90.

This is a physical-fact-finding manual for police officers. In criminal investigation facts are essential. One or more base a case. A fingerprint left behind; a bit of ash; a blood stain in an odd place; each so found had an origin in action the

cause of which must be determined.

Given a crime scene to investigate: What is the fact? Where does it hide? What form has it? What scientific aids are necessary to strip off the husk to disclose it? What specialists are of the greatest help in a poker-faced situation? What can the officer himself do with his pocket lens, his pen-knife, a watch, some string and a bottle or two? Or better yet, with his wits? What happened? When did it happen? How did it happen? This is the information that lurks in physical facts and which leads to the answer to the questions: "Why did it happen?" and "Who did it?"

This manual deals with these details amazingly well. The authors, superintendent and assistant chief constable, respectively, of the Derbyshire Constabulary, take the policeman into a working relationship with the scientific expert and lay down an adequate procedure for team work between the two. They lift the officer to a higher plane of viewpoint. They pull the scientist out of the clouds to a contact with absorbing human affairs. The book details numerous and typical applications of the resources of police science, chemistry, physics, microscopy and photography to fact finding in the investigation of crimes. It is written understandingly for thinking officers. Illustrations are numerous and to the point. References are well chosen and reliable. It has definite procedural advice helpful to the senior officer and an abundance of instruction for the junior officer wherever good police work is expected.

EDWARD OSCAR HEINRICH.
Berkeley, California.

CRIMINAL INVESTIGATION. Adapted from *Hans Gross* by *John and J. Collyer Adam*, and edited (3d ed.) by *Norman Kendal*. 586 pp. Sweet & Maxwell, London, 1934. 21s.

The English translation of this classic work of Hans Gross first appeared in 1906. Another English edition was published in 1924. The present edition represents the third.

It is not the purpose of this review to analyze and comment upon "Criminal Investigation" as left to posterity by Hans Gross. Beyond question it represents a splendid contribution, of great value at the time it was published and for a long time thereafter, and even now after all these years of constant change in the ways and means for the commission as well as for the detection of crime. That fact is generally recognized. Consequently, the present criticism will be confined to a comparison between the previous editions and the recent volume.

The preface contains a statement to the effect that it was the editor's intention to "preserve rather than to destroy." In this he has succeeded—but not entirely, at the same time making very little improvement over previous editions. In the first place the present edition is twenty pages shorter (destruction?) than the previous one. It contains not even a remnant of the complete bibliography to be found in the original German or in the original translation. Moreover, no mention is made of the latest German edition (1922) which is considered a revision worthy of the name.

As an excellent illustration of the fact that this new edition adds practically nothing of real value, the reader might consider the following extract from Mr. Kendal's preface

in light of what has actually been accomplished. It is there stated that "In bringing the book up to date . . . parts . . . dealing with firearms have been largely re-written." Let us see, therefore, what has been really added. A section on "Firearms" contains several paragraphs not found in the previous edition, dealing with the different types of shot-guns. But there is little change from the original. Then in a section entitled "The Expert in Firearms," one finds two additional brief paragraphs on "fouling" and *three* equally brief paragraphs on the identification of bullets and shells. The editor neglects to comment upon the rapid progress which has been made in the science of firearms identification ("ballistics") during the last decade. He makes no mention of the research conducted by various experts in Germany, in England, and in the United States, or of the widespread use of firearms identification in criminal investigations particularly in the United States, or of the judicial sanction given by the appellate courts of twelve jurisdictions in this country. He does not even include an adequate description of the principles and methods involved.

The section on finger-prints con-

tains a few comments not found in the previous edition. But considered in terms of what should have been done, they constitute trifling bits of improvement.

Although "Criminal Investigation" was "ages ahead of the fashion," that fact does not exonerate the publishers from their responsibility, assumed by undertaking to sponsor a new edition, of substantially improving and bringing up-to-date such a treatise. Their announcement of a new edition occasioned a lively interest on the part of individuals interested in criminal investigation. They hoped for and expected an edition which would bring a considerable portion of this classic up-to-date, although retaining much of the "master's touch." But, practically speaking, they have been presented with a blue instead of a red covered second edition.

The possessor of either the original translation of "Criminal Investigation" or of the second edition will find very little in the present volume to justify its addition to his library.

FRED E. INBAU.

Scientific Crime
Detection Laboratory,
Northwestern University.