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RESOCIALIZATION OF THE YOUNG ADULT OFFENDER IN SWITZERLAND

Gerhard O. W. Mueller

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This paper presents an account of the correctional policies as applied at the Work-Education-Institution Uitikon a.A., Kanton Zurich, Switzerland, and an interpretation of the methods in terms of theories of criminal causation.

THE PSYCHOANALYTIC APPROACH TO THE CAUSE OF CRIME

The theories of crime of Cesare Lombroso and his *Schola Positiva* have not yet lost all their influence on European criminology, though their blossoming time must be regarded as a matter of the past. About thirty years ago, when most of Europe's criminologists still indulged in painting the picture of the anthropological monster, a new theory was created and developed in the Alpine countries. This was the acceptance of Dr. Sigmund Freud's new science of psychoanalysis in the field of criminology, first successfully undertaken by the Austrian educator August Aichhorn. Aichhorn, then superintendent of an institution for juvenile offenders and "other disappointing youth" in Vienna, made his experimental adoption of psychoanalysis in the field of youth correction such a remarkable success that various other experiments with psychoanalysis in the field of criminology followed soon after, primarily in Austria, Switzerland and Germany, but among English and American criminologists as well. Outstanding among the latter are Healy, Alexander, Bronner and Friedlander.¹

According to Aichhorn, psychoanalysis has brought a better insight into the structure of the Ego and has made it possible to study the relations between waywardness and delinquency on the one side and change of the Ego structure on the other. This means better and safer comprehension of the problems to be solved in correctional treatment. The

1. A discussion of the psychoanalytic theory of criminal causation would lead too far here. Reference may be had to HEALY, W., *THE INDIVIDUAL DELINQUENT* (Boston, 1935); HEALY, W. AND BRONNER, H., *DELINQUENTS AND CRIMINALS, THEIR MAKING AND UNMAKING* (New York, 1926); HEALY, W., AND BRONNER, H., *NEW LIGHT ON DELINQUENCY AND ITS TREATMENT* (New Haven, 1936); ALEXANDER, F. AND HEALY, W., *ROOTS OF CRIME* (New York, 1935); FRIEDLANDER, K., *PSYCHOANALYTIC APPROACH TO JUVENILE DELINQUENCY* (New York, 1947).

educator who makes use of psychoanalysis will be able, e.g., to draw conclusions from the kind and degree of psychical reactions and, therefore, will be able to control educational difficulties. As Aichhorn puts it, the psychoanalytic approach is of threefold importance to the social worker and criminologist: As a research direction, as psychoanalytic psychology, and as methodical expedient, i.e. as a means of treatment, combined with education.² He stresses the importance of education but is of the opinion that education without psychoanalysis is insufficient in most cases.

The present writer is not so much concerned with the work of August Aichhorn and his immediate followers who adhere to what might be termed the "unadulterated psychoanalytic theory of criminology," notwithstanding the recognition of a few other factors in the play, as indicated above. It is true that this approach leads to highly successful results in cases of individual treatment and even in a few examples of institutional treatment experiments, e.g. Aichhorn's own institution in Oberhollabrunn near Vienna, Austria. But many criminologists have come to realize that the use of the psychoanalytic theory for purposes of detecting the origin and cause of general and individual criminality is not only not the complete or only answer to the problem, but even one of less importance. Moreover, practical difficulties arise in the application of the theory to mass treatment which is necessary to cope with the problem in a country like the U.S.A.

THE SWISS APPROACH, BASED ON HEINRICH PESTALOZZI'S PEDAGOGY

While in Switzerland in 1949 the present writer had the opportunity to familiarize himself with the Swiss answer to the question of cause and treatment of crime, and to visit with Director Fritz Gerber at Uitikon, a.A., the Kanton of Zurich House of Correction for young adults, a state institution. The Swiss approach is of special interest, because it consists of an adoption of the psychoanalytic theory from the Austrian neighbor, mingled with old Swiss traditions existing ever since Pestalozzi,³ and a third element, reminding us of Sutherland's theory of differential association,⁴ with the added feature of stressing the importance of the notion of self-conception of the criminal,⁵ both in connection with the formation of the criminal concept and the formation of

2. August Aichhorn, *Verwahrloste Jugend (Wayward Youth)* (Vienna, 1925) p. 28 *et seq.*

3. 1746-1827.

4. E. H. Sutherland, *Principles of Criminology* (Chicago, 4th ed., 1947).

5. A theory presently being critically studied and refined by Dr. J. D. Lohman of the University of Chicago.

the concept of a law abiding citizen during the resocialization process. It almost seems that all but the Lombroso-Hooton-Sheldon approach, of which only fragmentary traces can be found, are incorporated in this Swiss theory. The writer agrees with the Swiss expounders of this theory that an integrated adoption of the best features of a multitude of recognized theories probably leads best to a satisfactory solution, at least more so than the stubborn adherence to a single theory. Whether the Swiss approach presents a workable solution for American needs as well is a different question.

What makes the institution *Uitikon*, where this approach might be said to be practiced in its purest form, especially interesting is the fact that here only young adult trainees between the ages of 18 and 25 can be found. Elsewhere almost universally the psychoanalytic theory, or any approach incorporating the psychoanalytic theory to any material extent, is restricted to juvenile delinquents, for whom, no doubt, the method has special advantages.

In importance ranking next to the psychoanalytic theory in the Swiss conglomerate is Pestalozzi's pedagogy. Heinrich Pestalozzi, whose active time in Switzerland was between 1769 and 1827, is regarded as the great reformer of the old Swiss local institutions for poor and destitute children; more than that, he is the recognized father of modern European pedagogy. It was his belief that the frequent wars which covered all Europe, especially the Thirty Year War (1618-1648), which resulted in vast devastations of farm land and dwellings, created the nomadic "guild" of vagrant beggars, thieves and robbers.⁶ He firmly believed that the only proper and effective means to combat this menace was the institutionalization of those of the "guild" who were still susceptible to reform, including all juvenile "guild members," to care for them with love and to get them accustomed to orderly habits and work, and to teach them the appreciation of the fruits of work. Pestalozzi himself founded five such institutions and conducted them with great success. His main concern was to help these destitutes to grow roots again in the native soil.⁷

His influence, as far as our particular interest is concerned, still can

6. PESTALOZZI, *EIN SCHWEIZER BLATT* (Kriminalpaedagogik, etc.), vol. VIII, pp. 135-174; see also P. REIWALD, *DIE GESELLSCHAFT UND IHRE VERBRECHER* (Zurich, 1948), p. 179; and A.J. PRESSLAND, *EDUCATION AND SOCIAL WELFARE IN SWITZERLAND* (London, 1927), pp. 16 *et seq.*

7. See PESTALOZZI, *MEINE LEBENSCHICKSALE ALS VORSTEHER MEINER ERZIEHUNGSINSTITUTE IN BURGDORF UND IFERTEN* (Leipzig, 1826); see also FREITAG, *ZUR GESCHICHTE DER SCHWEIZERISCHEN ERZIEHUNGSANSTALTEN*, etc. (Glarus, 1933), pp. 59-94.

be found in a great deal of modern Swiss legislation and correctional practice. The following points may be emphasized especially⁸:

1. Detailed legislation to prevent vagrancy, begging, etc. in both criminal and civil law.
2. Careful legislation providing for the institutionalization of juvenile delinquents, vagrants, beggars, etc., but also persons not convicted of crime, misdemeanor or delinquency, under special circumstances to which we will refer later.
3. Special institutional treatment and therapy for young adults, convicted of crime or committed by administrative procedure.
4. Special emphasis on an agricultural program in institutions.
5. Lack of drill and emphasis on personal kindness in institutional education.

SWISS LAW ON THE SUBJECT

"Treatment of waywardness and delinquency are impossible without legislation"⁹.

The Swiss law in question, more particularly the law of the Kanton Zurich, contains excellent provisions for an expedient administration to combat criminality in the making.

Commitment to the state institution Uitikon, the special subject of this paper, may be had both under the criminal code and under civil law provisions. Commitment is obtained by an absolute minimum of procedure. The creators of the laws in question apparently were aware of the fact that every added, unnecessary step would only mean another step upwards on the stairway to incorrigible criminality.

THE FEDERAL CRIMINAL CODE OF 1937

"The outstanding part of the new code, according to Swiss experts, is the treatment of children and juveniles. The motive of that section is to provide for proper care, training and adjustments of these children and adolescents instead of the principle of punishments"¹⁰. But this principle has been extended to young adults above the age of 18, who are guilty of crimes or misdemeanors. Article 43, I of the Swiss Federal Criminal Code of 1937 provides for the commitment to a work training institution in lieu of imprisonment, if the offender has no previous

8. See HAFTER, *STRAFRECHT, ALLGEMEINER TEIL* (Bern, 1946), pp. 396 *et seq.*

9. A. AICHHORN, *op cit. supra* note 2, at p. 7; translation by the author.

10. FRIEDLANDER AND GOLDBERG, *The Swiss Federal Criminal Code*, supplement to the *JOUR. CRIM. L. and CRIMINOL.* 1939, p. 3. See also PFANDER, *ENGLISH STUDIES IN CRIMINAL SCIENCE; SWISS CRIMINAL LAW*, Dept. of Criminal Science, Faculty of Law, University of Cambridge, published by the Canadian Bar Association, Toronto, Ont., 1944, parts IV and VI.

convictions and if, upon examination, it appears likely that such procedure will be successful. Practice has proven that this specific section of the code constitutes a particular measure governing young adults between the age of 18 and 25, they being the vast majority of offenders fulfilling the conditions of the code for this correctional treatment. We must keep in mind that in nearly all countries of the world this age is the period of largest criminality¹¹, and that prison experience during these years will almost invariably lead to the formation of a criminal personality, marked by the notion of self-conception. Let us remember at this point that the code provides for detention in an institution which is called "house of correction," an institution which deserves this name, managed with Pestalozzian ideas, in lieu of detention in a "house of correction" the name of which is not related to its success rate.

The second group of young law breakers "eligible" for commitment to an institution like *Uitikon*, under the criminal code, are juveniles between the age of 14 and 18¹². However, it has been made a practice, not to accept juveniles younger than 17 at the institution *Uitikon*.

CIVIL LAW PROVISIONS

Besides the larger group of persons convicted of crime or, in case of the few juveniles below the age of 18, exempt from criminal liability but guilty of delinquency, a second and smaller group of trainees consists of persons committed by civil or administrative procedure. It may sound strange to American criminologists that an institution in which "criminals" ("in the eyes of the law") are mixed with "non-criminals" ("in the eyes of the law") can be approved. The Swiss Civil Code of 1904 provides for the institutionalization of children offering malicious or obstinate opposition to family education, and deprivation of parental power where parents through criminal or wayward life have caused their children (incl. juveniles) to become seriously wayward. The civil procedure is resorted to only in case of flagrant situations likely to cause public harm. Since the Swiss institutions are rather small and their capacity is largely taken up by those convicted of crime, it is obvious that only a small number of civil cases can be admitted to institutions. In the *Kanton of Zurich*, more particularly, commitment may be made under a statute passed by authorization of the civil code referred to above and in accordance with it. This is the "Law about the Care of Juveniles, Waywards and Habitual Drunkards,

11. F. EXNER, *KRIMINOLOGIE* (Berlin, 1949), p. 149; TANNENBAUM, *CRIME AND THE COMMUNITY* (Boston, 1938), p. 323.

12. Article 91 of the Swiss Federal Criminal Code of 1937.

Kanton of Zurich, May 24, 1925." It is a carefully drafted piece of legislation which gives a detailed recital of the purpose of the commitment, the procedure and the aims and methods of institutional reeducation.

THE WORK-EDUCATION-INSTITUTION UITIKON a.A., SWITZERLAND

The institution is situated in a beautiful valley, on the slope of the Uitliberg mountain range in the Kanton Zurich, Switzerland. It consists of a 123,5 acre farm with all appropriate buildings and shops for trade education and production. The institution is under the custodianship of the Zurich Department of Justice. It has a capacity of 87 trainees¹³, and has a staff of 20 members, i.e., 1 director, 1 assistant, 1 accountant, 1 minister ("nebenamtlich," part time in the institution), and 1 physician ("nebenamtlich," part time in the institution). Ten other staff members are master- and journeyman tradesmen, all of whom had some social work training. The remaining five are maintenance employees¹⁴). Note the absence of "custodial officers."

Director Gerber's guiding principles are the following words by Heinrich Pestalozzi:

"Man is good and wants the best, but at the same time he wants to feel good. If he is bad, the road on which he wanted to be good probably was blocked for him. It is a terrible thing about blocking the roads, it is so common, and, therefore, man is seldom good."¹⁵

Gerber himself is not a psychoanalyst but he applies the general findings of psychoanalytic reeducation as experienced by Aichhorn in Vienna. As a matter of fact, the contact between Uitikon and Vienna is a close one even after Aichhorn's death. For Christmas 1948 the trainees of Uitikon collected over 1000 Francs from a Christmas bazaar to help the trainees in the needier Austrian institution.

Many similarities can be found in both Aichhorn's and Gerber's institutions. Like Aichhorn (after a thorough psychoanalysis) put the tobacco cash box of his school into the hands of an inmate with a long record of embezzlements and petty thievery,—resulting in a final success for both inmate and cash box¹⁶—, so entrusted Gerber a young

13. More than 60% committed under the criminal code, less than 40% by civil procedure. JAHRESBERICHT DER ARBEITSERZIEHUNGSANSTALT UITIKON, a.A., (1948), p. 25.

14. The data in this chapter is mainly derived from three sources: First, the writer's visit with Dir. Gerber at Uitikon; second, the Annual Report (Jahresbericht, 1948) of the institution; third, Dir. Gerber's article *Über Arbeitserziehungsmethoden und -erfolge in der Zürcher Arbeitserziehungsanstalt Uitikon, a.A., (On Work-Education Methods and Successes at the Zurich Work-Education Institution Uitikon, a.A.)* 45 *Schweizerische Zeitschrift für Strafrecht—Revue Pénale Suisse*, (Swiss Journal of Criminal Law) 16 (1931).

15. JAHRESBERICHT, etc., *op. cit. supra* note 14, at p. 30; translation by the author.

16. A. AICHHORN, *op. cit. supra* note 2, at pp. 203 *et seq.*

international check forger with responsible activities in his own office,—with like success. Like Aichhorn, Gerber gives his trainees a larger than usual amount of freedom, in both cases occasionally to the distress of angry neighbors, as Reiwald tells us.¹⁷

All trainees, before entering the institution Uitikon, receive a thorough psychiatric examination at a state psychiatric institute, with recommendations for special treatment, if necessary. In a few instances, when the general though personalized resocialization process at Uitikon is of little or no influence on a trainee, the institution minister, a psychoanalyst, undertakes the necessary psychoanalytic treatment to find the particular cause of the symptom waywardness and to adjust such trainee's institutional treatment accordingly.¹⁸

Gerber classifies his trainees as wayward or delinquent on account of

1. Heredity	}	19
2. Bad education		}
3. Bad "milieu"		
4. Influence of wayward companionship	}	Sutherland's differential association

Most of them are considered as being afflicted with the self-conception of being criminal or wayward by either their own imagination (the detective story hero as ideal) or the acceptance of the repeated judgment of others rendered on them.

Psychologically the inmates comprise

1. "Normal" delinquents or criminals,²⁰ the majority,
2. Light imbeciles,
3. Certain psychopaths and neurotics.

It should be recalled that the Zurich statute sets up minimum standards of mentality for those eligible for commitment. Therefore, persons who through mental defects do not reach up to those standards are not admitted to the institution.

17. P. REIWALD, *op. cit. supra* note 6, at p. 302.

18. Compare *R for delinquent youth*, published by the Dept. of Public Welfare, State of Illinois, a pamphlet describing the Illinois State Training School for Boys, near St. Charles, Illinois, where therapeutic treatment apparently is had without the aid of psychoanalysis: "The outward signs, the symptoms of these emotional disturbances are the delinquent acts which bring them into this institution. The only really effective way to help the delinquent become a better adjusted, law-abiding citizen is to treat the causes of his behaviour problem."

19. Justifications for classification into this controversial category and practical importance for purposes of the institutional treatment are not readily apparent.

20. A category not recognized by modern psychoanalysts, e.g., FRIEDLANDER, *op. cit. supra* note 1.

The immediate objectives of the institutional resocialization program are

1. Removal of the "self-conception,"
2. Creation of work appreciation,
3. Training in a trade or profession.

In the first objective the staff is materially assisted by a segment of the trainees themselves, i.e. the "Kerngruppe" (elite group), consisting of those trainees who by the same process already have overcome the self-conception. Their influence is unusually large. They are not regarded as the "rats," "squawkers" or "stool pigeons" which quite frequently form the "elite" groups in other institutions.²¹ The elite group has a constitution, created by its own members, which in its provisions, though not in its phrasing, is nearly identical to those of the "Mutual Aid Group," a similar elite group in Hiram F. Hatch's Michigan State Prison (1885-1891!).²² Membership in the elite group is obtained through election by popular vote from one of the two lower (and compulsory) groups, the "freshmen" and the "aspirants." The three or more officers of the elite group are likewise elected. These officers are also in charge of library, record library and other recreational facilities. The elite group members' privileges are Sunday-leave-of-absence, discharge on probation, military service during time of commitment²³, single rooms, and independent and individual work assignments. Those trainees who were dropped from the elite group because of violations of the constitution have formed other groups (often with not more than two members) with names such as "cross-road," or "forward," etc. The groups are assigned a weekly theme for discussion and written disposition. Almost every trainee writes a diary, open only to the director. The diary is a particularly good means of uncovering underlying complexes which lead to the individual criminality or waywardness, and it gives precious clues for their treatment. It furthermore helps the trainee to get rid of his daily troubles and to overcome his problems. In addition, it is every trainee's right to see the director and talk problems over with him. The writer won the impression that the

21. NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT, Report on the Causes of Crime, vol. II, pp. 240 *et seq.* (1931).

22. After the Brockway Plan in the 1860s in Detroit, Hatch's system of prisoner self-government was the second successful American experiment on these lines. The mentioned constitution is set out in full in HAROLD M. HELFMAN, *Antecedents of Thomas Mott Osborne's "Mutual Welfare League" in Michigan*, 40 JOUR. OF CRIM. L. and CRIMINOL. 597, at 598, 599 (1950).

23. The Swiss Armed Forces call draft age men (18-35) for annual refresher courses of several weeks.

trainees make a wide use of this prerogative, since Director Gerber has understood it excellently to win the confidence of his trainees.

Right after his appointment, Director Gerber removed all bars from windows and doors, all locks from the rooms, in short everything reminding of "cells" or "prison." All rooms were gaily decorated in bright colors, soon all windows had decorative curtains and flowers were in every room. To say it in Gerber's own words:

"There is only one way to combat the prison that makes the criminal: To create an educational system instead that approaches and reaches the individual."²⁴

Every trainee spends a test period of up to three months doing farm work, during which time he is closely supervised, though not more carefully guarded. Here the trainee learns the purpose and working of the institution and the sense of his being there. He gets acquainted with the professional possibilities among which he later may choose. After this time he is free to make up his mind to continue in agriculture, which is preferred by many farm boys, or to start or continue an apprenticeship in one of the trade education programs of the institution. Quite a few trainees are hesitant to choose since they hope for discharge at a time earlier than their graduation from apprenticeship to journeyman, others are not able to make a decision at all in their then state. But the staff is very cooperative in helping the trainee to make his choice among the trades of cabinet maker, carpenter, locksmith and mechanic, gardener, fruit grower, farmer, cattle breeder or office worker. In the year 1948 20 percent of those discharged had learned their trades in the institution and passed the examinations for journeymen in their respective trades before discharge. Some ranked tops in the state wide examinations.

It is extremely interesting to observe how the trainees are familiarized with rational work methods, how they become able to criticize and thereby to learn. There is a great deal of difference between the work at Uitikon and the way it is performed by its trainees and the situation in some American (and European) institutions which the writer had opportunity to visit, where the available work, due to its nature, is regarded as an evil way to kill the time, and something which the inmate has no difficulty avoiding since there is work for usually not more than 50 percent of the inmates.²⁵ In his article in the Swiss Journal of Criminal Law director Gerber states: "I cannot

24. JAHRESBERICHT, etc., *op. cit. supra* note 14, at p. 28; translation by the author.

25. E.g., BARNES AND TEETERS, *NEW HORIZONS IN CRIMINOLOGY* (New York, 1945), p. 685.

imagine a work institution for the wayward (and criminal) without a rational work economy and work method. We have to teach our inmates how to create real relations in work."²⁶

Discharge (on probation) is possible only after the institution has the absolute guarantee of an appropriate employment of the trainee immediately after discharge. Employments are secured through the institution's placement service. "The complete resocialization of the young law breaker or wayward cannot be achieved by institutional education alone. The time of re-acceptance into the community and public industrial activity is a very important phase of his development. The staff of the institution depends more than ever on understanding employers, aware of the responsibility, in all branches of trade and business, which will accept the trainee with good will and help him to readjust in business life and the community."²⁷ The staff of the institution is fully aware that discharge into idleness and into the old environment would mean complete failure in a great number of cases.

The success rate of the institution Uitikon surpasses that of any other Swiss institution. The trainees are aware of this fact, they are proud of their fame and regard themselves as somewhat privileged, which in itself helps the re-socialization considerably.

It should be mentioned that the institution operates on the basis of self-financing. The institution pays shares of profit to the trainees as judged by a work merit system, but still the books usually can be closed with a profit for the state treasury.²⁸

The recreation organization is to a great extent in the hands of the trainees, but they are not left to themselves. Advanced and psychically stabilized members of the elite group always take the lead in organizing discussions, sports and games, hobby working, etc. Frequent lectures, singing, drama education, etc. are conducted by staff members. The institution choir gained fame by various excellent concerts given in the neighborhood of Uitikon.²⁹ Because of the predominantly agricultural character of the institution, more actual schooling in high school subjects is done during the winter months.

The institution minister regards it his special duty to give a liberal sex education in open discussions as well as in private interviews.

26. *Op. cit. supra* note 14; translation by the author.

27. JAHRESBERICHT, *op. cit. supra* note 14; translation by the author.

28. Unfortunately, this would be impossible in the U. S. A., on account of the many and odd restrictions on the sale of "convict made goods."

29. REIWALD, *op. cit. supra* note 6, at p. 302.

This is a *sine qua non* for the psychical resocialization of the trainees who quite frequently come with entirely deformed sex attitudes.

Last it is necessary to talk about the desertions and about "incorrigibles." The institution is entirely open. It is not fenced in, nor are the rooms locked at any time, as mentioned above. As a "substitute" an "imaginary fence" was "built" by the trainees' own decision: penalty for crossing—"hair off" on recapture. Desertions have been infrequent in past years, at no time higher than from closed institutions. Escapes seldom are undertaken for the purpose of committing crimes or delinquencies. In cases in which the escape was planned and accompanied by breaches of the law, the escapees were exclusively found to be trainees not longer than three months in the institution and which psychologically had been classified as psychopaths or light imbeciles. Such escapes were undertaken by usually two trainees, one of active character, the other of passive character, persuaded and unduly influenced. Second escapes are extremely rare, since the "punishment of hair-off" with all accompanying incidents has an extremely positive effect on the first escapee. Apart from the fact that he lost his cherished head ornament—and is thereby subjected to the ridicule of his friends—he is actually made to feel miserable for having breached his pledge not to walk away, for one cannot speak about a heroic deed of flight from a wide open institution. Moreover, standing before a mirror every morning while washing, the former escapee actually can see his penalty slowly disappear as his hair grows.³⁰

Director Gerber regards a certain number of escapes as necessary incidents of any institutional re-socialization process. An escape might be a necessary step on the path of re-socialization of a particular trainee. He considers it an error to take the chance for a desertion away by guarding prospective escapees more closely.³¹

It is only too natural that the high standard and success rate at Uitikon could be maintained only by restricting admission to those "eligible" under the law and by exclusion of those for whose resocialization the facilities and policies of the institution Uitikon are insufficient, or those who later had to be regarded as "incorrigible," which last resort is seldom adopted. Such trainees are transferred to a closed institution primarily for the purpose of not endangering the other trainees in Uitikon.

30. It should be noted that Swiss boys prefer a long haircut, and that the "crew cut" is not known.

31. Here again is direct influence of Aichhorn's findings.

CONCLUSION

Whatever the attitudes of the trainee might have been when entering Uitikon, when leaving he is aware of the change that was made possible within him. He may have come conceiving himself as a very "tough guy," a "reputed black marketeer" or perhaps simply an unwanted mistreated son and "bad boy." On leaving, such notions have been replaced by the new concept, "I am an Uitikon man" which he will cherish as an American college youth cherishes his B.A. The former trainee will look down on his former outside companions who probably had helped him materially to become the "bad boy" he was. In some instances even he will take such former companions for a visit to Uitikon to show them the institution that enables young "tough guys" without a steady job to become decent citizens and journeymen of a reputable trade.

It is always disappointing for the staff of a penal institution to see former inmates back on the premises, but it certainly is not disappointing for Director Gerber and his staff to see former trainees as visitors every Sunday.

APPENDIX

Statutes Referred to in the Above Article

The Swiss statutes under consideration are not only masterpieces of legal craftsmanship and draftsmanship, they are also an example of the results that can be achieved by the cooperation of the lawyer and the sociologist in drafting legislation that affects so materially the welfare of human beings.

ARTICLE 43-I OF THE SWISS FEDERAL CRIMINAL CODE OF 1937 (Translation by Friedlander and Goldberg, Supplement to the JOUR. OF CRIM. L. AND CRIMINOL., 1939).

*"Training of disorderly persons and idlers in work habits—*If the offender has been sentenced to a prison term for a felony or misdemeanor,¹ the court may suspend sentence and commit him to a House of Correction for an unlimited period,² provided that he is disorderly and idle and his offence is related thereto, that he may be trained to work and that he has not previously been sentenced to a penitentiary or detention institution. The court shall order an examination of the physical and mental condition and of the work capacity of the offender and also obtain accurate reports of his education and background."

ARTICLE 91,1 OF THE SWISS FEDERAL CRIMINAL CODE OF 1937 (Translation by Friedlander and Goldberg, Supplement to the JOUR. OF CRIM. L. AND CRIMINOL., 1939).

*"Training school, foster care—*If the juvenile (14-18) is wayward, de-

1. Comparable to both our American county jails and state penitentiaries.

2. Quotation of the translators' footnote (renumbered): "The House of Correction in Switzerland is an institution for retraining in work and not an institution for the service of minor penal sentences"

linquent or neglected, the proper official shall committ him to a training school for juveniles. The ward shall remain in the institution as long as is required for his readjustment and not less than one year. He shall be discharged (in any event) when he has completed his twenty second year."³

ARTICLE 91,3 OF THE SWISS FEDERAL CRIMINAL CODE OF 1937 (Translation by Friedlander and Goldberg, Supplement to the JOUR. OF CRIM. L. AND CRIMINOL., 1939).

"If the juvenile is seriously delinquent, or has committed" (what, if done by an adult, would be) "a felony or grave misdemeanor highly dangerous to public order, he shall be committed to a training school where he shall be separated from other inmates. In this latter case he shall remain in the training school until he has improved, for not less than three years but not longer than ten years."⁴

THE SWISS CIVIL CODE OF 1904, APPLICABLE SECTIONS 283-285, 288, 289. Reference may be had to an excellent translation by R. P. Schick, Boston, 1915, Official Publication of the Comparative Law Bureau of the American Bar Association.

THE LAW ABOUT THE CARE OF JUVENILES, WAYWARDS AND HABITUAL DRUNKARDS, Kanton of Zurich, May 24, 1925. (Translation from the German by the author).

"Article I, *The care for juveniles between the age of 12 and 19.*

Section 1. Juveniles between the age of 12 and 19 who are morally depraved or endangered, or who offer malicious and obstinate resistance to their parents or guardians may be cared for compulsorily in a family or institution.

Section 2. The purpose of such commitment is the moral education and character formation, as well as the training of the ward in a trade or profession and the equipping with such knowledge as will enable a later advancement."

Section 4 provides that commitment is for three or more years, as circumstances and trade education, etc. require it.

"Article II, *The care for persons above the age of 18.*

A. Waywards susceptible of reeducation.

Section 5. Persons between the age of 18 and 30 who show an inclination towards criminal activity,⁵ who are disorderly or work-shirkers, but who appear susceptible to reeducation towards useful work, are to be cared for in a work-education institution.

Section 6. It is the purpose of the commitment to get the trainees used to an orderly and useful life by training in a trade which corresponds to their abilities and which will enable them to earn their living. The mental and physical, especially professional education of the trainees will be expedited by instruction."

Section 7, like section 4 above.

3. Though the age of majority is 21 in Switzerland.

4. The words in parentheses are added by the author by way of explanation.

5. "Vergehen."

In sub-article B the law provides for commitment of persons, who are not susceptible to reeducation, to penal institutions for the purpose of protection of society.⁶

6. See also W. SCHOENENBERGER, *Kommentar zum Schweizerischen Zivilgesetzbuch*, Kantonale Erlasse zum ZGB und OR, volume VI, 3, Zurich (1941), pp. 793-800.

It might be pointed out that the Swiss provisions translated above offer a striking similarity to comparable American statutes, except that the American statutes are unfortunately restricted to juveniles. E.g. see the Illinois Act on the "Treatment of dependent, neglected and delinquent children," Act of April 21, 1899, Ill. Rev. Stat. (1951), Chapter 23, §190 *et seq.*; and see HARNO, *CASES ON CRIMINAL LAW AND PROCEDURE*, 3rd ed. (1950), pp. 565 *et seq.*