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Book Reviews

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juvenile delinquency and related problems. The objective of the course is to provide academic training in criminology and related disciplines to supplement the practical and professional training of officers dealing with prevention of crime and treatment of offenders.

The course will be given under the direction of Dr. Shlomo Shoham of the Ministry of Justice,

who carried out research in criminology under Professor L. Radzinowicz, the Isaac Wolfson Professor of Criminology at Cambridge University. The program has been devised in cooperation with the Ministries of Education, Justice, Social Welfare, and Police. An advisory committee for the course is headed by Mr. Justice Haim Cohn of the Supreme Court.

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BOOK REVIEWS

Edited by
David Matza*

ESSAYS IN CRIMINAL SCIENCE. Edited by *Gerhard O. W. Mueller*. London: Sweet and Maxwell; South Hackensack, N. J.: Fred B. Rothman & Co., 1961. Pp. xvi, 460. \$10.00.

There are several facets to this volume: it is the first publication of the Comparative Criminal Law Project of New York University; it commemorates the fiftieth anniversary of the *Journal of Criminal Law, Criminology, and Police Science*; and it is dedicated to Robert H. Gault in honor of his service as editor-in-chief of the *Journal* from 1911 to 1961, when he retired. The book is edited by Gerhard Mueller and consists of essays contributed by invitation to eighteen scholars from ten countries. Professor Mueller states in the foreword that during the half-century of the *Journal* profound

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changes have taken place in the status of criminology and criminal law. "Criminology ranks foremost with the social sciences and has wrought incredible changes in the creation and application of stimuli for the prevention of crime, especially of repeated crime, and in detecting its causes. Criminal Law is now a respectable sphere of legal practice which in theory and administration has learned to operate with facts and which has freed itself largely from the domination of vengeant forces." To both of these developments the *Journal*, under the editorship of Dr. Gault, has contributed a great deal.

Professor Mueller mentions that he has chosen "Criminal Science" rather than "Criminology" for the title of the essay collection, "for all too often the term criminology is misused to designate the specific bailiwick of the sociologist." There are many, however, who would quarrel with the imputation. Certainly sociologists would be happy if

his contentions about the efforts of sociologists were widely accepted. Both here and abroad the field of criminology and corrections is still far too much under the influence of psychiatrists, psychologists and professors of criminal law. Of the contributors to the volume, only one is a professional sociologist, although several others have, to some degree, been indirectly influenced by sociology.

The essays cover a wide variety of topics, since each contributor was given wide latitude in the selection of his topic. Only five deal with criminology; the rest cover various aspects of criminal law. The latter essays are divided into three parts: general principles of the science of criminal law, problems of forensic medicine as they relate to the science of criminal law, and comparative criminal law from the standpoint of legal reform. The comparative law materials include informative discussions of criminal law reform in France (Marc Ancel), Germany (Jescheck), the Soviet Union (Ginsburgs and Mason), and Japan (Dando).

American sociologists and others who teach and do research in criminology are seldom as well versed in the legal aspects as are Europeans. One must know something about the norms involved in the criminal law to understand the behavior we call criminal. This book's collection of stimulating essays on criminal law, largely written without legal jargon, are useful to this group as well as to those specifically interested in the criminal law. Despite pretentious titles many American textbooks in criminology, for example, are merely accounts of violations and violators of American law.

One of the most stimulating essays is by Manuel Lopez-Rey of the Social Defense Section of the United Nations. He correctly challenges certain widely held views in criminology, including the logic and use of prediction tables, and especially their use to label children as "pre-delinquent." His discussion deals with the work of Mannheim, Frey, and the Gluecks. Of this work he states that: "All [of these] distinguished criminologists make use of the principle of probability *a posteriori*, and this is largely based on statistically collated data. Although impressively displayed, these data are not more than forms of expression and do not necessarily add truth or give more scientific character to what is expressed by them. In other words, prediction tables do not have greater value because they are constructed with the help of complicated numerical formulas. Of far greater importance is the analysis of the data manipulated

by these formulas as well as the main assumption governing the manipulation. The main assumption may be formulated as follows: the set of factors abstracted from a particular group may be transposed to any individual whether or not he is part of this group." In comparing the three efforts he is particularly critical of the work of the Gluecks in both theory and method. He also sees crime and delinquency not as "disorganized" forms of behavior but rather as reflections of current and even accepted patterns of life resulting from the particular structure of society. Crime and delinquency basically are not separate concepts, but rather involve the same behavior. He challenges individualistic medico-psychological theories and methods and points out the essential sociological character of criminology, in which research should keep in mind moral and social values as well as the criminal law.

In another essay, Jerome Hall distinguishes three fundamental aspects of criminal law: the formal, organizational or systematic aspect; the ethical aspect or policy and value; and, finally, the factual side, "the actual functioning of the rules of law as they go through the minds not only of the judges and other officials but also of the people who conform or fail to conform." The factual side, the actual functioning, is just as important and just as significant as the formal or valuational side. Hall claims that the study of this aspect of law has been largely neglected in European countries. One might add that the study of law in action has only recently been receiving a proper emphasis in the United States.

Professor Andenaes, Director of the Criminological Institute at Oslo, examines the problem of "ignorance of the law" as it is viewed in Scandinavia, and he shows its numerous ramifications. He discusses, for example, a number of cases involving ignorance of the law contentions and arising from acts committed during the German occupation of Norway. One of his conclusions is that "What is actually decisive is not so much the isolated judgment as to whether the ignorance of the law is excusable or not, but the overall judgment of the offender's conduct."

Norval Morris, in a discussion of "The Defense of Insanity in Australia," points out that both code states and common law jurisdictions have evolved a wider defense of insanity than that which they inherited under the M'Naghten Rules from England, and they consequently "have brought that defense more into accord with the realities of

mental ill health." Much of the discussion reminds one of the current controversy over the Durham rule.

Although one might expect great uniformity in both the criminal law and penalties imposed in the different republics of the Soviet Union, Ginsburgs and Mason, in their analysis of the laws of the Russian and Uzbek Republics, find both centralized uniformity and local diversification. Many acts which are violations of legal conduct norms in the Uzbek Republic are not such violations in the Russian Republic, and sentences are generally more severe in the Uzbek Republic. The authors reach a significant conclusion about norms and crimes in the Soviet Union: "The juxtaposition of the two statutes helps confirm the assumption that even now, after forty years of planned development and conscious centralization, considerable differences in the national, cultural, educational and religious character of various areas of the Soviet Union continue to persist, necessitating, even at present, a major compromise between the Kremlin's fundamental desire for a single pattern within the land and the still strongly felt need for local variations in order more efficiently to combat those violations which are peculiar to a given territory or ethnic group or which, for one reason or another, pose greater danger in one *locus* than in another."

Others essays which, unfortunately, cannot be discussed here, deal with pre-classical penology (Tappan), psychological testing (Ferracuti), return to the scene of the crime (von Hentig), rule of law in criminal justice (Silving), causing criminal harm (Mueller), the regulatory offense in historical perspective (Starrs), diminished responsibility (Edwards), automatism (Williams), and methods of treatment of drug addiction (Ploscowe).

One might question the lack of a central theme in this otherwise excellent volume. In a sense, however, it reflects what has always been one of the chief assets of the *Journal of Criminology, Criminal Law and Police Science* both in title and in the diversity of its contents. The volume, like the *Journal*, exposes persons with diverse interests in the problem of crime and criminal behavior to the differing perspectives of others with whom they may or may not agree.

MARSHALL B. CLINARD

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DRUG ADDICTION—CRIME OR DISEASE? By *The American Bar Association and the American Medical Association Joint Committee on Narcotic Drugs*. Bloomington, Ind.: Indiana University Press, 1961. Pp. 192. \$2.95.

In 1958 a Joint Committee of the American Medical Association and the American Bar Association submitted to the parent organizations an "Interim Report," surveying various aspects of the narcotics problem.

This report, although "Confidential," was in 1958 vehemently attacked in a publication by a so-called "Advisory Committee" to the Federal Bureau of Narcotics (hereinafter, F.B.N.). The sale of the F.B.N. pamphlet was later discontinued, but not until the document had already been widely circulated to libraries and law enforcement officials throughout the country.

For the first time the subject of this heated controversy has now been made public. In addition to the Interim Report the present volume contains the Final Report submitted by the Joint Committee in 1960. Attached also are the Summary and Recommendations of the Council on Mental Health of the A.M.A. from a report published by the Council in 1957 surveying various aspects of the narcotics problem.

The Interim Report itself occupies only 11 pages, of which only the recommendations are of major interest. These all concern areas for further research, and they are in accordance with the recommendations in Appendix A, to which the report refers with approval, but without formally adopting its language or specific appraisals. The report—as well as the appendices—is very carefully worded, and one is immediately surprised that its very moderate language and tentative suggestions have been able to arouse such frantic anger in the F.B.N. The Final Report, published after the attack, seems also to have been worded with extreme caution so as to minimize the risk of further controversy.

The main interest therefore is connected with the appendices to the Interim Report. Appendix B, which the report mentions only briefly, is an appraisal by Mr. Rufus King of the A.B.A. of narcotic drug laws and policies in selected European countries. Mr. King's statements regarding British narcotics policies are in essential

agreement with the findings of Mr. Edwin M. Schur.¹

For England as well as for most other Western European countries, it is clear that the narcotics problem is more one of legal over-consumption than one of illicit traffic. In the countries surveyed very few addicts are found in prisons. Most of them are treated by medical doctors, either as private patients or in mental hospitals.

Whether this approach accounts for the rather low rate of addiction and the absence of illicit traffic in these countries is another question. A large proportion of the abuse of narcotic drugs in Europe is necessarily unknown to the authorities, and it is a neat question what would happen if these countries adopted restrictive-punitive measures similar to those current in the United States. British Home Office officials expressed to Mr. King their fears that such action might lead to the appearance of an illicit market. Norwegian officials reported receiving numerous calls from addicts who feared being forced into supporting an illicit market and into crime by a proposed tightening up of the liberal Norwegian policies which allow doctors to dispense narcotics to addicts treated by them on an outpatient basis.

On the other hand it seems highly questionable whether an approach similar to the European would work under the markedly different social condition in the United States. Neither the Council on Mental Health nor the Joint Committee have felt competent to tackle this problem. The Interim Report only points out that the policies hitherto adopted in this country have proven inadequate. The report indicates that in order to suggest a workable alternative we need much more information about the problems than has hitherto been available. The summary in Appendix A of present knowledge clearly demonstrates the absence of scientific evidence upon which a better policy can be built.

The assignment to the author of Appendix A, Judge Morris Ploscowe, noted authority in criminal justice research, was to survey already existing material in order to see what conclusions could be drawn and in what areas further study is most urgently needed. With the limited time and resources at his disposal Judge Ploscowe has managed to condense a surprising amount of information into a concentrated statement of 100

pages. He has taken great care in trying to attain maximum objectivity and has chosen to let the different sources quoted speak for themselves. Both sides are represented on the controversial issues discussed, and thus the reader is occasionally left bewildered about possible conclusions; nevertheless, Judge Ploscowe does not conceal his dissatisfaction with present policies.

The book does not answer the question posed by the title, but it does make clear that there is no necessary causal connection between crime and addiction—other than the one created by the law itself. The answer to the question “what comes first: crime or addiction?” depends, in Judge Ploscowe’s words, largely upon the particular group of addicts studied. In the United States, crime frequently both precedes and follows addiction.

The survey of present methods for treatment of addiction is discouraging, but in part this may be due to the fragmented nature of the treatment programs surveyed and the studies themselves. Particularly poignant is Ploscowe’s analysis of the present state of the law relating to addiction. He demonstrates how court decisions interpreting the Harrison Anti-Narcotic Act of 1914 have forced the medical profession into a much more restricted role than that played by its European counterpart. This, as Ploscowe points out, is to a considerable extent due to the failure of the medical profession itself to lay down authoritative standards for what is “good professional practice.” In the absence of such professional standards the practicing physician is left to an ex post facto adjudication by a jury of laymen. This unfortunate situation explains why many doctors shy away from giving even the kind of treatment they can legally carry out under existing laws.

It was to be hoped that the work of the Joint Committee might have resulted in the presentation or preparation of such standards. Neither the Interim nor the Final Report, however, tackles this ticklish problem. Instead the Joint Committee refers to the report by the Council on Mental Health, which did not suggest any solution to this problem, and joins Judge Ploscowe’s recommendations for further legal research. In view of the firmness with which the A.M.A. has taken stands on other major social issues, the paucity of the reports on this point is surprising and deplorable.

Most controversy has been connected with the recommendations in the Interim Report (shelved

¹ Schur, *British Narcotics Policies*, 51 J. CRIM. L., C. & P. S. 619 (1961).

by the Final Report) for the establishment of an experimental outpatient clinic for the treatment of drug addicts. Such an experiment would, according to Judge Ploscowe, have the following objectives:

1. To test directly the hypothesis that clinics would eliminate the illicit traffic and reduce drug addiction.
2. To aid in determining whether it is possible to rehabilitate addicts in a non-institutional setting so they can live and function without drugs.
3. To try out varied techniques in rehabilitation of addicts and decide which are most useful.
4. To resolve a basic problem dealing with addiction: whether confirmed and unrehabilitable addicts can be transformed into productive members of the community if their drug needs are met.

It is admittedly difficult to see how a limited experiment, as proposed by Ploscowe, could show anything about the possibility for eliminating illicit traffic; furthermore, the proposal has other major problems, both with respect to program and research design. Nevertheless these questions all are in urgent need of solution. It would be unfortunate if the criticism aroused by this proposal has led to indefinite postponement of such desperately needed research.

As pointed out by Judge Ploscowe, indefinite incarceration of all addicts is neither an ideal nor a practicable solution to the problem. Neither is law enforcement, however stringent, likely to reduce the problem to insignificance. A rational solution requires more and better knowledge, and nobody but the F.B.N. can earnestly object to the recommendations for further research set forth in the report.

Nevertheless, it seems to the reviewer that, rather than indefinite postponement of action in the hope of ultimate solutions emanating from further research, rational application of already existing knowledge is needed. For instance, the medical profession itself enthusiastically reports extremely high rehabilitation rates within its own ranks.² Even if the majority of addicts may have darker prognoses than doctors, it seems evident that a larger proportion of addicts can be rehabilitated than is now the case.

² See Jones, *How 92% Beat the Dope Habit—Board of Medical Examiners Tells Success in Rehabilitating Addicted Physicians*, The Bulletin of the Los Angeles County Medical Association, April 3, 1958, p. 19.

Rational action on this basis, however, will necessitate the presentation of objective information to the presently misguided public in a manner totally different from the current undertakings of politicians and law enforcement in general and the F.B.N. in particular. The volume here reviewed can be an important first step towards such education of the public. Its dissemination to the widest possible circles is therefore heartily recommended.

JORGEN JEPSEN

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LEGAL AND CRIMINAL PSYCHOLOGY. Edited by Hans Toch. New York: Holt, Rinehart and Winston, 1961. Pp. 426. \$6.00.

This anthology admirably fulfills the first of its stated purposes, "to provide the student, the interested layman, and the specialist with facts about people involved in the process of criminal justice." Its authors—lawyers, social scientists, and practising criminologists—report, in unusually clear language, some of the basic data concerning the causation of crime, its treatment, and the psychology of those who practice law. With the exception of a few articles, however, the book largely fails in its second goal, "to challenge thinking and provoke argument about these facts."

In the most provocative piece in the anthology, psychiatrist Thomas Szasz brilliantly analyzes the perplexities of criminal responsibility. Szasz criticizes the standard tests as well as the Durham rule. He pleads for "publicly verifiable criteria of rendering judgement" rather than the questionable "opinions" now proffered by psychiatric witnesses, and he notes, with much justification, that contemporary psychiatry cannot provide a "scientific distinction between mentally sick and mentally healthy persons . . ." He concerns himself, too, with the way in which the "psychiatrization of the law" may subvert the ethics of an open society by implicitly putting the goal of "good individual and public health" above that of individual choice and responsibility. Thus, Szasz concludes:

"In this dilemma, it seems to me that the most dignified, and psychologically and socially most promising, alternative is not to consider mental illness an excusing condition. Treating offenders as responsible human beings, even though sometimes they may not be individually 'blameworthy,' offers them the only chance, as I

now see it, of remaining 'human' and possibly becoming more so."

He wishes, therefore, that the courts would act *as though* all people were responsible for their decisions. Szasz's position does not suggest that the law should return to a blind ignorance of the origins of human actions, nor that the courts should simply punish the criminal for his self-chosen wickedness. Rather, Szasz argues that juries should consider all of the human circumstances which lead a person to crime, that testimony should come from all the relevant behavioral sciences, and that sentences should be based on scientific evidence as well as ethical considerations. While he disapproves of involuntary hospitalization of criminals, he would like to establish full-fledged rehabilitation programs in American jails. Informed by a concern for the ethics of a liberal, "open" society, Szasz's article thoughtfully contributes to the continuing debate on responsibility.

Szasz's essay forms just one element in the first part of the book, a section devoted to "legal psychology." Several articles describe the relation of law and psychology as well as the tactics of trials. While these may enlighten the college student, they will be "old hat" to lawyers or anyone with the smallest bit of legal knowledge. Psychologist Charles Winick, in a well written section on the "psychology of juries," presents a more sophisticated discussion of this particular problem. His summary of current research uncovers some curious facts which should interest everyone concerned with achieving a fair system of justice. Research has demonstrated, for example, that juries consistently disregard the judges' instructions and the rules of law; that they pay much more attention to the first witness for each side than to other evidence; and that the order in which lawyers traditionally propound their arguments automatically gives the defense a major psychological advantage.

Part II, devoted to "criminal psychology," adequately recapitulates studies of causation, the prediction of crime, and some current approaches to correction. Charles Hanley, a psychologist, cogently examines the difficulties of prediction; Albert Rabin dissects, in a balanced, reasonable fashion, the psychopathic personality; and Robert Scott, Associate Director of Corrections in Michigan, reports the state's hopeful experiments in the treatment of delinquency. Although one might wish for certain additions—a fuller discus-

sion of causation, a more extensive examination of avenues to treatment, more attention to objective studies of therapy's effects—this part offers a relatively comprehensive analysis.

The last section of the book examines the special problems of sex crime, drug addiction, and alcoholism. Practicing sociologist Earl Rubington describes the promising experiment of "half-way houses," voluntary treatment centers designed to aid the alcoholic offender in his transition from jail to sober life.

The book represents, in summary, a general introduction to criminal psychology. For the judge who wishes to learn something of psychology, for the social scientist who wants to know the rudiments of court procedure and attitudes, and for the beginning student, this anthology serves a useful purpose. Editor Hans Toch has insured that his own essays, and those of the contributors, have been clearly written and stripped of the usual jargon. Nevertheless, except for Szasz's analysis (and elements in the other essays), the book can hardly be regarded as original or as of major assistance "in defining problems and suggesting possible solutions."

WILLIAM M. MCCORD

Stanford University

PIONEERS IN CRIMINOLOGY. Edited by *Hermann Mannheim*. (Published as the first volume in the series, *The Library of Criminology*, under the auspices of the Institute for the Study and Treatment of Delinquency.) London: Stevens & Sons; Chicago: Quadrangle Books, 1960. Pp. xi, 402. \$7.50.

The essays in this volume were first published as a series, "Pioneers in Criminology," in the *Journal of Criminal Law, Criminology and Police Science*.

The book opens with a long introduction by Professor Mannheim and closes with a summary chapter, "The Historical Development of Criminology," by Clarence R. Jeffery. The other 17 chapters, each by a different author, discuss the lives and criminological contributions of Beccaria, Bentham, Maconochie, Haviland, Isaac Ray, Charles Doe, Maudsley, Lombroso, Tarde, Hans Gross, Garofalo, Ferri, Durkheim, Montero, Aschaffenburg, Goring and Bonger. Only 2 Americans, Doe and Ray, are included in this list, although 12 of the contributors are Americans. Of the other criminologists covered, 5 were British,

3 Italian, 3 French, and the other 4 were German, Dutch, Spanish, and Austrian.

The chapters are of uneven merit, and the reader's own interests will determine which will appeal to him. I found myself especially interested in those by Mannheim and Jeffery, in which conflicting views of positivism are presented, and in the discussions of Beccaria by Monachesi, of Maconochie by Judge Barry, and of Lombroso by Wolfgang. Some of the remaining chapters seem relatively uninspired or deal with matters of little current interest.

An interesting and mildly amusing aspect of the book is the dispute between Professors Mannheim and Jeffery concerning the nature of positivism and its influence on criminological theory. Mannheim devotes most of his introduction to the criticism and qualification of Jeffery's statements. Despite everything that is said about positivism by these two authors, or perhaps because of it, the reader is likely to end up in confusion. Mr. Jeffery blames positivism for most of the faults he finds in criminology. The positivist's persistence in seeking the explanations of crime in the individual, he maintains, has led to the neglect of a proper analysis of the criminal law and the institutional setting of crime. Implicit in his discussion is a criticism of the positivistic conception of scientific method which, with its emphasis upon observable facts and upon quantification, leads to the over-simplification or neglect of other matters such as the nature of crime and voluntary behavior and the concept of responsibility. Mr. Jeffery appears to be critical of the positivist's tendency to merge the concepts of cause and correlation. Mannheim points out that Comte rejected the search for causes, which he thought were "beyond our reach."

Professor Mannheim presents seven principal features of positivism, which consist in part of Comte's views, concerning the three stages, the divorce of science and law from morality, the hierarchy of the sciences, the priority and unity of science, the existence of invariable social laws, and the concepts of prediction and causation. Unfortunately the specific implications of Comte's general ideas are not sufficiently developed to enable the reader to understand how Mannheim proposes to distinguish between scientists who are positivists and those who are not. Indeed, he seems to agree with John Stuart Mill that there is a positive element in all science, and he sometimes seems to regard the scientific method as identical

with the positivist's conception of it. At a number of points he refers to the "intuitive and statistical" methods as though these were the only two possible approaches. But surely a social scientist is not necessarily a positivist merely because he favors scientific method, and surely one may qualify as a scientist without being a statistician.

Professor Mannheim points out that positivists disagree among themselves and that they often hold inconsistent and contradictory views. Noting that positivistic doctrines are often not followed to their logical practical conclusions, he remarks that "it can be said of our positivist dogs of today that their bark is worse than their bite." All of this makes it even more difficult for the reader to make up his own mind. Perhaps the best one can do is to agree with Professor Mannheim that this word means different things to different people, or perhaps one should only label as positivists those who label themselves as such.

It is obviously impossible in a review of a symposium with the sweep of this one to do justice to the individual articles. There is room for difference of opinion concerning the authors selected for inclusion. The selection provides fare for a variety of tastes. The volume is an important one for anyone interested in the historical backgrounds of modern criminology and penology.

ALFRED R. LINDESMITH

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DAS VERBRECHEN, VOL. I: DER KRIMINELLE MENSCH IM KRAEFTESPIEL VON ZEIT UND RAUM. By *Hans von Hentig*. Berlin: Springer-Verlag, 1961. Pp. vii, 442. DM 49,80.

This first volume of a contemplated series of three represents a complete "revision" of two earlier, American publications of the author, written in English: *Crime, Causes, and Conditions* (1947), and *The Criminal and His Victim* (1948). A superficial comparison with these earlier works reveals at once that the present encyclopedic project has little, if any, resemblance to them, particularly since the earlier works were primarily written as classroom texts.

The first volume could be considered a general discussion of crime. The author focusses his attention on the *Nichtentdeckten* (the undiscovered criminals) and the *Nichtangezeigten* (the undicted), as well as on those defendants who were never convicted. He discusses in a special chapter

the dynamics and the areas of *Zufall* (coincidence) pertaining to the uncovering of crime and the conviction of defendants.

Of particular interest to the English-speaking reader is the author's thesis of *Zeit und Raum* (time and place), which is indicated in the subtitle of this book. If anything, the text is overburdened with statistics, with which the author tries to substantiate the *Monatsrhythmus* (the rhythm of the month), or the rhythms of the "daily events" or the different days of the week. I believe very few studies have been done in this country on the frequency of crime during certain hours of the morning or night. Despite the ever-present statistics in this volume, the reader may come to different conclusions from those of the author with respect to the occupations of the offenders and the role of place, whether rural or urban, in the increase of crime. The author discusses the mass exodus of people, such as that recently from East to West Germany, and the migration from rural to urban areas. The author's discussion of the sociology of these migrations (*i.e.*, his sociological interpretation of the statistics available) is quite useful, though the reader (both German and English-speaking) must bear in mind that the mass migrations and settlements are special to Germany, so that, if any conclusions can be drawn as to how crime results from these migrations, they cannot necessarily be applied to other countries.

This reviewer has had the privilege of reviewing in this *Journal* most of the author's output during the last decade. He can, therefore, state with satisfaction that a former criticism does not apply here, as this volume has an index to authors and subjects; however, a bibliography is still absent, and the reader is referred, instead, to the copious footnotes.

It should be pointed out that, contrary to some quarters in criminology, von Hentig is not *passé* just because he does not conform to the psychoanalytical trend of our time and just because his research and interpretations are not "dynamic" (assuming that there is a universally accepted definition of this term). The author is neither a psychologist nor a psychoanalyst, but then neither a psychologist nor a psychoanalyst would likely make extensive use of statistics or of non-psychoanalytic literature. In fact, von Hentig's non-psychoanalytically oriented research may strengthen the slowly awakening interest of the analytical researcher in criminology. Besides

Glover, Bennett, et al., in England, and Rosow, Schmideberg, and a few others in this country, the analysts engaged in research in criminology are few.

Therefore, when von Hentig states that "nobody is a 'criminal' who has not been caught and has been sentenced by due process of law," he not only restates an old established Anglo-Saxon principle of law, but he also follows sociological criteria in criminology. The factors of *Beliebtheit* and *Unbeliebtheit* (sympathy and antagonism) of the public and the courts towards a defendant are not interpreted from a psychoanalytical point of view.

As in former publications, von Hentig draws on many literatures for examples. Looking at the footnotes from the German reader's point of view, one wonders why most of the quotations are in English, such as Dinneen's *Underworld U.S.A.*, Wilson's *I Stole 16 Million Dollars*, Spenser's *Limey Breaks In*, Bentley's *My Son's Execution*, or Crouse's *Murder Won't Out*. On the other hand, English-speaking readers may profit from references to German sources, generally unavailable to them. Needless to say, the next two volumes are eagerly anticipated, even though the author expresses grave doubts whether he will have time to finish them. It will be a great loss if he doesn't.

HANS A. ILLING

Los Angeles

JUVENILE DELINQUENCY IN AMERICAN SOCIETY.

By Harry M. Shulman. New York: Harper & Bros., 1961. Pp. xi, 802. \$8.00.

If one accepts the rather dubious contentions that juvenile delinquency is a discipline separate and distinct from criminology, that there exists a meaningful and extensive body of knowledge in the field, and that there is intellectual as well as academic justification for the offering of courses in delinquency, then perhaps it is possible to inquire into the relative merits of existing texts. It is within this somewhat negative frame of reference, accordingly, that *Juvenile Delinquency in American Society* will be examined.

Without exception, juvenile delinquency texts have been notable primarily for their mediocrity, and the present volume merely continues in that tradition. Part of the problem, perhaps, is that any author is expected to limit himself solely to the juvenile offender, but frequently he circumvents this restriction. Shulman thus discusses, quite cogently of course, organized crime and prostitution,

and only by the most tortuous reasoning are they tied up with the central problems of delinquency.

Juvenile Delinquency in American Society is, in many ways, a disorganized, diffused, and repetitive book. "Social roles" is discussed in no less than seven chapters; ecology is critically evaluated in Chapters 6, 7, and 11; the gang, similarly, is spread over a number of different sections. Chapter 5 ("Fields, Methods and Problems of Scientific Delinquency Research") is a particular melange, dealing with problems in social science, the history of juvenile delinquency studies (up to 1950), multiple-causation research, the cultural bases of delinquency, theories of cultural heterogeneity, social structure and social role and delinquency, methods of juvenile delinquency research, special research problems, and the measurement of the effectiveness of delinquency control programs.

The book, additionally, mirrors Shulman's predilection with aspects of delinquency that, for better or worse, are no longer considered etiologically important. Thus the lengthy chapter on intelligence and delinquency (presenting little information gathered in the last twenty years), the elaborate analysis of the foreign-born and delinquency, and the extended discussion of a rather dated study on "The Newsboy as a Street Merchant" reflect far more the author's peculiar interests than those of the contemporary student of delinquency. Several specific and minor criticisms would include his presentation of *Towards an Understanding of Juvenile Delinquency*, which is so peculiarly restricted in nature as to present a distorted and basically inaccurate statement on Lander's findings and theoretical explanations. Also, while it is possible to omit the recent, important work of Monahan and Toby relating to broken homes, it is more difficult to understand the omission of the provocative studies of Miller and Yablonsky on juvenile gangs (particularly in view of the elaborate coverage the gang receives), and it is altogether inexplicable that no mention at all is made of the Cambridge-Somerville study.

Despite the above, there are any number of good features to the book. The sections on the legal aspects and the extent of delinquency are quite good, the material on the psychological and physiological bases of delinquency are also clearly and succinctly presented; and the chapters on the police, the juvenile court, and juvenile institutions are excellent. Scattered throughout the book are short, fascinating case studies of the Amish, the criminal tribes of India, the Hun-

garians of Detroit, and several others. In what may be the most interesting few pages in the book, Shulman attempts to create typologies of delinquent behavior based on degrees of overtness, personalization, social conventionalization, social goal orientation, and number of participants. He concludes that there are three types of delinquents: the *unsocialized* delinquent who engages in special patterns of conflict that are primarily dyadic in nature; the *maladaptive* delinquent who has a continuing series of maladaptive, illegal relationships based on psychological and physical tensions; and the *adaptive* delinquent who is a confirmed recidivist for whom delinquency is an integral part of his life organization. Despite the author's lucid and reasonable presentation, this reader, at least, remains unshaken in his belief that typological research remains one of the more sterile areas of investigation.

Juvenile Delinquency in American Society emerges as a text eminently suitable for the purposes for which it was written and it should be, commercially, very successful. Among those few books one might conceivably use in a delinquency course, only Robison's recent text would seem to offer any real competition.

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DEATH AND THE SUPREME COURT. By *Barrett Prettyman, Jr.* New York: Harcourt, Brace and World, 1961. Pp. 311. \$4.95.

CAPITAL PUNISHMENT: A WORLD VIEW. By *James Avery Joyce.* New York: Thomas Nelson and Sons, 1961. Pp. 320. \$5.00.

HANGED BY THE NECK. By *Arthur Koestler and C. H. Rolph.* London and Baltimore: Penguin Books, 1961. Pp. 143. \$85.

HANGED IN ERROR. By *Leslie Hale.* London and Baltimore: Penguin Books, 1961. Pp. 160. \$85.

Proponents of the retention of the death penalty will find little comfort or support for their position in these four volumes. Indeed the professional criminologist and objective lay reader might well wish that a companion volume were available presenting the retentionist arguments as interestingly, as literately, and as authoritatively. It is perhaps of some significance that the bibliography on capital punishment for the past century has been almost without exception abolitionist in its orientation. Contrary to the often encountered reverse allegation, it is the retentionist publications

(largely short articles in non-professional periodicals, or chapters in the memoirs or reminiscences of police officers, prosecutors, or English judges) which reject a logical, scientific or statistical approach; they are replete with emotional, even hysterical, generalizations based on "experience" (undetailed and unspecified) and abound with attacks on the motivations of the "bleeding hearts" and "do-gooders" who advocate a truly rehabilitative approach to all convicted offenders and who recognize the death penalty as the antithesis of the basic principles of modern scientific penology.

Barrett Prettyman is an anomaly among American lawyers—one who can and does write of legal subjects in a refreshingly clear and masculine English which delights as it informs. He has taken a small sampling of the capital cases appealed to the United States Supreme Court during the past 15 years and has chosen six cases to illustrate the basic principles of constitutional law (e.g., double jeopardy, coercion of confessions, cruel and unusual punishment, discriminatory selection of jury panels, and self-defense) which the appellants relied on in their briefs. He demonstrates clearly that it is not the enormity of the death sentence itself but a denial of due process which convinces the court that a case should be reviewed. In fact the Supreme Court hears only one of four capital cases it is asked to review and reverses the state courts in fewer than half of these. Mr. Prettyman makes very clear that he is personally opposed to capital punishment and implies that many if not all the justices share his abhorrence.

James Avery Joyce is an English lawyer and social scientist who some years ago authored the widely-read *Justice at Work*. Joyce's attack on the death penalty is a scathing, wide-ranging indictment. Although basically concerned with the abolitionist movement in England and the United States, he traces the history of the death penalty in many countries, discusses the current United Nations inquiry, and lists the forty-odd countries in which capital punishment has been wholly or for the most part abolished. (New Zealand abolished the death penalty for all crimes except treason after Mr. Joyce's study went to press.) Mr. Joyce demolishes the deterrent theory and presents a number of valid alternatives, all well in line with modern penological thinking. The author's statistical materials on homicides in England covering the past three decades will prove

most interesting to students of comparative criminology.

Arthur Koestler, world famous writer, and C. H. Rolph, police official turned journalist, have collaborated on a volume so good that one can only wish it were longer. Written in a crisp, factual style, it quotes selectively from parliamentary hearings and trial records and presents capsule "case-studies" of the 123 unfortunates hanged in England from 1949 to 1961. This little volume may well become a debaters' reference manual for the proponents of abolition. Several chapters have been reprinted from Koestler's previous study, *Reflections on Hanging*, and there are extensive excerpts from the Royal Commission Report. Of special interest to those who advocate "leaving the penalty up to the jury" is the astonishing summation that in 13 of the 123 executions the jury had recommended "mercy"; in nine additional cases they had "strongly" recommended mercy; and in one case, that of Ajit Singh, a Sikh, the jury added to its verdict "the strongest possible plea for mercy." In each of these 23 cases, the recommendation of the jury was ignored and the sentence of death executed. One of these cases was that of Derek Bentley, a 19-year old epileptic rejected by the Army as mentally deficient. He was unarmed and under arrest at the time the fatal shot was fired by his 16-year old partner. Two hundred members of parliament, including ten former Cabinet ministers, joined in the petition for reprieve which was rejected by the Home Secretary. The authors' final sentence states the case for abolition in its simplest yet strongest terms: "Abolition of the death penalty has never made any difference to the number of murders in any country."

Leslie Hale is a lawyer and Labor member of Parliament. Of the four volumes, *Hanged in Error* is most controversial and least satisfactory. Hale has chosen a number of English cases, one as early as 1815, of which he presents well-written summaries. He sets forth the errors, illegalities, and, in some cases, later discovered evidence which lead him to conclude that miscarriage of justice had occurred and innocent victims hanged. No argument against the death penalty is stronger in my opinion than that it makes miscarriage of justice irremediable and that innocent persons have been convicted, their appeals denied, and the ultimate penalty exacted. However the literature is weaker than the argument. Borchard (*Convicting the Innocent*), Callison (*Courts of Injustice*),

Gardner (*Court of Last Resort*), and Frank (*Courts on Trial*), as well as the individual restudies of the Chessman, Sacco-Vanzetti, Borden, and other *causes celebres*, do little more than suggest that in certain cases there may have been "reasonable doubt" that due process was denied, or that alternative interpretation of the evidence was possible. *Hanged in Error* is of the same genre as these works, but it lacks their moderation. Apart from the Evans-Christie case and the century old Pelizzioni case, in which the condemned man was pardoned after another, Mogni, had been convicted of causing the same death (reminiscent of our own Foster case in Georgia), I do not

find Hale's studies helpful. Were I the appeals judge in the Bywaters-Thompson case, for example, I could not but vote to uphold the trial decision, opposed as I am to the penalty of death.

I do not dismiss Mr. Hale's work; it contains much of value and underlines the fallibility of human observations, conclusions and institutions. Had he chosen his cases more selectively, evinced less personal sympathy for the victims, and presented the prosecution cases as strongly as the defense objections, his case would come across more effectively.

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