BOOK REVIEWS

THORSTEN SELLIN [Ed.]


This excellent book should be translated, or else its contents should be, as expeditiously as possible, made generally available in one form or another. Dr. von Hentig's presentation of the psychology of punishment is of such a character that the most confirmed champion of "Treat 'em rough," must have a momentary qualm about the true character of this particular type of penal theory.

While it is this result which will be the most desirable consequence of Dr. von Hentig's book, to have achieved it is not his only merit. After an introductory chapter he deals in the second chapter with the historical development of the idea of punishment and its relation to the religious and sacral organization of the state (pp. 25-154). This is followed by an analysis of theories of punishment (pp. 154-200) in which the author discusses "imperative" theories and "purpose" theories, those which regard punishment as a divine command or a moral duty and those which deal with punishment as a means to an end, that end being ultimately the improvement of the human race.

Both chapters are full of well-organized material and of clear and concise analysis. Many of the author's historical statements are open to question. One can scarcely trace the development of existing institutions without falling foul of controversies and without provoking objections. Dr. von Hentig is not a professed historian and must take most of his material at second-hand. It is not altogether safe to rely on Mommsen's Strafrecht, as much as he does on pp. 61 seq. He asserts a certain independence of Mommsen on p. 232 and he might well have done so earlier. The Strafrecht is invaluable and indispensable, but this is so more because of its classification and its inexhaustible material than for its interpretation.

It may be doubted whether the sacral associations of punishment are quite as close as they are made out to be in this book. And there is certainly excessive weight given to decapitation as an original form of punishment in the Mediterranean areas. The matter needs a renewed examination. It is possible to argue that decapitation was essentially un-Roman, and the late story of Brutus and his sons is no evidence to the contrary. Further, there is a trait possessed in common by punishments as crucifixion, stoning, hanging, burying, flogging and that is, that they do not involve profuse bleeding. I think there is much to be said for the theory that the public authorities hesitated to "shed" blood, in the sense in which that term is used in the Bible and it is likely enough that this blood-taboo
is one of the oldest concepts of the Mediterranean culture-area. The use of axe and sword in dealing with criminals might well have been a late transfer of war instrumentalities to a use in which they were originally forbidden. It was one thing to desecrate the bodies or pour out the soul of an enemy. It was another thing to do so to a man within the kinship bond, however harmful a person he was.

Dr. von Hentig's analysis of penal theories is illuminating. Few have presented more clearly the inhuman and absurd consequences of Kant's own application of his theories. When we recall that these theories are predicated on one of the finest and most humane formulations of the essential duty of man to man, we have a new and striking confirmation of the fact that contemplation of social theories is thoroughly futile, if carried on by men who, like Kant, had next to no contact with social realities.

In his fourth chapter, the author deals once more with forms of punishment, some of which he has discussed in their historical aspects in his second chapter. Here, however, he speaks only of existing methods and the ideas that underly them. And it is here that he expresses with vigor and eloquence the belief that the constant revival of drasticness as a means of combatting crime is little better than the recrudescence of a savage lust which our civilization has only imperfectly covered. When we meet, as we frequently do, a renewed demand for such punishments as the whipping post for a particular type of crime or for all crimes, those who advocate it might be invited to consider what Dr. von Hentig has to say on this subject on pp. 212 seq., and to contemplate particularly the experience of Den-

mark during the recent and brief reestablishment of legal flagellation.

It may be merely a pious wish that punishment may one day be unnecessary. But it is well to note that to entertain this wish is already a step beyond the widely-spread doctrine that there is something valuable and socially important in the idea of punishment in itself. And we should keep in mind, that to discard the notion of punishment, is not to abandon all attempts at restraining or controlling groups in the community who are likely to do harm to their fellowmen. Evidently it is only by painstaking study that we shall be able to recognize these groups at a stage in their development at which their restraint is relatively easy.

There are a few misprints, such as the repeated misspelling of "Rhode" for "Rohde," p. 188. A more misleading instance is the confusion of the Roman dates on pp. 49 and 50, where the A. U. C. dates are given as B. C.—an error of three centuries. Obviously such matters in no way impair the value of the book which, in its historical and statistical completeness, is equally remarkable.

MAX RADIN.
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This report is another important mile-stone along the road toward the development in the United
States of adequate and well-rounded state and national systems of criminal statistics. Some of the earlier mile-stones along the same road are as follows: (1) The collection of prison statistics by the United States Bureau of the Census decennially from 1850 to 1923, and annually beginning in 1926; and (2) The collection of nation-wide police statistics by the Committee on Uniform Crime Records of the International Association of Chiefs of Police, beginning in January, 1930, and the continuation of this work officially by the United States Bureau of Investigation since August, 1930.

Through these developments we now have a basis for reasonably adequate national systems of penal and police statistics. But court statistics, which form the third chief class of criminal statistics, have not yet been developed on a nation-wide basis. The significance of this report of The Johns Hopkins Institute of Law lies in the fact that it provides the first comprehensive and workable plan for state criminal court statistics, and thus promises to speed the development of nation-wide judicial statistics.

The chief strength of the Institute's plan, as presented in the report of Messrs. Hotchkiss and Gehlke, lies in the fact that it is based upon a thorough preliminary analysis of the present court records. An important feature of this report is its analysis of the various possible units of counting which are used, or could be used, in criminal court statistics.

The authors of the report conclude (p. 67) that the unit for counting should be the individual defendant rather than the proceeding or the offense. The chief difficulties incident to using the defendant as a unit are considered, and adequate rules are laid down (p. 67) for dealing with these difficulties. These recommendations are consistent with the earlier recommendations of the Census Bureau, and of the Committee on Uniform Crime Records, and with the accepted practice in England and other foreign countries.

An important point in this connection, which is perhaps not sufficiently emphasized in the report, is the fact that in the present judicial statistics of the federal government and many of the states, the proceeding, or so-called "case" is used as the statistical unit. This situation may create some initial resistance to the adoption of the defendant as the unit. None the less, it is to be hoped that this eminently sound recommendation will be followed in the further development of American criminal statistics.

A still more important feature of this report is the uniform classification of dispositions which has been worked out by Messrs. Hotchkiss and Gehlke, and which may well rank as their outstanding contribution in connection with this study.

In developing a uniform classification of what is characterized as the "jumbled mass of criminal dispositions now in use in some forty states," the authors of this study have been governed by certain basic principles. First of all, they recognize that: "Classification . . . calls for the grouping of dispositions according to their substantive nature rather than according to their terminology." Second, an adequate classification must furnish essential information needed by administrators of Criminal justice by students of social science, and by the general public. Third, the numerical
importance of a disposition must be considered.

Proceeding thus, the authors of the study have grouped all of the dispositions on the extensive list of terms in actual use (compiled as already indicated) under twelve chief classes, which form subdivisions of the following three main divisions: I. Eliminated without conviction; II. Found guilty of offense charged; and III. Found guilty of lesser offense.

What the writer has here designated for convenience of reference, as Division I, comprises six classes, which are designed to show which cases are eliminated by grand jury, prosecutor, court and jury, and whether eliminated with or without trial. Divisions II and III are both subdivided so as to show which cases were convicted upon plea of guilty, through jury trial, or through trial by a judge.

This classification of dispositions appears to the present writer to be in the main a thoroughly practical one. Class 6, which is entitled "Other no penalty dispositions" should, however, in the writer's opinion, be subdivided. Of the miscellaneous items which are included under this head, three groups seem to have sufficient social significance to merit separate treatment. These groups are: (1) Those eliminated by reason of insanity; (2) Those whose bail was forfeited; and (3) Those not apprehended.

In addition to the classification of dispositions, this report presents a classification of sentences, which comprises the following headings: "Death penalty," "state prison, reformatory," "local penal institutions"; "fine, costs, restitution or support order," and "probation, suspended sentence, or otherwise dismissed after conviction." Concerning this last-named class the authors suggest that:

"For local purposes this class may be subdivided into two groups: 1—Probation; 2—Suspended sentence, Dismissed, Nol-prossed or Placed on file after conviction, etc. But for national statistics the fact that the defendant was convicted but escaped commitment is probably sufficient.

"Until such time as the distinction between probation and dismissal after conviction is more clearly drawn in practical application, the uniform judicial reports may well combine the two, leaving it to local statistics to draw such distinctions as may be helpful."

This conclusion seems to the writer somewhat questionable. Where a court is equipped with a probation officer or department, it would seem to be desirable to classify separately those persons who are placed on probation to such department. It should also be entirely feasible to distinguish such cases from those placed on probation to no one, and those merely given suspended sentences. Furthermore, comparisons between states on this point would seem highly desirable in a national report.

Only brief mention can here be made of certain other important features of this report, such as the carefully designed outlines of statistical tables, the rules for tabulation, and the interesting discussion of tabulation methods. The tally method is recommended as the most practical for the first installation of statistics in the courts. But the individual schedule plan is justly recommended as the ideal plan which should ultimately be adopted.
Under this plan, separate reports on individual defendants would be furnished by each court to the central state agency responsible for compiling the statistics.

A disappointing feature of the report is its lack of emphasis on the need for social statistics of defendants. The absence of social data from most existing court records is given as the reason for omitting social data from the statistical tables which are specifically recommended. Such omission may be necessary at the outset in the attempt to inaugurate court statistics. But it seems to the writer that the Institute of Law in its report might well have urged more strongly the need for the future development of certain basic social statistics of persons who are convicted of crime. Such statistics would fill a serious gap in our criminal statistics, which can never be filled by penal or police statistics; since penal statistics cover only those convicted offenders who are committed to institutions, while statistics of arrested persons compiled by the police can hardly be expected to distinguish accurately between those who are convicted and those released without conviction.

In spite of the criticisms which have been made of certain features of the plans for court statistics proposed by Messrs. Hotchkiss and Gehlke, the writer desires to reiterate his conviction that these plans represent a great step in advance. The Institute of Law as well as the authors of the report are to be congratulated upon their execution of so excellent a piece of research and constructive planning.

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PRESENTATION OF CRIME IN NEWSPAPERS. By Frank Harris. xiv +103 pp. The Sociological Press, Minneapolis, 1932.

Although newspapers have been prone to give unusual prominence to crime and other sensational news events for many years, little is known about the specific effects of this policy in spite of various arguments for and against it. Discussions usually center about two subjects: (1) that crime news stimulate crime; (2) that space devoted to such events has been increasing.

Because psychological tools are inadequate, the range of this monograph is limited by the writer to a quantitative examination of the second topic. His sources are the crime news appearing in three Minneapolis papers at three different periods of time, and these are checked by court records and by a series of comparative indices.

In general these newspapers devoted about three per cent of their space to crime news. From intensive analyses two general conclusions are made. Crime news did not increase during the periods covered. They were less emphatically portrayed during the last period in spite of an increasing number of arrests.

This study is essentially an examination of techniques which may be applied to the measurement of news. In this respect it is a valuable contribution to a type of data inadequately analyzed hitherto because attention was devoted largely to the relation between crime news and crime. It contains 45 tables and an appended bibliography.

HAROLD A. PHELPS.
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For a thorough-going, realistic presentation of the problems of crime, criminals and criminal justice, in a fast-moving, excellently organized and challenging fashion, this volume by Dr. Cantor is highly recommended. The problems of crime causation, criminal law and procedure, and the most intelligent techniques of treatment have occasioned a tremendous expenditure of intellectual effort during the past decade, but nowhere have these problems been set forth in such vigorous fashion as in this volume. Dr. Cantor clearly perceives the inherent defects of our present methods and in clear, direct language points them out. He critically examines the major studies of causation, and remains unconvinced that the science of criminology has yet developed. He feels that most of the analytic work in this field is methodologically unsound. His impatience with generalizations based upon subjectively defined factors and insufficient data, and the assignment of general "causes" for crimes, indicates his own position.

Curiously, while Dr. Cantor advocates a "science" of criminology he states: "The chief task of criminology . . . is to remedy, as far as possible, the generating conditions of crime." (Italics his, p. 421.) It would seem that criminology is some kind of reform movement. A little further on (p. 446) the author states: "It seems to us that nothing short of a fundamental reorganization of our economic organization of society will materially lessen crime. The fundamental, ma-

terial causes of crime, we believe, are economic" (Italics his). On page 103, while pointing out the Soviet Union's treatment of crime "as an economic phenomenon" he qualifies such a view by stating: "Whether such sweeping economic interpretation of criminal events is justified by historical fact as well is problematic."

Stepping from the corridor into the court room, as it were, Prosecutor Cantor, who is a lawyer as well as a professional sociologist, severely arraigns modern criminal court procedure, and insists that many of the common law devices, perhaps necessary for the individual's protection under the Stuarts, have no place in a modern court room, if the latter may be regarded as a place for learning exactly whether the accused committed the offense or did not commit the offense as charged. The jury is obsolescent, he says, and is unconsciously and unsystematically passing out of existence. The legal nonsense of judicial proof and the archaic rules of evidence are lambasted. For a lawyer to attack the present mode of selecting judges by popular election is clear evidence of the author's courage. It is a pity he did not more convincingly champion the Public Defender. He does mention "vested interests" (in a footnote) as perhaps partially responsible for the indifference and opposition of the bar associations.

Dr. Cantor views law as a process and believes that until the non-legal sciences are called to the aid of the criminal law there can be little expectation of a genuinely enlightened legal philosophy. The present method of prior quantification, i. e., of attempting to equalize the offender's act by a penalty of years, set up by legislatures during the nineteenth
century, thus precluding a searching analysis of the needs of the person before the court, clashes with even the elementary tenets of scientific procedure and common sense.

His general view of modern penology as it actually exists in the United States may be inferred from the following statement: "The only striking difference between Auburn in 1826 and San Quentin in 1930 is one hundred and four years!" (Italics his, p. 286.) As in the case of texts by Sutherland, Haynes, and in Ettinger's recent volume on criminology, Dr. Cantor places probation after a discussion of penal methods. There may be some reason for it, but it is a bit odd, to say the least. In the present volume there is also a chapter on the legal status of prisoners. It might have been helpful if the author had given us something on the legal effects of pardon upon convicted persons. The appendix is a highly readable digest of the penal system of the Soviet Union. There are a few errors of fact which, though minor in importance, should be indicated. There is no age limit for persons committed to the Federal Reformatory at Chillicothe, Ohio; the New York City Police Department is nowhere near "in the neighborhood of 11,000"; Mexico never took away from its courts the power to fix the penalty, etc. These errors, however, do not detract from the scholarly value of the work.

The book is divided into five parts, comprised of twenty-five chapters. While designed as a textbook in criminology the present reviewer believes that students entering the field for the first time would find this text difficult. As collateral reading or as a text for pre-legal college seniors or first-year law students it would be helpful.

In fine, this book is enlightened, alive, and decidedly thought-provoking. The introduction is by Professor Raymond Moley. No bibliography is given, but there are copious footnotes. There are two indexes, one of subjects and one of names.

J. P. Shallow.
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THE JUSTICE OF THE PEACE COURTS OF HAMILTON COUNTY, OHIO.

The minor judiciary of Hamilton County, according to this study, appears to possess characteristics similar to those which obtain in widely separated areas of the United States upon which information is available. It is the same drab picture of an excessively decentralized system of petty courts, manned by ignorant and incompetent justices, some well intentioned, others not, presiding in ill-conditioned quarters, paid by fees, and functioning in a haphazard fashion without adequate records and subject to no supervision worthy of the name.

It seems that the civil business of these justices is somewhat more extensive than the criminal although they exercise the usual authority of committing magistrates over serious crimes and summary jurisdiction over petty offenses. In the incorporated towns the mayors exercise a jurisdiction similar to the justices in criminal matters. In Cincinnati a municipal court having jurisdiction coextensive with the county appears likely to reduce the importance of justices courts. Altogether
there are fifty-five minor judges in
the county, presiding over forty-
ine courts of limited jurisdiction,
seven in the municipal court, twenty-
six justices of the peace and
twenty-two mayor-judges. Hamil-
ton county seems to be amply pro-
vided with petty judges.

The author of this study has done
a very useful piece of work, which
presents the facts of the situation
in a careful and scientific manner.
He presents a statistical study of
5,820 civil cases and 1,239 criminal
cases, both of which are illuminat-
ing. Of necessity he has had to
rely for much of his information
upon personal interviews as the
records of the justices were found
to be scanty and inaccurate.

Several alternative plans to im-
prove the existing situation are of-
fered. The first proposes a uni-
ification and consolidation of the
minor courts, the civil business go-
ing to the common pleas courts, and
criminal matters to a new "Ham-
ilton County Criminal Court." This
solution seems to the reviewer to
be the desirable one. The author,
however, seems to believe that this
is too much to expect, so he offers
other schemes "less radical," which
are transparent make-shifts with
little to commend them. The au-
thor has made a scholarly study
which clearly presents the facts to
his community, and it is to be hoped
that worth-while reform will be the
result.

CLARENCE N. CALLENDER.
University of Pennsylvania.

THE ADMINISTRATIVE CONTROL OF
ALIENS. By William C. Van
Vleck. ix+260 pp. Common-
wealth Fund, New York, 1932.
$3.00.

This is a thorough and system-
atic study and evaluation of the ad-
ministrative processes involved in
enforcing those provisions of our
immigration laws relating to the
exclusion and expulsion (deporta-
tion) of aliens. It is based upon
the author's observation of the
working of the administrative ma-
chinery both at Ellis Island and in
Washington and on a thorough
study of the records of one thou-
sand cases in the files of the Bureau
of Immigration—five hundred in-
volving exclusion and an equal num-
ber having to do with expulsion.
Two chapters deal concisely but lu-
cidly with the development of im-
migration legislation and the nature
of the administrative organization,
but the bulk of the book is given
over to a discussion of the exclu-
sion and expulsion processes and
judicial review.

From the point of view of the
numbers involved as well as the hu-
man values affected and the oppor-
tunity for arbitrary official action,
the expulsion process is more im-
portant than that of exclusion. The
requirement of a consular visa of
all aliens and the resulting system
of consular inspection abroad has
practically eliminated rejection of
_bona fide_ immigrants at ports of
arrival so that in recent years only
a fraction of one per cent have been
sent back at our borders. On the
other hand, during the decade end-
ing in 1930 more than ninety thou-
sand aliens were deported by the
Department of Labor. The fact
that many of these had been resi-
dents for several years, with all that
residence means in terms of busi-
ness and personal connections,
makes expulsion a much more seri-
ous matter than rejection at the
time of arrival. Provision for ex-
pulsion has been on the statute
books since 1891, but the enormous
increase in deportations has occurred mainly since 1926. Expulsion may take place within five years of entry for a considerable variety of cases, while in some it may take place at any time prior to naturalization. Moreover, since attempt to gain admission following expulsion is made a felony, deportation actually amounts to banishment—a penalty unknown in other branches of our law. Since the procedure has been worked out almost entirely by the Department of Labor, it is correct to say at present that vast numbers of resident aliens are within the control of administrative officers. So far as expulsion is concerned, then, a situation has arisen which is worthy of serious investigation.

Dean Van Vleck's analysis of the procedure in both exclusion and expulsion cases is not particularly reassuring. The standards for admission to the service are by no means exacting, the salaries are not attractive and the resulting personnel does not seem to be distinguished for enlightenment. In the exclusion cases, at least, the need for speed is so pressing as to make possible a good deal of arbitrary action which the average alien can scarcely afford to rectify by appeal. The administration of the ground for exclusion, "likely to become a public charge," is open to strong adverse criticism. In practice the Department has made this ground so broad as to amount in many cases to a judgment that the alien is "excludable on general principles." On the whole, however, it is the opinion of the author, that the exclusion process can be greatly improved by certain comparatively minor changes in the machinery of inquiry and review.

In expulsion cases not so much can be said for the Department. In fact the guardians of our political and economic thinking and our social and racial purity come off rather badly, being convicted of most of the tricks associated with bureaucracies everywhere. As Dean Van Vleck says "the list of the causes for expulsion reads in part like a criminal code," yet, "for the important task of enforcing this system of what has been called 'quasi-criminal' justice, we have devised a system of administrative procedure, of executive justice, with a maximum of powers in the administrative officers, a minimum of checks and safeguards against error and prejudice, and with certainty, care, and due deliberation sacrificed to the desire for speed"—in cases, be it noted, where speed is by no means a prime essential. The case studies supporting this statement make interesting and convincing, if, at times, rather depressing, reading.

The book is up to the high standard set by the other studies issued under the auspices of the Commonwealth Fund. It is well documented and has a serviceable index.

Lane W. Lancaster.
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This book, by Professors of Sociology at Vanderbilt University and the University of Kansas respectively, constitutes a comprehensive reference and text book on the extent and nature of juvenile delinquency, the physical and mental traits and social backgrounds of de-
linguents; it presents less complete material on the methods and results of treatment. Data from the United States Census the United States Children's Bureau, and the principal studies of delinquency are frequently drawn upon.

The general approach to the subject is in line with modern conceptions as expressed, for example in the recently published volume, "The Delinquent Child," a report of the White House Conference on Child Health and Protection (not published when the book under review was written). Emphasis is given to the theory that delinquency is the product of the "total situation." The authors state that it is beginning to be realized that delinquent children are much the same as other children. The term "juvenile delinquency" merely denotes, the authors assert, a child who has been acted upon officially by police officers or court authorities, and does not signify a type of case generically different from cases of non-delinquent problem children or those children whose problems have not been officially recognized.

With a few minor exceptions the statistical material appears to be accurate and the presentation is clear. The chapters on physical and mental traits and social backgrounds of delinquents, and on truancy and school maladjustment, constitute a valuable review of published material. It is to be regretted that the terminology in some cases is drawn from the procedure of courts which have not yet advanced far beyond criminal procedure. For example the term arraignment is frequently used with reference to delinquency proceedings and the term sentence is used to denote commitment to a juvenile correctional institution.

The newer point of view with reference to delinquency, pointed out by the authors, that it is very much a matter of chance whether or not a child presenting behavior problems comes in contact with legal authority and is classed as a delinquent, makes some of the detailed presentation of statistical material of questionable value. It is probable that the term "delinquency," as comprising children dealt with by police or courts, does not denote a sufficiently differentiated type of situation to furnish a satisfactory basis for a study of causative factors. The terms "probation" and "suspended sentence" are used as synonymous, when in fact they are not, and are infrequently combined in juvenile court practice.

Some minor errors in the interpretation of official statistical material occur, for example, in the discussion of dispositions of unofficial juvenile court cases, in which unofficial treatment and unofficial probation are confused. Likewise, the terms "probation" and "suspended sentence" are used synonymously.

The presentation of the subject of "Clinical study of causation" over-emphasizes complicated analyses of major and minor factors in delinquency as developed in the very early work of Dr. Healy. The discussion of the juvenile court gives too little emphasis to the importance of the court's participation in a comprehensive community program for the treatment of delinquency, a program which will insure the type of intensive service that is becoming available in some clinics and case work agencies but only too rarely is made possible in present juvenile court organization. The failure of most juvenile court laws to give juvenile courts exclusive jurisdiction over the more serious, as well as the minor offenses, is
represented as being unimportant. While the number of serious cases is proportionately small, their importance is great in view of the grave consequences of criminal procedure in the cases of young children. In the discussion of dispositions in juvenile courts the older theory that institutions should be reserved for only the most serious offenses and that for minor offenses first offenders may be dismissed is not in accordance with the modern emphasis on intensive study of the child’s needs and determining the type of treatment in accordance with these needs rather than the gravity of the offense.

The discussion of institutions contains two statements that may be challenged—first, that civil service is not more apt to select better men for positions in institutions than other methods of appointment; and second, that institutions under semi-private auspices, are more likely to develop individualized programs than other schools. It would be generally agreed that the small institution is preferable to the large institution, but the subsidy system, whereby public funds are granted to private institutions, has been seriously questioned.

The chapter on preventive programs brings together valuable material concerning group work and is a helpful presentation of the extent to which group work agencies may contribute to the prevention of delinquency. The authors conclude that if group work is to be preventive it must reach the children where the greatest amount of delinquency is found, have profound stabilizing and habit reorganizing influence, and show positive results. It is questionable, the authors state, whether group work can go far without study of and concentration on individual cases, that is, without individual case work.

Three cases are presented as appendices, the first being an abstract of a sociological study by a graduate student in Vanderbilt University and the last two being taken from Shaw’s cases in the report on Causes of Crime of the National Commission on Law Observance and Enforcement. Following these cases are outlines for class discussion of published and original cases of problem children. The suggestion is made that where the class does not have access to a child guidance clinic “the class under the supervision of the instructor could thus constitute a clinic unto itself. . . . In this event, the student would be the interviewer, investigator, observer and social worker combined.” This use of graduate students who have not had special training in clinical work, without the supervision of a psychiatrist or psychiatric worker, would seem to be highly questionable.

KATHERINE F. LENROOT.
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The Criminal Law Policy of the Soviet Regime in Russia is eminently worthy the attention of students of comparative law, though fundamentally alien to our views—and no one will regret the perusal
of this illuminating discussion of it.

The introduction serves well as explaining the purpose of the treatise. We are there told that German science of criminal law, weary of the centuries-old disputes in the schools, has, consistently and exclusively, ever turned to the fundamental problems of methodology and dogmatics. Characteristic of the greater number of these investigations is their independence of hypothesis, their endeavor to investigate the accuracy of the existing conception of criminal law without regard to its application in a criminal policy. If the present work is concerned to emphasize the limitations of this independence and to place in the foreground the necessary connection between the criminal policy standpoint and the evolution of an elementary conception of criminal law, we have to thank for this the impulse of an acquaintance with the criminal law of the Russian Soviet. In this the lawgiver has made the attempt to frame a criminal-law System. Without regard to any "ideological superstructure" of criminal law, solely upon the thought of appropriate protection of interests, the object of the Soviet law is alone the securing of the Socialistic State of Workmen and Peasants from what is dangerous to the Soviet régime—the talio in every form is wholly forbidden. Before describing the Soviet system and as assisting in understanding and estimating it, the author gives us a chapter on talio and prevention—the three sections being concerned with Talio, Special Prevention and General Prevention respectively. This chapter proceeds on the familiar lines of the modern school of German criminology. "Punishment is intended either as a reaction upon the crime in itself and as such reaction is placed at the service of the State for the protection of interests or it draws its essence from being an appropriate means for the prevention of crime," etc., etc.

There cannot be said to be anything new in this part of the work, theoretical as it is. The second chapter, however, is wholly different. It is entitled "The Russian Soviet System" and has five sections: "The Talio-concept," the "Applicability of Punishment as the test of Culpability," "Measure of Punishment" and "Krylenko's Scheme," and contains a valuable, striking and interesting discussion of the Soviet criminal law in these several aspects. An illustration or two may be given. In the first section we are told that "True to the Marx-Lenin dogma, the Soviet theory of criminal law sees in all the 'capitalistic' West-European codifications only an attempt to conceal the true character of every criminal law as a powerful weapon in the hands of the governing classes by the fiction of a State above class—to hush up class opposition." In the second is told the case of an accused who in and before 1919 had committed a revolutionary crime serving two years in the Red Army, but thereafter had committed no further crime against the Soviet, but had worked a community farm. He was acquitted as "from the point of view of the present the application of the means for social protection was not proper both in view of the change in the social position and in that of the accused."

Of particular punishments, that for simple theft is forced labor up to three months, for wilful murder, imprisonment from eight to ten years, for common assault a fine
up to 300 rubles or public rebuke, for breach of the provisions for foreign trade monopoly, imprisonment up to ten years, for counter-revolutionary sabotage not less than one year's imprisonment, and in particularly aggravated cases, death, etc.

The Krylenko scheme was advanced in the summer of 1930. A scheme of criminal law by the Criminal Law Section of the Institute for Soviet Constitution and Soviet Law, of which Krylenko was the President, it has now been associated rather with Galkin-Krasikow. It is fully described and adequately examined: it does not seem to have any value for us in the English-speaking world and it may be passed over.

Not the least valuable part of this volume is to be found in the frequent, lengthy and illuminating notes containing inter alia references to and quotations from other authors of note.

William Renwick Riddell. Osgoode Hall, Toronto.


To a group of institutional delinquent and public school non-delinquent girls, paired as regards chronological age, intelligence age (based on the Otis Self-Administering Test, Form A), cultural background, and occupational level, the author administered a battery of well-known tests of "emotional constitution."

The battery included two tests of emotionality (Form B of the three Pressy X-O tests and the Woodworth-Mathews Test of neurotic tendencies), tests of moral knowledge (from the May-Hartshorne series), a test of cheating (following the May-Hartshorne technique), the Margaret Otis test for measuring resistance to suggestion, and the May-Hartshorne story resistance test for measuring persistence. Insight into the recreational activities and interests of the girls was obtained from a recreational questionnaire.

Based on a brief review of the literature and on her own investigation, the author concludes that this battery of tests "might serve as a predicting instrument [of delinquent trends] only if it is applied to groups possessing the same attributes as the subjects of this study." Delinquent girls as compared with non-delinquents of the same chronological and intelligence ages and the same cultural and occupational background, are subject to more worries and possess more varied interests, which make for unrest and instability. They are more emotional, possess less inhibitory power, experience more conflicts with the environment, they are more resistant to suggestions, and more persistent in pursuing their interests. While possessing about the same amount of ethical knowledge and insight, they do not adjust so well socially, and find fewer things wrong. They are more inclined to spend their leisure time outside of the home. The author, however, believes that educational training will assist them to "regain a sense of individual and social values."

Although based upon only seventy pairs of cases, the conclusions reached carry considerable weight because they are in general agreement with earlier experimental findings. However, it is doubtless true
that the results of some of these tests are determined more by the subject's desire to conform to expectation than by inherent emotional constitution. Some of the experimental findings admit of various interpretations.

While the sentence structure in this monograph is usually satisfactory from the standpoint of clearness and accuracy, occasional ambiguities or slipshod statements occur, such as the statements at the top of page 31 regarding the occupational level of the two groups.

J. E. W. Wallin.
Division of Special Education and Mental Hygiene, Wilmington, Del.


The author of this work was formerly Professor of Penal Law in the University of Santiago de Chile and is Minister of the Court of Appeals of Valdivia. He was a member of the Commission which framed the project of the new Chilean penal code of 1929 and his exposition of the theoretical ideas underlying the code is therefore authoritative. The Code is framed from the standpoint of what the author calls "the Positive School" which aims, as he sees it, to focus attention on the characteristics of the individuals who commit crimes rather than on the criminal act itself. The Code therefore has had numerous "reforms" introduced into it as compared with the previous code dating from 1875.

The first half of the book consists of a general part in which is first considered the nature of punishment as a social phenomenon and its historical evolution. This evolution the author views as having consisted of four phases: the primitive phase, or vengeance; the religious phase, that of divine vengeance; the ethno-juridical phase (the classical school) and the Juridico-criminal (the positivist school). The theories of punishment are then dealt with under the main groupings of theories of absolute justice, moral theories, theories of social interests or utility, and the theory of social defense. The end or purpose of punishment is next discussed and following this chapter the author deals at length with the requisites of punishment according to the conceptions of the classical school and of the positivist school giving examples of these requisites from existing legislation.

Following this general part the first book of the new code is taken up article by article with a detailed discussion under each one and references to certain other penal codes framed in recent years, including the Spanish (1928), the Russian (1927), the German (1927) and the Peruvian (1928). The book is chiefly interesting as the exposition of an attempt to formulate in a penal code some of the chief ideas of the so-called positivist school of criminologists. If, now, the Commission which framed the Code could be continued with the function of observing how the provisions actually work out in practice and of reporting thereon at, say ten year periods we might perhaps begin to obtain some real informa-
tion as to the efficacy of penal statutes.

Edward Lindsey.
Warren, Pa.


For the first time we have in English the documents of the trial in 1431 of Jeanne d'Arc, the "Maid of Orleans." The volume is in every respect worthy of its theme, a trial only less interesting even to the present day, than that in Jerusalem, fourteen hundred years before.

Jeanne was brought to trial before the ecclesiastical court of Pierre Cauchon, Bishop of Beauvais, for heresy and disregard of the authority of the Church, the chief incidents of which were her insistence that from an early age she had been visited by Saints and that she was led and directed by a heavenly Voice in all she did, as well as her refusal to put off the garments of "the habit of man" and to wear "the habit and dress of the female sex (which is contrary to divine law, abominable to God, condemned and prohibited by every law)."

The Bishop had the assistance of the Vicar of the Lord Inquisitor who wisely excused himself and of many theologians, who all agreed that she was guilty. On being admonished, with the fear of death imminent and certain, she recanted, but relapsing, she was delivered over to the secular arm to be burned at the stake, and there she died, in the flames, May 30, 1436, with the name of her Saviour on her dying lips.

Of the objective certainty of the heavenly visions and voice, there will be difference of opinion—she has been canonized by the Church, and Pope Pius II saw nothing reprehensible in her save her wearing man's clothing—but of the subjective certainty, her whole-souled belief in them, no one can doubt. And no one can fail in admiration for her firmness of soul during the whole series of harassing questions, accompanied sometimes by threats of physical torture. Joan of Arc will always be a heroine, whether she was favored by Heaven as she believed or the victim of mental aberration.

There was nothing irregular or unprecedented in the proceedings, the result was according to the existing law, but Pierre Cauchon, Bishop of Beauvais, will always be placed alongside of Pontius Pilate as one who condemned to a cruel death, a person worthy of reverence.

William Renwick Riddell.
Osgoode Hall, Toronto.


The records of 163 minor delinquents, ages 16-20, were scanned for prognostic evidences of early delinquency during the school period. The group consisted of but 10 first offenders, the remainder having been charged with two or more offenses—477 in all. (Grand theft, 56; petty theft, 101; embezzlement, 45; fraud, 27; assault, 12, etc.) Thirty-seven were recorded as school truants. The distribution of first offenses by age periods was: before 14th birthday, 17 or 10.6%; between 14th and 18th years, 103 or 63.8%; between 18th and 21st years, 42 or 25.8%.
The elementary and trade school conduct, effort and proficiency ratings of this group was contrasted with those of a control group of Leipzig school children. The author concludes that the school records of the offenders were significantly worse than those of the control group. The point of greatest differentiation lay in proficiency records, the problem group being consistently inferior. Behavior differences were interestingly less significant with the exception of unexcused absences, which were significantly rare among the non-delinquent group. Severest offenders were generally unskilled workers, whereas boys having had trade training were among the milder offenders.

The study is less helpful to the educator than it might be, because its statistics have not been dealt with on a prediction basis for the individual. The degree of overlapping between normal and delinquent school children for both conduct and proficiency ratings was so great that only the extremely inferior delinquent group could have been differentiated during the school years by means of the standard ratings. The individual case rating methods utilized in determining parole predictability should be of more significance to educators in singling out potential criminals than the mass percentage method used by the author. The author's general thesis that the youthful offender above children's court age deserves specialized procedures of criminal justice is to be commended.

Harry M. Shulman.
Department of Correction,
New York City.


This volume is another in the rather large class of criminal autobiographies; for autobiography it really is, being the life story of a professional criminal as told to a writer. It is superior, however, to the common run of such books. The story is told simply and naively, without self-sympathy and with only occasional comment and no attempt to moralize, to boast, or to convince the reader that the subject is, after all, merely a misunderstood angel!

The subject is a young Englishman, born about the turn of the century of unknown parents and brought up in a repressed, hyper-religious atmosphere, entirely lacking in affection. He runs away when about thirteen, drifts to Holland and Germany, and falls in with the family of a burglar, who show him the first real affection he has known. He becomes an accomplice, is finally sentenced to hard labor and later interned at Ruhleben during the war. Upon release he returns to England, where he engages in burglary, card-sharping and managing a house of prostitution, and various other criminal activities.

There are from time to time in the book illuminating flashes of his attitude toward the operation of courts and prisons, the activities of "uplifters," and toward the difficulties which beset the discharged prisoner who may desire to "go straight." He seems to bear no particular grudge against the police; his chief objection to them, apparently, is that they are not concerned with the root causes of crime, a statement with which many readers will agree. He has high

Underworld: The Biography of Charles Brooks, Criminal. By...
praise for the efficiency of Scotland Yard—"If Scotland Yard operated in Chicago or New York, there would be no Jack Diamonds, no Al Capones. Over here there is no systematic corruption of police and law administration to smooth the criminal's path for him, and make him more a national hero than an enemy of society." He suggests that the gangster trouble could be obviated in a month if the American Government would put New York and Chicago under martial law. He adds, rather sarcastically, "It would need a courageous and incorrupt Congress to do it—and one or two of the leaders might have to pay for it with their lives. But that I suppose, would violate the principles of American liberty. The shooting of inoffensive citizens and children on sidewalks does not." This is as near as he comes to preaching. He adds: "By comparison with the American gangster, the average English crook is a model little gentleman. At least when he is caught he pays handsomely for his misdeeds, and not with his cheque-book but with his precious liberty."

The book is readable, and is instructive to anyone who desires an insight into the mental processes of one who, though yet young, is old in criminal experience.

Winfred Overholser, M.D.
Mass. Dept. of Mental Diseases.


In this compact little study one of the leading students of German criminal law and practice has presented certain facts and conclusions which should be of great interest to the American student of these subjects. Dr. Exner has extracted from the statistics of the courts of Germany a vast amount of material bearing on this question: What is the actual practice of German criminal courts in the assessment of penalties? Since the present German code (now 60 years old) sets for each crime and misdemeanor a minimum and a maximum punishment within which the definite term must be set, the sentences imposed by the courts naturally afford much evidence of the social as well as judicial evaluation of criminal acts. There is no formal use of the indeterminate sentence. Hence the difficulty the American student would have in many states because the indeterminate sentence does not here appear.

Exner's findings can be briefly summarized as follows:

(1) There has been a progressive tendency in Germany in the last 50 years toward milder sentences. In 1882 (the first year of the national criminal statistics) of all sentences for felonies and misdemeanors (Verbrechen and Vergehen) 75% were to imprisonment and 25% to fines. In 1928 the figures were 30% and 70% respectively.

(2) Penitentiary (Zuchthaus) sentences have fallen from 4.1% in 1882, to 2.4% in 1890-1893, in 1925-27 only 1.2% and in 1928, 1.0%. These two sets of facts are not due in any great measure to formal statistical factors, such as changes in the number of
cases of crimes of differing degrees of seriousness, but as is shown by the analysis of individual crimes, are traceable directly to changes in the sentencing practices of the German courts.

(3) Within the rubric of the imprisonment sentences it is clearly shown that the length of sentence has fallen. For example:

<table>
<thead>
<tr>
<th></th>
<th>1886</th>
<th>1928</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penitentiary:</td>
<td>3.2</td>
<td>0.9</td>
</tr>
<tr>
<td>Prison: (1 year or more)</td>
<td>2.6</td>
<td>1.8</td>
</tr>
<tr>
<td>Prison: (3 months to under 1 year)</td>
<td>10.5</td>
<td>8.8</td>
</tr>
<tr>
<td>Prison: (under 3 months)</td>
<td>52.5</td>
<td>18.0</td>
</tr>
<tr>
<td>Arrest: (&quot;Haft&quot;)</td>
<td>0.4</td>
<td>0.5</td>
</tr>
<tr>
<td>Fines:</td>
<td>30.6</td>
<td>69.4</td>
</tr>
</tbody>
</table>

These changes Exner relates to greater psychological understanding by judges, and to general changes of attitude in the public mind. Even where certain crimes have increased proportionally, the sentences imposed upon their doers have shown the general tendencies noted. An interesting point raised is that at present only 2.7% of all persons convicted have sentences which would make them eligible for the "progressive system" now coming into general use in Germany. But since the absolute number of these persons was, in 1928, 15,000, the material for this experiment is still abundant.

(4) There has been an increase, 1924-1928, in educational dispositions (use of Erziehungsmittei) for juveniles, and a decline of the use of punishments in general.

(5) Within the German Reich there is a wide divergence by states, in the severity of sentences. In general, Cologne, Hamburg, and Prussia show more leniency than Bavaria and Saxony, for example.

(6) Through a comparison of offenses which have the same maximum sentences in the code, Professor Exner makes clear how great is the divergence between the judicial evaluation of crime (measured in punishment) and that set forth by the legislator in the code. Some offenses are cited, in which qualification of simple crimes leads to lesser sentences than the simple crime; e.g., serious robbery is more often punished by sentences to prison than is simple robbery, which draws more penitentiary terms.

(7) The maximum set in the law plays practically no role in the decision of the judge: crimes with high maximum show on the average no greater length of sentences than those with lower maximum.

(8) The minimum is constantly reduced under the permissive clause of the law referring to "mitigating circumstances." In other words, the minimum
comes much nearer the normal standard than the maximum, and when it can itself be lowered, that is done.

(9) The basic factors determining the assessment of penalty seem to be these:

1. The nature of the right which was invaded. For instance, sexual offenses and violations of the oath, are severely punished; property offenses are average; assault and libel receive low sentences.

2. The success of the criminal act tends to be a criterion for more severe punishment.

3. Obviously bad motives on the part of the accused are likely to be accompanied by more severe sentences.

(10) Judges are, in Exner’s opinion, largely moved in their sentencing practice by the state of public attitudes; not directly, but because the judge is after all a part of his society. Moreover, the judge “creates” law, when he takes into consideration factors not specifically designated in the code as affecting sentence. Under his hands the law grows and adapts itself to the changing world.

In conclusion the author considers several questions relating to the probable tendencies under the projected (but not at the time of publication adopted) code of criminal law. He believes the innovations of the new code will gain favor slowly, and that changes will be adjustments to public opinion. Geographical differences will continue to exist. And finally the trend toward mildness of sentence will continue, if there is no public reaction in attitude.

This is an extraordinarily simple and lucid book. In method and interpretation it represents not only knowledge, but wisdom even more. It offers interesting suggestions for monographic studies in those parts of the United States where data might be found. It also causes the American reader some heart-searchings. German severity has declined; German crime has not increased. What price severity in the United States?

C. E. Gehlke.
Western Reserve University.


The late Dr. Clara Meijer-Wichmann was a well-known religious communist in Holland who, in spite of her early death in 1922—a little over thirty years old—has left a more than passing reputation. Being a doctor of law and chief of the Criminal Division of the State Bureau of Statistics Dr. Wichmann brought to a broad, idealistic vision of a future social order and a passionate zeal to further this cause, a solid legal and sociological training and the accurate knowledge of facts of a statistician, together with a very clear philosophical mind, all of which lent her writings and speeches a penetrating and winning convinciness which arrested attention even among those who did not share her political views. After her death her numerous papers and articles were gathered and edited in
various collections last of which is the volume in hand, compiled by her husband, and containing 14 papers from the years 1917-1922. As is usually the case with such compilations the book does not constitute a systematic or homogeneous whole and contains some duplication of statements, but the arguments are presented in such an interesting and stimulating way, and are so well written, that the reader nevertheless becomes absorbed in them. The main ideas of the author may be briefly summarized as follows: Present-day criminality, notably habitual and professional criminality, is largely caused by our social and economical order. In a new social order, where individual property will have been abolished, there will only be such criminality as is caused by mental abnormality (and there will be much less of it than in our present society as many of the factors causing or contributing to degeneracy and mental unbalance will be done away with) or by lack of control of ordinary human affections such as jealousy, anger, etc. The former delinquents will have to be treated as sick, the latter should not be punished—as external punishment and force change nothing in the internal state of mind of the delinquent, but only harden him—but they should be treated in such a way that they themselves will realize that they have sinned against society and will voluntarily seek to amend. Dr. Wichmann confesses that we do not know yet the means to bring this about, but this is no reason for not seeking them, and for sticking by the present methods which, in her opinion, are immoral and entirely futile. She is absolutely convinced that the new social order is already developing, and insists that the socialists should not only attempt a historical-materialistic interpretation of crime but also work out a new interpretation of penology in order that this may keep pace with social evolution.

Even to those who do not share the social and political views of the author the book is worth reading.

EUGENIA C. LEKKERKERKER.
Amsterdam.


This book, although not essentially criminological in nature, is one that should be of interest to readers of the Journal. Quite aside from the fact that many of the readers may wish to read the book, having undergone or being about to undergo the vicissitudes of rearing offspring through adolescence (defined for the purposes of the book as the period between the ages of twelve and twenty), the student of anti-social conduct is greatly interested in this period as a crucial one in subsequent conduct, be that conduct socially acceptable or otherwise.

The author points out very wisely that "there is an innate tendency that is constant and progressive, leading toward the socialization of the individual, and that asocial activity, like growing pains, should be self-eliminating." He adds, "The present-day tendency of many self-styled specialists in the field of human behavior to interpret every thought, word and deed in terms of some deep, underlying, disintegrating emotional conflict is not only absurd, but dammably pernicious." He stresses the fact that the purpose of all conduct is striv-
ing for emotional satisfaction, and that therefore understanding of the motives and their redirection are what are required in treatment and presentation alike.

In addition to the chapter on Delinquency and Neuroses, one finds such headings as Physical Development, Intellectual Abilities and Disabilities, Undesirable Habits and Traits, Problems of Special Environment, and Concerning Parents.

The book is written primarily for the intelligent parent. It is readable in style and sane, well balanced and informative in content. It is a fitting companion to its popular predecessor (by the same author) "Everyday Problems of the Everyday Child."

WINFRED OVERHOLSER, M. D.
Massachusetts Department of Mental Diseases.

LEÇONS PENITENTIAIRES, IRE SÉRIE:

The dean of Belgian prison administrators, Mr. Bertrand, director of the Louvain central prison, here presents the first of a projected series of texts designed for the instruction of the prison staff. The introduction is chiefly devoted to a brief résumé of the development of prison training schools in countries other than Belgium, and a program for a training school.

The second part is a richly documented survey of the growth of imprisonment, which shows the author's great interest in and his competency as a student of historical penology. In view of the current experimentation in the United States with training programs for prison officers, it may be of value to indicate Mr. Bertrand's plan for a curriculum, already proposed in 1925 in the pages of L'Écrou, the Belgian prison journal of which the author was until recently the editor. The program includes: (1) Elements of Law (constitutional, administrative and civil law; criminal law and procedure; professional legislation and some nations of general legislation). (2) Penitentiary science and technique (history of prisons; comparative study of prison regulations. (3) Moral Philosophy and the elements of psychology. (4) Elements of teaching. (5) Elementary psychiatry; criminal anthropology and sociology; criminal statistics. (6) Elements of legal medicine and police science (particularly methods of identification). (7) Public and private hygiene and prison hygiene. (8) Technology and Commerce as applied to prison labor. (9) Elements of prison architecture, construction, and equipment. (10) Principles and methods of aid to discharged prisoners.

T. S.