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Reviews and Criticisms

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REVIEWS AND CRITICISMS.

LA DELINQUENZA IN SICILIA nelle sue forme piu gravi o specifiche: a paper prepared for the Congresso Nazionale contro la Delinquenza e l'Analfabetismo—held at Girgenti, 21-25 May, 1911. By *Tomasso Mercadante Carrara*. Palermo, Stabilimento Tipografico "Optimo," 1911. Pp. 145, inclusive of appendices.

For the study of criminality in its historical factors, Sicily is an especially fruitful subject of examination. Its colonization first by the Phœnicians, its later and more permanent settlement by the Greeks, its subsequent domination in turn by Romans, Vandals, Goths, Byzantines, Saracens, Normans, Spaniards, its occupation in more modern times by French and English, to say nothing of the migrations thither of Lombards and Jews during the Middle Ages—have produced an almost unparalleled fusion of racial strains. What wonder if this ethnic crucible still exhibits a tendency to boil over!

In what he invites his public to consider not as a finished work but as a hastily prepared note, Sig. Carrara, a member of the Sicilian judiciary, gives us an admirable discussion of the principal criminal problems of the island from the historical standpoint, with especial reference however to the recorded penal legislation which begins in the Norman epoch. The sources of Sicily's troubles he finds in the long centuries of spoliation and oppression which have retarded the normal development of agricultural pursuits, and in the abuses of the feudal system which have been determining causes of poverty and ignorance. To oppression and misrule he attributes the origin of the Mafia. The spirit underlying this organization, he epigrammatically observes, is in reality the hypertrophy of self-respect. It is the spirit which impelled men to unite for the protection of their rights when social justice was lacking, but which outlasting the conditions which gave it birth, has become perverted to the support of a criminal confederacy. We in this country will the more readily admit the force of this argument remembering the somewhat analogous history of the Ku Klux Klan.

Within recent years our larger American cities have become unpleasantly acquainted with the typical Sicilian crime of kidnaping for ransom ("ricatto") which indeed has been the direct cause of some additions to our statute books. We would have been glad of a word of sympathy from Sig. Carrara on this score. But the spectacle of the immigrant criminal returning from America educated in the use of high explosives—a thus much more formidable species of "ricattore" than when he left his native shores—is the thing which particularly impresses the author in the present regard. In Sicily during the five-year period 1906-1910 there were 45 convictions for this offense. While these figures show a slight decrease over those of forty years ago, the author pessimistically but justly thinks that the diminution is only apparent in view of the transplantation of the crime in America. From the legislative records we learn that the offense of "ricatto" first made its appearance in the 16th century. A pragmatic of the Viceroy Mario Antonio Colonna, published in 1578, recites

that within the past few years lawless persons had introduced "a wicked and tyrannous practice so cruel and inhuman * * * that, not content with the crimes of robbery and theft which they commit, they seize and capture the vassals of this loyal realm to the end of holding them for composition and causing them to be ransomed on the captors' terms by the delivery of money or goods belonging to such vassals or to their relations and friends, or in default thereof putting such vassals cruelly to death, to the serious prejudice and damage of justice and of the vassals of His Majesty." By this enactment offenders were likened to rebels against the sovereign and subjected to the severe penalties prescribed for rebellion. In this connection the author takes occasion to criticise the punishment provided by the Italian Penal Code for the offense in question. To treat "ricatto" on the same basis as robbery he considers wholly wrong—a view with which most of his American readers will be disposed to agree.

But the besetting crime of Sicily is cattle stealing ("abigeato," comprised under the Penal Code categories of "rapina di bestiame," and "furti qualificati di bestiame"). The protection of the ownership of live stock is the subject of numerous decrees and ordinances in the recorded legislation. We are furnished by the author with some curious history regarding the regulation of cattle branding. It is interesting to note that from the 12th century there prevailed in Palermo a "jus merci"—a law of brands, whose handsomely expressed object was "Ut omnis via delinquendi claudatur malefactoribus universis et Panhormitani Cives in cultu pacis et justicie salubriter gubernentur." Under this law there was elected annually one or two Brand Masters ("Magistri Merci"), entrusted with the custody of the city brands which they were to affix to hides after being satisfied of their ownership and among other duties charged with that of seeing that animals sold for slaughter were the property of the sellers. Centuries of legislation, however, have accomplished but little in effectively safeguarding the cattle proprietor in Sicily. During the five years before mentioned, 1906-1910, there appears a total of 3086 convictions for cattle stealing with and without violence, each year showing an increase over the preceding. This offense the author regards as of vital danger to the public welfare. It constitutes the thread which unites the criminals of the various communes, since there exists an organized traffic in transporting stolen cattle from one commune to another or out of the island so that they may be sold without detection—a traffic which is one of the principal industries of the Mafia. In short, the statistics of cattle stealing are an index to the criminality of the island.

For the amelioration of existing conditions the author makes a number of earnest recommendations: a change in the election laws, since those in force enable the leaders of the Mafia to control the voters of their districts; more intensive methods of agriculture; an increase in the severity of the minimum penalty for cattle stealing; more stringent penal provisions against those guilty of harboring or sheltering cattle thieves or receiving stolen cattle; a return under proper regulations to the method of issuing certificates of ownership ("bollette di possesso") of cattle as in use prior to 1896; and the improvement of the police service in the rural districts.

Sig. Carrara's candid and forceful presentation of the causes of crime in Sicily ought to do much toward bringing about a better state of affairs. The

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rich collection of legislative documents contained in an appendix renders the monograph of permanent value to the literature of historical criminology.
Chicago. ROBERT W. MILLAR.

THE INEFFECTIVE ATTEMPT (*Der Untaugliche Versuch*). Von *Ernst Delaquis*. J. Guttentag, Berlin, 1911. Pp. 344.

The third volume (new series) of the transactions of the College or Seminary for the study of criminal law of the University of Berlin, is a contribution by Ernst Delaquis to the reform of Penal Law. The entire book is devoted to a very detailed discussion of the penalty which should be imposed on those who make an ineffective attempt to commit crimes—(German—"Der Untaugliche Versuch." French—"Delit Manque.")

The volume contains 333 octavo pages of text and notes, exclusive of a lengthy index of contents and list of the Bibliography. It is remarkable only for the very minute investigation of the legislation, jurisprudence, etc., relating to the particular subject, and it is doubtful whether any useful purpose has been served by the author's apparently very considerable labors.

The penal codes and writers on criminal law of Germany, France, Italy, Switzerland, etc., are carefully and laboriously examined, and the views of the various writers and the legislation compared and discussed; but however admirable ordinarily German thoroughness may be, in the instant case, it seems to be somewhat like the labors of the erudite entomologist, who was content to devote all his learning and attention to the study of the knee of the left hind leg of a particular species of bug.

The first part of the book is devoted to a consideration of the material relating to the subject, which was contained in various projects for a Penal Code for Switzerland. This is considered under the heads:

1. Definition of attempt; determination of the guilt and liability of punishment (*Strafbarkeit*) of preparations made in advance.
2. The abortive (*fehlgeschlagne*) crime.
3. Withdrawing from the attempt.
4. The ineffective attempt.

In a general sort of way the entire investigation proceeds with the consideration of the subject along these divisions. It is examined historically and philosophically. The various provisions of law relating to the subject are compared and discussed. What law writers have written, and the controversies which have existed, and yet exist between those who treat the subject objectively or subjectively, theoretically or as practically applied, whether the penalty for such attempts should be as great as for the actual commission or whether it should be less, whether it should be fixed or something left to the discretion of the court, all is discussed with a fulness and precision worthy of a more considerable subject.

That the book will be read by laymen, or even lawyers, is highly improbable; whether it is of sufficient value to even the student to justify the labors of the author is also doubtful. Even a rather superficial reading of the book is tiresome and not profitable. All that can be said for it, is that it exhibits great industry and patient research.

New Orleans.

SOLOMON WOLFF.

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THE REFORM OF LEGAL PROCEDURE. By *Moorfield Storey*. Yale University Press, 1911. Pp. 263. Price \$1.35.

Among the long list of publications that have appeared within a short period dealing with the alleged shortcomings of our legal system, Mr. Storey's little book deserves to rank high, not only on account of the author's eminence at the bar, but because of the suggestions he makes looking to reforms. First of all, he recognizes as a necessary prerequisite to the proper working of any system, however admirably formulated, the existence of an able and enlightened bench and bar, as well as a wholesome public attitude toward the law. The problem is how to maintain a sound legal system for an essentially lawless people.

Much of the delay in trials and appeals in the author's opinion is due to incompetent lawyers and to the legislation which has stripped judges of the powers that were theirs at common law and that are so essential to speedy and just results in litigation. As a remedy, the judicial position, in tenure, and pay should be made attractive enough to command the leaders of the bar, and the common law authority of the court over the cause should be restored. The popularity of the latest panacea—the recall—shows the tendency is away from this suggestion, however.

Passing to more specific measures, a number are suggested, some of which are considerably in advance of responsible political thought. To cut down litigation, much of which has to do with personal injury suits of one kind or another, he advocates workmen's compensation, old age pensions, and insurance of passengers by transportation companies. In criminal matters, simplicity in indictments, and abolition of the right against self-incrimination is advocated.

The author disagrees with ex-President Roosevelt in his statement that "no people have permanently amounted to anything whose only public leaders were clerks, politicians and lawyers," suggesting in lieu thereof, "no people have ever permanently amounted to anything among whose leaders great lawyers were not conspicuous, and among whom respect for the law was not a controlling force."

University of Wisconsin.

H. S. RICHARDS.

I REATI DI FALSO NEL DIRITTO GERMANICO. By *Marcello Finzi*. Emilio Pacini, Pisa, 1911. Pp. 42.

Marcello Finzi, Professor of Criminal Law and Procedure in the University of Ferrara, has written a most interesting article on the crime of falsification in early Teutonic law, dealing with counterfeiting and forgery. He confesses that his subject is but little known, but claims that this branch of the law of the Visigoths and Ostrogoths, which has so influenced the history of Italian law, is worthy of study. For example, Longobardian law was the law of Naples until the Aragon Dynasty mounted the throne. Finzi compares the laws of all the "Barbarians," the Scandinavian, Icelandic and Norwegian. He cites the Sagas as throwing much light upon the early laws.

His essay is divided into counterfeiting, falsification of official documents and other crimes of falsification. Under all three headings he gives examples of the different crimes and their penalties. These are of great interest to the student of history and comparative law, but do not lend themselves to repetition in a short review. But, under the first heading, it is interesting to note that

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under the Burgundian law, a vendor, who refused to accept payment in genuine, lost all right to claim the price of the object sold ("quod vendere volebat non accepto pretio perdat"). It is difficult to see by what process of thought this conclusion was reached, although under present-day law, *tender* may be a defense to a suit *in assumpsit*. Similarly, to dispute the validity of a valid official document was punishable with death ("non aliunde nisi de vita componat"). It would seem to a modern that the penalties for mistakenly bringing an accusation of this kind or for questioning anyone's tender would have had an appreciably non-litigious influence. In both counterfeiting and falsifying official documents, there were no accessories; everyone implicated was a principal. This seems to be a foreshadowing of the ultra-modern tendency to abolish technical distinctions; but it is to be feared, that it did not arise from a desire for clemency and the avoidance of legal traps. In one respect, however, the ancient barbarians solved a question that has puzzled modern jurists—the question of attempt. Their solution cut the knot by not recognizing the crime except objectively. The logical contradiction between the failure to punish the unsuccessful attempt and their recognition of absence of "*scienter*" as a defense did not trouble them.

Among the other acts of falsity, which Finzi cites, is the claim of a false name, parentage, or quality. To pass oneself off as a woman was a crime, for a woman to have dressed as a man at any time during or before coverture, was sufficient grounds for divorce. Sex Visigothorum, vii, 5, 6, shows why our author could not be more definite in the title to the third part of "I Reati di Falso nel Diritto Germanico;" "*Qui aliquam imposturam fecerit . . . reus falsitatis habeatur.*" This clause includes the refusal to return a loan, though the borrower borrowed in good faith, delay in payment of debts, sale of adulterated goods and violation of contract. The alteration of boundary marks was punishable with death. In fact, neither branches nor leaves of boundary trees could be touched.

The conclusion which Finzi reaches from the comparison and study of his many examples and deep research is that the few statutes in fraud and deceit are found in Barbarian laws, and that those few are so similar in rationale and in places even in phraseology that they are simply copies from the latter. The ultimate fact of historical value is that the branch of law dealing with falsification is of Roman origin and is not imported in the mass of northern law which went into Italy with the northern hordes. They were not concerned with falsification. Their criminal law dealing with personalty shows that their juristic feeling was strong where their concrete interest lay, "showing again that truth, felt by all and so brilliantly illustrated by sharing that penal laws are the measure of value the current price, as it were, of social advantages."

Philadelphia.

JOHN LISLE.

REPORT OF THE VICE COMMISSION OF MINNEAPOLIS, TO HIS HONOR, JAMES C. HAYNES, MAYOR. Minneapolis, 1911. Pp. 134.

The attention of all those who are perplexed to know what attitude the American city should take towards sexual vice should be called to this most excellent little report. In no regard have our American cities been less successful and on no subject, perhaps, has there been so

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much tacit consent that actual law should be either entirely ignored or enforced at the will of the police officials. That such connivance with law breaking must lead to most corrupt connection between evil-doers and the guardians of the law has everywhere been clear. Yet, despite the recognition of this there has been no inclination to attempt anything else.

The commission was appointed last year as a result of a general public discussion as to the city attitude towards houses of prostitution in one of the city wards. In this report we find, first, a statement of the state laws and city ordinances, then a historical sketch of the development of the Minneapolis policy. This is followed by a general discussion of the question of legalizing prostitution, with a review of the experience of Europe and other cities in this country, followed by a description of the present situation in Minneapolis and of the present method of enforcement of laws. The closing chapter contains recommendations of the commission. It is interesting to note that the conclusions reached are, in the case of the majority of the members of this commission, "entirely different from those with which we started." "The outcome is that we are a unit in the policy that we recommend."

The first recommendation is that law enforcement (that is, the suppression of prostitution) "ought to be a permanent administrative policy of our city government." If necessary, this should lead to an increase in the police force and severe penalties, probably imprisonment, for those who deliberately violate the law. To bring this about, citizens should actively co-operate with the police. To eliminate as far as possible the use of lodging houses for immoral purposes, licenses should be issued and very careful rules should be established for the guidance of the hotel keepers. In the interest of public health and safety, it is recommended that the physicians of the city should deliberate and see what can be done to eliminate the quacks who at the present time have so much of a monopoly of the treatment of venereal disease, and that some measures be advised regulating the advertisements of supposed cures for these diseases.

The measures of prevention recommended fall under several main heads. First, education; second, larger recreation facilities; third, better economic conditions; fourth, travelers' aid.

It is further recommended that there should be an institution to which dissolute women might be committed under indeterminate sentence, and trained reformatory methods, and that, further, there should be a permanent aid to citizens.

Let me again emphasize the significance of the fact that the commission comes to a definite conclusion that no system of toleration or relementation can be satisfactory. Vice has become an organized business. Such an organization of immorality must be suppressed.

While this report is not to be compared in extent with that issued by the Chicago commission, inasmuch as it does not attempt to present evidence in detail, it, nevertheless, is a concise and clear statement worthy of serious consideration.

University of Pennsylvania.

CARL KELSEY.

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HAND BOOK OF MENTAL EXAMINATION METHODS. By *Shepherd Ivory Franz*. Nervous and Mental Disease Monograph Series, No. 10, New York, 1912. Pp. 165. Price, \$2.00.

This volume is intended for the use of psychiatrists, neurologists and students. It is a collection of methods of examination which have been successfully used in psychological and psychiatric practice. A few of them have been devised by the author himself. As the magnitude of the volume indicates, there is a wealth of tests described. It is not expected, of course, that every one of them must be applied in order that a thorough investigation into an individual's mental status may be obtained, but alternative methods, it is suggested, are often necessary in any examination. The references at the end of each chapter, mainly to books and articles in the English language, will be found of special value to the psychological and medical student. One can easily overlook some crudities in expression from the psychological point of view when one looks beyond to the practical service which the tests have been made to serve successfully in the government laboratory for the insane at Washington, D. C. The author says justly that it is a fallacy, proven so by experience, that one, by the application of mere common sense, can make a thoroughgoing diagnosis of the mental status of a patient. Common sense is merely the starting point for scientific investigation.

One of the most essential requirements in conducting a mental examination is the co-operation of the subject. This is secured in the psychological laboratory in which normal processes are being investigated by the scientific interest of the subject. That interest, however, cannot be taken for granted in dealing with the abnormal. On the contrary it should be assumed that the scientific interest is absolutely lacking in these cases. For this reason one on the outside at any rate might be led to doubt whether there are not a great many methods described in this volume, the usefulness of which would be minimum. Hence the absolute requirement that anyone to whom is assigned the task of testing the abnormal should be one who has had a considerable observation at least of the abnormal classes in order that he may discern what methods are best to be selected from the group which Dr. Franz has set before us.

The teacher of psychology owes Dr. Franz a debt of gratitude for having brought together in compact form, as Whipple has done in the field of educational psychology, those tests which he has found useful in his special field. One wishes, however, after examination of the book, that he had told his readers which of these tests he finds on the whole most useful to his purpose. Such a statement would be of great assistance to those who are looking for methods of mental examination to be applied to delinquents in connection with criminal court practice.

Northwestern University.

ROBERT H. GAULT.

THE RIDERS OF THE PLAINS. By *A. L. Haydon*, Chicago. A. C. McClurg & Co., 1910. Pp. 380.

The greatest fault to be guarded against in any work concerning the

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Royal Northwest Mounted Police is over-enthusiasm, but the author of this book, although given extraordinary opportunities for securing information, seems not to have made this error, but to have absorbed sufficient of the police reticence to state only the essential facts. The Royal Northwest Mounted Police, when it was instituted, had one very great advantage over municipal police forces in that the forces of corruption and evil against which it had to contend were not organized, nor always permanent, as for example, the Indian question and the railroad builders. It must be unhesitatingly admitted that Canada has been more successful in handling the Indians than the United States, but it should be mentioned that England's policy in Canada during the Revolutionary period was to make the Indians friendly at the expense of the American frontiersmen, a fact which does not make the cherishing of Indian heirlooms in the shape of George III medals quite as complimentary to England.

The firmness and tact of the police from the very first were excellent, and became invaluable when the problem of keeping peace in railroad camps and with perturbed Indian tribes arose. This firmness and dogged persistence have gradually built up a prestige greater than that of any other police force in the world, a prestige which alone has made it possible to use the small, almost insignificant, detachments characteristic of the force, and to place extraordinary dependence on the ability of the men in the ranks.

The organization of the force, which with 651 men patrols, and patrols efficiently, over 2,000,000 square miles of territory, is very simple. There are twelve districts, varying in size from Depot division at Regina with 120 men under the command of the commissioner to the Yukon district with thirty men under a superintendent. The force in each district is divided into detachments from one man up, and scattered wherever protection is most needed. The far northern posts are necessarily small and terribly lonesome in the long winters, but they do much positive good, and their mere presence probably prevents much evil. The variety of work performed is very great and most important. The Yukon division served at one time in at least fifteen distinct capacities, varying from customs officers to nurses. The force has done excellent work in picking out roads, mapping the country, estimating its resources, and reporting on the progress of crops, all much more cheaply than could have been done otherwise. Not the least remarkable fact about the police is that such excellent work is done for such small pay as \$1.00 to a constable after nine years' service.

The conception of the Royal Northwest Mounted Police formed by reading a mere summary of their organization and history gives no adequate idea of the force. It is necessary to give examples of their work. Mr. Haydon has selected some tales which the pen of Jack London or J. B. Connolly might do justice to, but of which the mere recital makes the blood tingle. The value to Canada of such a force in the great unsettled Northwest has been inestimable, but unfortunately, the force as it is now cannot continue indefinitely. As cities spring up and police

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work becomes more complex, even the prestige and ability of this force will be unable to hold back crime and disorder; municipal police will become necessary, and the field for the present force narrow greatly. The day when this will occur is far distant, but when it does come it will mark the passing of one of the finest institutions which American frontier life has called into existence.

Harvard University.

GEORGE H. McCaffrey.

DE L'ACCORD DE LA PENALTE ET DES MOEURS. By *M. Paul Cuche*, *Revue Penitentiaire et de Droit Penal*, January, 1911. Pp. 103-110.

In this article M. Paul Cuche advocates with warmth as well as force the corporal punishment of prisoners, a cause decidedly unpopular with us, as was evidenced by the comments called forth by Governor Baldwin's advocacy of the same before the Connecticut State Conference of Charities and Corrections.

The idea of a return to the old method of corporal punishment seems strangely discordant in the midst of the almost universal effort to emphasize the duty of the state to educate and reform her criminals rather than simply punish them and reduce crime through fear. Of course, there is the plea that such punishment is both an educative and reformatory measure, and indeed M. Cuche partly bases his argument on the dictum of a teacher—"In educating a child it is necessary first to appeal to reason, that is to the head, next to descend to the heart, then to the stomach, then if all these appeals have failed, still lower and spank him." For a teacher to whip a child is, of course, a confession of failure to reach him by higher appeals, and is quite indefensible unless these appeals have been made. M. Cuche, however, in adapting the plan to criminals, thinks it necessary to omit the first two appeals—to reason and feeling—and begin with the third—deprivation or prison, passing on, if this does not suffice, to the whipping.

To the prison he brings the well known objection that it does not punish enough, the life being too pleasant, and states also that the shame of imprisonment does not act as a deterrent on the class for which some deterrent fear is required. In support of the first view he shows that deprivation of liberty is scarcely a hardship to those whose liberty compels them to work from ten to twelve hours a day as slaves of the industrial organization—that in fact the joys of living are greater for them in prison than without. His words remind us of Jack London's story of the American Indian who was imprisoned for some misdemeanor. He was finally liberated, and returned to his tribe, telling them, with pride, how royally he had been housed and fed, clothed and cared for by the whites, and instigating them to go and do likewise. But we need not turn to fiction, for we read that both in England and the United States men break the laws purposely in order to find a home in jail, and we know that parents, in at least one of our large cities, compel their boys to commit petty thefts in order that they may reap the benefits of the training offered by a reform school. What a commentary is this on the lives of these people, on the environment in which they are forced to live,

and what a chance it would be to make men of them if the prisons were places where trades were taught and men were sent out equipped to face life.

For the whip he claims that its pain is less objectionable than the detriment to health incurred in imprisonment, that the corrupting influence of prison life is absent, that it is less expensive for the state, and that the family of the delinquent is not deprived of the wages he might possibly be making. The answering arguments are that prison life has in some instances been made hygienic, that in some instances it has been made educative instead of depraving (witness *Elmyra*), and that at the present time plans are being discussed which are designed to enable prisoners to earn something for their families.

M. Cuhe also suggests that the great aversion to inflicting corporal punishment may be the result of a lessening aversion to the crime; he quotes the aphorism, "Societies have such criminals as they merit," adding that this is also applicable to punishments, and that the morals of a corrupt society are the greatest obstacles to the adoption of penalties which would prove salutary, closing with the words, "When will we deserve that corporal punishment be instituted?"

The reviewer would suggest that the aversion to the punishment may be the result of a lessening aversion to the criminal, but not to the crime, to the growing belief that we must deal with the criminal and not the crime, if we would reduce the crime of the future. The crimes are still as heinous in the eyes of the people, but we have come to see that the man who commits them need not necessarily perish with them—that our task is to kill the crime, but save the criminal.

Lincoln, Ill.

CLARA HARRISON TOWN.

LES PRINCIPES BIOLOGIQUES DE L'EVOLUTION SOCIALE. Par *Rene Worms*, Directeur de la Revue International de Sociologie. V. Giard & E. Briere, Paris, 1910. Pp. 119.

The purpose of the book is to present the sciences of Biology and Sociology in their relation to each other. The author considers Comte's classification of the sciences into Mathematics, Astronomy, Physics, Chemistry, Biology and Sociology, and his hypothesis of the reduction of the sciences, as an awkward handling of the subject. He admits Spencer's classification into the inorganic, the organic and the superorganic as valid, but denies the irreducibility of the superorganic to the organic. Although Sociology is more complex—the behavior of cells being simpler than the behavior of individuals—a similarity of description is evident. Sociology becomes a further biology. The theory of the "organicism," however, is not a necessary postulate of this work.

Comte distinguished two parts in Sociology, dynamic and static. The latter is but a convenient abstraction which, to have any real meaning, must be viewed in the light of historical process. When, however, we attempt further to subdivide the science the usefulness of the classification disappears.

The fundamental principles of biology are the basis for a description of social evolution. Static as well as dynamic sociology depends upon biology, especially upon the laws of adaptation, heredity and selection. In this respect the evolutionary system of Darwin suffices as the skeleton of the science of Sociology.

Adaptation of structure and function in society constitutes social evolution. The cause of such evolution is the personal desire to adapt one's self most perfectly to one's environment and best to utilize conditions to one's own profit. The result is to establish a new equilibrium between the individual and his media, which is not absolute but provisional. All social trend may be defined as adaptation. The two characteristics of adaptation are process and interaction. There exists no stability in nature, least of all in society. No adaptation endures indefinitely and each old adjustment is an obstacle to some new one. On the other hand the individual is both modified by and modifies his media.

The author then discusses the aims, the means, and the results of adaptation. We recognize three kinds of media: The cosmic, the organic and the strictly social. The limits of the social media vary with civilization and with the age and condition of the individual. The theory of recapitulation applies to sociology as well as to biology, for as the social relations of the individual increase in complexity during his development so the relations of the group become more extensive and varied along with its development.

The theory of Lamarck applies to sociology, i. e., the different parts are developed through use until the whole becomes greatly modified. The process is also cumulative through many generations. Adaptation may be divided into three parts. The organism reacts to every excitation of the media, habit is formed by the recurrence of the same reaction, and this habit is made *permanent* by being transferred through inheritance to the next generation. The nervous system is the seat of most adaptation and intelligence is the highest function of the nervous system. As with the individual so with society, for to acquire knowledge of the laws governing society is to adapt the race to its environment. Ethnic variation as adaptation to new conditions is frequently noted. Such variation is more social than individual. The group further adapts itself *inter se* and to its surroundings by the development of laws, language and institutions. Just as the life of the individual comprises stages of growth, virility and decline, so with that of the group. Its degree of growth and activity depends upon waste and repair, and when waste predominates, dissolution follows. A social group is limited in size by a law of efficiency, as is a protozoan. When a living cell grows to a size too great for economy it divides, and so does society. The small society, which is a group within a group, may sometimes suffer at the hands of its fellows the death penalty which it imposes on its own aged, sick, or criminal members. In biology we say that although the present generation must die, yet the race is continuous, the germplasm is immortal. May not a dying society solace itself with a like thought? Certainly this is true, for if it has been fit it will survive in its offspring, its colony, its daughter group. Its mores are its germplasm.

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Heredity constitutes an opposing factor to adaptation as well as an aid. Racial characters—mental and physical—are relatively permanent. The author accepts the Lamarckian view of heredity, which obviously suits better his biological-sociological parallel.

The general value of this book lies in the careful formulation of the parallelism between biology and sociology. Dr. Worms has made the book of interest not only to the student of these sciences, but to the casual reader as well, by his wealth of illustration and his clarity of style.

University of Washington.

STEVENSON SMITH.

SELBSTANZEIGEN GEISTESKRANKER. By Dr. Hermann Haymann. Juristisch-Psychiatrische Grenzfragen, Vol. VII, No. 8, 1911.

In his article Dr. Haymann has set forth some very interesting observations upon the self-confessions made by criminals, and the question of their symptomatological value for the study of psycho neuroses. He asks definitely if such confessions do not indicate something pathological, and in order to answer this question he considers three possibilities: first, the crime did not occur; second, the crime did occur, but was not committed by the one who confesses; third, the confessor is indeed the criminal, but the confession is due to pathological motives.

A further classification from the viewpoint of psychiatry is made between confessions which accompany a sound mentality, and those in which mentality is troubled or destroyed. Under the latter all clinical forms can be subsumed. The former class can be conveniently divided into those whose causes lie in disturbances of the feelings or emotions, and those whose causes lie in the intellectual processes in the widest sense.

The rest of his article is taken up with the consideration of these three possibilities, and illustrated with a number of interesting cases, including cases of confessed incendiarism, murder, unnatural vice, and others, which illustrate the three possibilities already mentioned.

Under the cases of intellectual disturbances he includes the confessions made by imbeciles or moral degenerates and cites several instances of incendiarism and murder with *dementia prae cox*. Hallucinations often produce confessions concerning nearest relatives and friends when there is often no foundation in fact for the accusation. Disturbances of perception are recorded like that of the girl who rushed wildly to the police station to ask what charge was lodged against her, because she thought she heard a policeman approaching her door and knocking.

The hysterics and psychopaths receive separate consideration, and are of great interest for their auto-suggestive phenomena; and also because of the lies told by hysterical patients which they know to be untrue, and the melancholic and the epileptic add their burden to the sad confessions of the rest.

The general practical conclusions from these considerations is that the specialist in psychiatry should be brought frequently to give his opinion concerning the value of self-confessed crimes. In some cases such service would prevent legal murder and often unjust imprisonment for

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confessions which are due to disturbances of the intellectual processes, and which are entirely distorted or else have no foundation whatever in fact.

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ARTHUR HOLMES.

ELEMENTI DI SOCIOLOGIA CRIMINALE. By *Francesco Scarlata*. Collezione di Opere Giuridiche e Sociali No. II, Fratelli Bocca Palermo, 1910. Pp. 280.

Francesco Scarlata, president of the Circuit Court of Palermo, gives in his elements of criminal sociology a very comprehensive symposium of the different theories advanced by the leading writers and thinkers in Italy on the question of general and criminal sociology. He has searched the field with the greatest industry for arguments supporting his own theories. Lombroso, Ferri & Garofalo are, of course, the most quoted authors; the influence of this trio has been great not only in Italy, but has stimulated writers all over the world. The exponents of sociology sometimes, however, try to prove too much. Our author falls into the same error, and asks for the impossible, when he demands, for instance, that social laws shall only be given by sociologists. Plato dreamed of this in his utopia.

Socialistic doctrines are increasingly stirring up arguments, and in different places Signor Scarlata discusses their merits. He shows himself, like so many professional people of high standing, in sympathy with not a few of the demands of the party. Syndicalism, anarchism and nihilism encounter his wrath; he holds them responsible for a good many criminal acts. The book is written absolutely from the Italian point of view, and next to France, Italy has probably suffered most from the excesses of syndicalists and anarchists.

The work begins with a general discussion of the place sociology occupies among the sciences. Criminal sociology finds its place among the legal sciences. It was Lombroso's discovery that man does not become all of a sudden a criminal as a result of some arbitrary decision. In his opinion the criminal type represents an atavism, i. e., an anthropological phenomenon. Ferri & Garofalo studied the social side of crime and came to the conclusion that, besides anthropological influences, social and physical conditions are responsible for crime. As we are able to change the former by proper legislation, it is thus possible to prevent, or, at least, reduce crime, while society must take steps to protect itself against habitual criminals by repressing them.

Crime and criminals are studied in their historic evolution in two highly interesting chapters. At the beginning of organized society we see that only political religious offenses are put down as crimes. State and religion were bound together, offense against one meant offense against the other. Later on we notice in Greece a division in *jus divinum* and *jus humanum*. Rome, under the emperors, developed the *jus privatum*. During the Middle Ages we find in the feudal laws that might was right, the decisions of the feudal lord were arbitrary. In the German codes we find a regular tariff of fines for different offenses.

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While Cicero demanded the repression of criminals, because they offended the absolute justice by their action, modern law holds that punishment should be doled out in order to protect the personal liberty and safety of the citizens.

Crimes are divided into two classes, those against the state and those against people and property. While discussing crimes against the state, the author upholds the right of the citizens to open revolt against a ruler who oppresses them. He condemns, however, a revolution, if the same results can be obtained by peaceful methods. But who shall be the judge?

The study of the factors of crime and of the world of criminals is unusually instructive. Surroundings, climate, and our inheritance from our forefathers are discussed, also education of the intellect in order to suppress the natural and savage instincts in us. Society is undoubtedly responsible for a good many crimes. It is shown that the much-discussed associations of criminals make use of co-operation by which so much is attained in life. The law of imitation leads criminals to adopt these modern methods. It is not possible to put criminals down as a pathological race, for they are recruited from all classes of society. There is, however, a great differentiation in criminal acts, according to the stratum of society to which the individual belongs. Almost all of them show psychic anomalies.

Crime, especially among minors, is increasing. The Italian statistics show how age, sex, economic and family relations exercise a great influence upon the general criminality. The last chapter of the book deals with means of prevention. Here we must consider that the author lives in Sicily, a country where public education has made little progress since the conquest by Garibaldi, where the Mafia is at home, and where brigandage is flourishing. Educational and economic reforms are more needed here than elsewhere. But a reformation of the administration of justice and of penal institutions also seems very urgent. The courts work slowly and are not always accessible to the poor. Juries often render verdicts in open violation of the law, and the judge cannot ask for a reconsideration. Juvenile courts are demanded for juvenile offenders. Here the author shows a deplorable lack of knowledge of modern ideas of criminal sociology, when he urges, for instance, short sentences for minors, and demands that they may be treated in prison in such a way as to make them afraid of backsliding.

Knowing the lack of organization and recognizing the value of co-operation, the author finally asks for the participation of private societies and individuals in bringing about the necessary reforms.

Scarlata's book is not a contribution of new material, but may serve very well as an introduction to criminal sociology on account of the many citations and quotations from the most advanced writers on the subject.

Chicago.

VICTOR VON BOROSINI.

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GAUNER UND VERBRECHER-TYPEN. By *Dr. Erich Wulffen*. Staatsanwalt in Dresden. Dr. P. Langenscheidt, Berlin, Gross-lichterfelde, 1910. Pp. 315.

This work is exactly what its title signifies, a classified portrayal of types of crooks and criminals. Thieves, swindlers, incendiaries and murderers are discussed in hundreds of short narratives written in most clear and interesting style, showing briefly but in minute detail every possible method of performance of crime, the varied motives for it, and the complicated machinery of detecting it.

Especially enlightening are his stories showing superstition, both as a motive for crime, and as a creator of a special field of crime for spiritualists, fortune-tellers, religious fakirs and the like. Cases of all sorts are cited in which the discoveries of modern science are employed successfully in the detection of crime. The stupidity of criminals in seldom being able to think out all details of their deeds sufficiently to escape detection, is dwelt upon at some length.

All of these pictures are presented to us in the light of a brief but compact opening chapter on the intelligence of criminals, dealing with their mental abnormalities which he divides for convenience of discussion into perversions or bluntness of feelings or instincts, and lack of judgment or ability to reason and evaluate properly. Cases of apparently exceptional shrewdness and capability in criminals, he classes with genius in other lines, as an abnormality indicating an over-development in one direction. Most other criminals are below par mentally along the lines indicated above.

Altogether, the book should be fascinating and instructive reading for the public in general and a valuable source of information for those professionally interested either in the theoretical or practical aspects of crime. It would hardly be too much to say that a perusal of the work might have a deterring effect upon criminals themselves, when they see how completely their motives and methods are known, and how effective are the modern means of detection.

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MRS. J. F. SHEPARD.

PRECURSORES DE LA CIENCIA PENAL EN ESPAÑA; estudios sobre el delinquente y las causas y remedios del delito. Por el Padre *Jeronimo Montes*, Professor de derecho en el Colegio de Estudios Superiores de El Escorial. Madrid, 1911, V. Suarez, pp. 745.

This learned author, a representative of the Catholic church, and well known for former historical studies in criminal law, sets himself herein to show that the modern theories of criminality were long ago anticipated by the Spanish theologians and moralists prior to the 1800s. The spirit of the work may be judged from this passage of the Introduction (p. 7): "Before Grotius was born, illustrious Spanish theologians, like Victoria, de Soto, Molina, and Suarez, had written on natural law and international law. Two centuries before Beccaria, and with better arguments, de Castro dedicated an extensive treatise to the

study of penology, Vives vigorously attacked the theory of judicial torture, and all the Spanish moralists protested against the cruelty and excess of punishments practiced throughout Europe. But the utterances of these eminent writers were premature and vain; while Beccaria's work had the good fortune to come at a time feverish for reform, in which illusions like that of the social compact passed for indisputable verities and prevailed in spite of their errors. * * * So eminent a legal philosopher as Ihering has admitted that the ideas set forth in his 'Zweck im Recht' had been expounded with admirable clarity and simplicity, centuries before, by St. Thomas Aquinas. How many of our modern legal writers would have to make a similar admission, if before printing they had consulted the works of the older theologians and jurists!"

Our author is amply familiar with modern science in all its aspects; and in fact divides his work into three parts corresponding substantially with Lombroso's division in his "Crime, its Causes and Remedies" (recently translated into English as Vol. III of the Institute's series on Modern Criminal Science). Part I deals with "Physiognomic Science and the Criminal Type." Part II with "Etiology, or Causes of Crime;" and Part III with "Prophylaxis, or Preventive Remedies for Crime." Under each head (25 chapters in all) he passes in review the numerous Spanish theologians, moralists, and jurists, and with passages from their works he points out the attention given by them to the same problems and the same materials that now occupy the works of modern criminalists.

Needless to say, the author's viewpoint is that of one who laments the churchless materialism of modern service, and sees no hope for any stable solutions otherwise than by reverting to the essentially religious views of the church's earlier authors, these "incomparable" thinkers, as he terms them. The modern discoveries as to the limitations of atavism, for example, he thinks may result in verifying the correctness of the limits of the Old Testament curse pronounced on the sins of the fathers, viz.: the fourth generation (p. 167). The influences of senility, of alcohol, of food and climate, on heredity, "all this was studied by the early writers, and can be found treated in books which do not deserve the oblivion and disesteem to which they have been consigned by modern scientists" (p. 197). The administration of justice in the 1500s in Spain was (p. 445) "the most perfect, the most benevolent, the most clement and Christian then known in the whole world; although it has passed into history as a type of cruelty—just as Spain to-day passes for an intolerant and inquisitorial country, though it tolerates things which no other nation tolerates. When will Legend yield place to History?" Again (p. 575), "the differences of race and religion have in Spain always been a copious source of crime, particularly in the 1500s and 1600s. The converted Moors and their descendants in particular were then numerous; there was a fear of a general uprising by them; popular hatred and bloody crimes were caused by race antagonism to them; and all this called for a radical remedy. After trying other

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measures in vain, the government found it necessary to resort to the extreme and only safe measure, their expulsion from Spanish territory."

Well, the rest of the world is convinced that two of the greatest crimes in history were the Spanish persecution of Protestant and Jewish heretics by the Holy Inquisition, and the expulsion of the Spanish Moriscoes in 1609,—crimes which were also the most colossal blunders, for they emasculated Spain of its most important elements for intellectual and industrial progress, and dealt it a blow from which it is only to-day recovering. Any modern scholar who defends the Spanish Inquisition and the Expulsion of the Jews and the Moriscoes, in such terms as the above, classes himself; his school of thought does not merit attention, outside of Spain itself.

This book is interesting as a revelation of the reactionary forces with which modern science and enlightened progress is still obliged to struggle in that country. All the more honor to those who, like Altamira, Salillos, Dorado, de Quirós, and others, are maintaining successfully the spirit of true legal science against such obstacles.

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J. H. WIGMORE.

DIE PRÜGELSTRAFE. Von Dr. Ernst Feder. J. Guttentag: Berlin, 1911.

This little treatise leads us to the conclusion that the demand for corporal punishment, as it appears from time to time in the German parliament and is sometimes stormily voiced by theorists and practical men everywhere, is based not on differentiating considerations of criminal policy but on a slogan, a catch-word, a feeling protest against that stage of our humanity that is so often censured by lack of understanding.

This slogan has sometimes been traced back to Mittelstädt's well-known work "Gegen die Freiheitsstrafen" (1879) in which too a lance is broken for corporal punishment and its greatest enemy is apparently found in the "womanish, faint-hearted humanity of recent decades." But already a hundred years before that the Prussian criminalist Klein recommended corporal punishment to his "sensitive age," the rejection of which betrayed "more softness than prudent philanthropy." It is interesting to notice that in one instance corporal punishment is advised in mitigation of an over-harsh penal system and in the other as a means of increasing the severity of one that is too mild, in other words, to see that it too has been subject to the change of purpose that has affected all legal institutions.

Dr. Feder's knowledge of the history of corporal punishment is amazing; not less than sixty countries are treated in their position regarding it, and with brilliant dialectics it is proved that the twentieth century has no reason to return to it.

North Easton, Mass.

ADALBERT ALBRECHT.

STIMSON'S LAW DICTIONARY. By *Frederic Jesup Stimson*. New edition, revised and enlarged by Harvey Cortlandt Voorhees. Little, Brown and Company. Boston, 1911.

This admirable work of Prof. Stimson as originally prepared by him

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has been largely retained in the new edition, and nearly two thousand important words have been added and many citations and references to text-books and decisions inserted by Mr. Voorhees, designed to lead the researcher to a fuller understanding of the meaning and practical use of the words defined and explained. No other law dictionary contains so many definitions and translations of French and Norman-French law terms. A special feature of the new edition is the very full list (fifty-three pages) of abbreviations used in law books, and a table of British Regnal years has been added in the appendix.

North Easton, Mass.

ADALBERT ALBRECHT.

DIE PSYCHOPATHISCHEN KONSTITUTIONEN UND IHRE SOCIOLOGISCHE BEDEUTUNG. Von Dr. Med. *Helenefriederike Stelzner*. Berlin: S. Karger, 1911. Pp. 249.

Dr. Stelzner herself collected the material for this valuable book in the psychiatric clinic of the Imperial "Charité" in Berlin, as a school physician, in a female reformatory and as an insanity expert of the juvenile court in Berlin. She is a highly-gifted pupil of the celebrated psychiatrist Prof. Ziehen, but, in spite of all her special studies in the field of psychiatry, she has not allowed herself to be robbed of her perception for great connections. To her, persons of psychopathic constitution are not merely more or less interesting "cases" but phenomena of the greatest sociological importance. Whence do they come and whither do they go, these inhabitants of the borderland between mental disease and health? What values do they represent and how are these values to be used? What damage is done by their social descent and how can it be met? When and how does their normal attitude change into that, peculiar to the psychopathic constitution?

This last question has been answered as comprehensively as possible by Prof. Ziehen in his "Lehre von den psychopathischen Konstitutionen" and the admirable system that he constructed in connection with his investigations is also presented in his "Prinzipien und Methoden der Intelligenzprüfungen." It must still remain a question, however, whether these methods of testing intelligence really reach to the bottommost depths, whether they actually solve all riddles. It seems to us that for the future there still remains a great, a very great deal to be done and that, in some cases at least, the Freudian psychoanalysis would be able to dig deeper than the intelligence tests of Prof. Ziehen and his pupils.

What is most interesting to the readers of this journal in Dr. Stelzner's book, is the relation of the psychopathic constitution to criminality. The offenses most commonly committed by persons of psychopathic constitution are: theft in all its forms, embezzlement, crimes of violence, offenses against chastity and manslaughter. Against these are ranged as casual factors: uncontrollability of the instincts, increased emotionalism, weakness of will, suggestibility. According to their aetiology the offenses may be divided into two distinct groups: 1, those that are committed as a consequence of a certain symptom of the psychopathic constitution, that are due to uncontrollable passion, impulsive-

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ness, etc., and 2, those that represent the symptom itself, the delight in what is forbidden, pleasure in the performance of an evil deed, the enjoyment of breaking the law. How each of these two groups is to be treated by the law, the judge and the physician, makes up the most brilliant part of the work. Here our educators, etc., and, in particular, the judges of our juvenile courts, may learn much, for here practical proposals are made, based especially on two theses: 1. A clear distinction must be made between weak-minded children and children of so-called psychopathic constitution. 2. The care of children with psychopathic constitutions requires special curative, educational institutions, homes in which the inmates are freed from all other influences and in which nothing, absolutely nothing, suggests a reform school, for whatever cause the child may have been committed. How such a school must be built and managed should be carefully read, on pages 235 to 240, for this is a field of labor in which, not only in Europe but also in America, practically everything still remains to be done.

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