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Reviews and Criticisms

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REVIEWS AND CRITICISMS.

PENAL PHILOSOPHY. By *Gabriel Tarde*. Translated by Rapelje Howell, Esq.: Little, Brown & Company, Boston, Mass. Pp. 567; \$5.00.

For the reviewer, books fall into three general classes: those that can be dismissed with a summary, those that demand attentive analysis, those that are so fertile and provocative of ideas as to be almost impossible of summary handling. M. Tarde's book belongs to the last class. In scope, in erudition, in profundity and in common sense, it seems to the reviewer unequalled by any of the books in the criminological series and without a peer outside the series. Rarely, in philosophy or in law, has there been brought to the task of determining the nature of the criminal, his responsibility to society and society's responsibility to him, a vision at once so humane and adequate, so philosophical and sane as M. Tarde's. Differ as one may or must on the innumerable philosophic issues which he touches, one is compelled to acknowledge that his views are in each case grounded in fact and experience, and that the difference is much more likely to be due to temperamental outlook than to objective perception.

M. Tarde finds that contemporary society is undergoing a sort of moral interregnum. The dogmas of the ancient tradition are worm-eaten and moldering; they hang together by a sort of inertia, but support nothing. New principles that shall be sound enough to do the work of the old have not yet been discovered, although everybody who tries his hand at smashing the old code messes up a new and private one, unfounded in common experience. Behind the old code there is no longer any authority; among the new ones there is only a babel.

In criminal law, the old underlying dogma was "free will." But this dogma is subject to objections of reason and objections of fact. Logically, if each act is spontaneous or uncaused, there can be no possible connection between any two acts, no continuity in life, no responsibility in conduct. Logically, "free will" and responsibility are contradictory conceptions. As a matter of fact, however, continuity and connections are traceable in all experience. One event is determined by another throughout all the realms of experience; determinism is the demonstrable assumption and the observable basis in the facts of the inner life, in biology and psychology, in sociology and in natural science. And as a matter of fact, moreover, in all great crises the plea, "I had no free will," would have made no difference; the results of the trials of Socrates, Huss, Wickliffe, Galileo would have been the same whatever the plea. Determinism neither mitigates nor abrogates the sentence when society is sure of having identified and secured the criminal.

This does not, however, make determinism an adequate substitute for free will, since determinism, on the largest possible scale implies indeterminism, either in the will of God, or in each atom; everything can be explained by invariant law, "except the materials of the laws

and the point at which operations began." Metaphysically, then, there is a libertarian root for existence; but unhappily it cannot be the root which nourishes the fruit of justice in the law court.

To discover that it is necessary to approach the problem of responsibility from another point of view—from the point of view of the underlying conceptions of "duty" and "right." Tarde formalizes the psychology of "duty" by defining it as the conclusion of a syllogism the major premise of which is a *wish*, and the minor premise, the proper perception of the means of attaining that wish. The concluding *ought* becomes an *imperative* when the major premise stands for a public need, a social wish or national ideal, thus: Society wishes protection from its enemies; the means of protection is punishment; therefore, the enemies of society *ought* to be punished. This *ought*, when enforceable, constitutes a "right;" and all rights are based on duties in the same way. But social "duty" is only a congeries of individual duties that harmonize; society is implicitly contractual, and even the antisocial member of society concedes the right of society to punish. For individuals live together by virtue of the exchange of satisfactions of wishes; and where one individual gives little or nothing, or does harm, society, in order to maintain the social equilibrium, must punish to balance accounts. That is what penal legislation invariably does.

But to do that, penal legislation must get hold of the individual, it must be able to identify him, and this, under the assumptions of either free-will or determinism, cannot be done. The one comminates the criminal into a series of isolated acts, the other dissolves him into the continuity of the universe. But what is he actually, empirically, as the law deals with him and fixes responsibility upon him?

Tarde devotes the remainder of his book to answering this question. Since responsibility depends upon identity, it becomes of fundamental importance to determine the nature rather than the freedom of the responsible individual. The great historic determination is, of course, that of the positivist school. Tarde formulates four central questions which he summons the school to answer, the questions being such that their answers will constitute the sum of penal philosophy. He asks them:

1. What is responsibility, free will being left out of consideration?
2. What is the criminal according to the most recent results of science, and into what natural classes does he fall?
3. What are the nature and causes of crime, according to statistics?
4. What ought punishment to be?

The positivists' replies are of course familiar. 1. Society and the individual are engaged in a struggle for existence. The individual does what he must, and society what it must. Punishment is only a term in the warfare between the two; it is really *defense*. The consequence of this position is, Tarde thinks, irresponsibility, and its practical outcome mitigation of sentence or release. 2. The classification of criminals is highly diversified. Some classify them as criminals

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from habit or opportunity; others as congenitally perverse, or perverse by training; Lombroso, as savages and atavisms or madmen and epileptics; while Marro finds a definite criminal type with large ears, long cheeks, flat nose, ambidexterity, light weight, insensibility to pain, etc. Finally Paul Albrecht points out that the "criminal head" is so widespread as to make the honest man the exception. Tarde has no difficulty in showing the superficiality and inadequacy of these classifications, and in reducing the "criminal type" to conditions of a poorly-nourished nervous system, misfortune, and poverty. 3. Crime, considered apart from the criminal, has to be defined in nature and cause. In nature, Garofalo designates the "natural offense" (Tarde prefers the word "essential"), which is an injury against what society considers its best interests. The causes of crime, Tarde agrees, are to be sought for in the natural and social environment, although he maintains that statistics are necessarily inadequate to the determination of the exact influence of varying causes. 4. Remedies for crime must, of course, consist in the removal of causes. Natural causes, climate, etc., cannot, obviously, be altered; but social changes initiated by individual genius can have salutary effects, such as came about by the substitution of coffee for alcohol, the reduction of piracy by the invention of steamships, etc. These, however, are broad, large and uncontrollable changes. The minor changes at hand are the substitution of reformation for punishment, the perfection of the judges, the limitation of jury-power etc., etc.

Having disposed of the positivists, Tarde offers his own answers to the four questions. Since responsibility depends upon the identity of the criminal, the establishment of personal identity becomes of paramount importance. Such an identity can at best be empirically determined; it consists in the definition of what is actually meant in determining the *cause* of crime. Now it appears that the meaning of *determination* of cause is in each case *localization of the origin of a process*. The real problem is not *what*, or *who*, is the cause, but *where* is the cause? Thus we say nowadays that the cause of a murder is in the brain of the murderer; anciently it was localized in his family, and still earlier in his tribe. Today, even the brain may be too large a field of responsibility, since psychological science has individualized portions of the brain, even as the law has individualized the members of a family; and responsibility may be fixed in a lesion, or a functional derangement, which may, perhaps, be extirpated without otherwise changing the individual. The essential step in determining responsibility, then, consists of individualizing the cause of an action, localizing its origin, and making sure that it is *that and no other*. This "*that and no other*" is a constellation of habits and ideas dominated by a leading idea or notion such that it constitutes a personality which has "character." It is a "force-idea" that confirms and fixes itself by belief in itself, and imitation of itself, and becomes less changeable as the individual grows older. In a world in which all things change, however, identity is itself a fluid thing, and its responsibility has further to be specified, if it is to be real. This specification resides in the *social similarity* that exists between the individual cause of a crime

and the group that suffers from it. The similarity must be fair and definable, otherwise there is no responsibility. A madman, although the *same* madman who committed crime after crime, is not regarded as responsible because he is not *the same* as his fellows. The latter sameness rests upon the common or imitative pursuits of the same set of ideals; on their having become part of the habits of our daily life. This pursuit arises partly through our natural similarity to one another, partly through the socialization of desires by means of *imitation*, and thus the establishment of a system of co-ordinate individuals, which we call "society," that possesses an individuality of its own, an individuality analogous (Tarde develops the analogy at great length) to the resultant constellation of ideas that composes "character" in an individual. This individuality involves a general similarity of tastes and desires in a human group; a common linguistic symbol for individual feelings such as will make possible, on the whole, unanimous approvals or disapprovals of specific actions. It is the basis of "professional etiquette," of "honor among thieves," the conception of "honor" among military classes, etc. The criminal must feel that he deserves his punishment, even if he does not desire it; and this he cannot feel unless he is *like* society in the respect above mentioned. Criminal law, hence, is definitely called upon to determine the boundaries of a society if it is to determine the responsibility of a criminal.

Tarde's proof that responsibility rests upon personal identity and social similarity proceeds by the method of difference as well as by the method of agreement. Examples of the irresponsible before the law are the mad, the intoxicated, the hypnotized, the senile, etc. Thus, the irresponsibility of madness arises from the fact that the madman has lost the power of social assimilation and has been alienated from both his surroundings and himself; his actions are determined by a cause external to his "myself." Other types of irresponsibility exhibit the same characteristics.

The nature of responsibility having been determined, Tarde passes to the demonstration, *contra* the positivists, that there is no such thing as a criminal type, and that all the positivist stigmata stigmatize only positivist modes of thinking. Criminals, he points out, acquire professional similarities, like clergymen or professors. Most men become criminals by accident or misfortune, and those who enter the profession through a special aptitude are comparatively few and not anthropologically identifiable. But once in the profession, they learn to think professionally and to feel professionally and so conform to type. They may be divided laterally into two classes: thieves and murderers—violators of the right to property, and violators of the right to life. Vertically they may be classified as agricultural and urban offenders. Tarde makes the classification in terms of sociologic similarities because he regards them the best basis for a program of helping criminals back to honesty and usefulness.

If there exists no specific criminal type, there cannot exist a cause or series of causes from which crime must necessarily be deduced. Hence, the causes of crime must be empirically studied, and the best method and basis for such a study is naturally statistical, though our

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statistics are poor and meager. What they saliently reveal is the regularity of the recurrence of crime. Such a recurrence points to social imitation as a potent source and furnishes conclusive evidence against the doctrine of free will. Of the factors said to underly the commission of crimes—the physiological, the physiographic and the social—the first two are negligible and can hardly be dealt with when they do matter. It is the last, the social cause, that counts. Thus, if woman is said to be less criminal, it is not because she is a female, but because her social life (Tarde does not consider that this may be determined by her physiological character) makes for sedentary and homekeeping habits. If there is much crime against life in Corsica, the crime turns on the fact that society is still organized in clans. The causes of crime are social.

Now, for Tarde to say "social," is the same as to say "imitative." Believing as he does in the primacy and ultimacy of the individual, in his responsibility, because of this primacy and ultimacy, it follows that in his view the social order is established by the imitation of each other by individuals. Imitation of the *other* is the generator and dynamic of personality. Its movement is from the lower toward the upper classes, and Tarde shows plausibly enough, how, in the matter of crimes and vices, drinking, smoking, poisoning, poaching, rowdyism, arson, etc., were once the prerogatives of the nobles. Men imitate the cut of a throat no less than the cut of a coat. The process and effects of imitation are most clearly observable in large cities, where crime increases geometrically with the population. This is due to the character of our civilization. For a civilization may be marked either by its *cohesiveness*, or by the richness and variety of its contents and expression. Modern civilization belongs to the latter mode, and it involves an enormous increase of the desires of men and of the means of their satisfaction no less criminally than lawfully. Whatever offers opportunity for honest action also offers opportunity for criminal action. This action, indeed, has tended to change from violence to craft, and crimes tend to become predominantly torts. The whole process of change in the character of crime in the course of the alteration in the character of society is at once a confirmation and a vindication of the theory of responsibility. For the change indicates that the continuity of the criminal's identity has remained unbroken and that his similarity to the residuum of society has been uniform and apparent.

In sum, the bulk of crime arises and maintains itself in the long run by imitation of the higher classes by the lower, in the attempt to satisfy permanent or ephemeral desires. Responsibility for it rests upon personal identity and social similarity, these being essentially analogous activities of self-maintenance by means of imitation, on the one side of a system of ideas, making an individual; on the other side, of groups of such systems, making a society. The criminal act is marked by the violation of a right, i. e., by what is at bottom the use of improper means, of means not socially sanctioned, for the satisfaction of a need. The final problem logically and the foremost practically is how to make such acts impossible.

The solution of this problem depends obviously upon what one

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regards to be of primary import in social life. For Tarde, it is the individual; rightly the individual, from the reviewer's standpoint. "Social life," says Tarde, "is nothing more than an interlacing and tissue of the production or the exchange of services and the production or the exchange of injuries." The estimation of the effect of an injury tends more and more to the consideration also of the welfare of the criminal who is part and parcel of the society which punishes him. Criminal procedure has raised two questions—that of fact: has the accused committed the offense charged against him? and that of judgment: what, if he is guilty, shall be done to the accused? The establishment of "the fact" is attained nowadays by means of the jury system. It is an imperfect and unsatisfactory device, and its persistence rests upon the difficulty of finding an adequate substitute. In Tarde's view, such a substitute would be the scientific expert who should establish the "proof of fact," and a properly trained judge, an "enlightened moralist, psychologist and sociologist," who should pass the judgment of fact. If necessary, penalties should extirpate the cause of crime. It can be done, for heresy was extirpated in Spain, and brigandage in Rome. The guide as to the appropriate penalty should, however, never be a fixed law, but public opinion, inasmuch as the wishes of the public constitute the actual social standard for moral judgments. Theory is confirmed by history again in this matter, since the tendency of these judgments has been toward a greater and greater consideration of the criminal, while purely social action would require the extirpation of each criminal as he appeared. Penal justice, therefore, aims, however blindly and inefficiently, to secure to the criminal whatever atom of happiness in society there remains for him. It wishes, indeed, to *convert* him, to make him harmonious with itself.

A number of issues present themselves at once: e. g., the nature of "free will," and whether the tradition which assumed it is really nonsensical; the exact significance of imitation, particularly in the maintenance of personal identity and social similarity; whether responsibility is really saved by means of these conceptions, and so on. But this review already exceeds the limits assigned it.

As to the translation, the reviewer lives in a glass house.

The University of Wisconsin.

H. M. KALLEN.

MODERNE RECHTSPROBLEME, von Joseph Kohler. 2te durchgearbeitete auflage. B. G. Teubner, Leipzig, 1913, pp. 98.

The first edition of this book was published in 1907, in Teubner's popular series entitled, *Aus Natur und Geisteswelt*. Though the new edition contains little new material (only one section, 27, consists of entirely new subject matter), it is in considerable part rewritten, and most of the changes are in the two chapters on criminal law and procedure. In the interests of the popular aim of the series for which this book was written, Kohler has relegated the notes to the end of the book (a doubtful blessing) and has omitted a good deal of his polemics and ornamental learning that are so typical of his vigorous mannerisms. These changes improve the expository qualities of the

book, though the two editions have about the same amount of reading matter, the publishers have seen fit to save seven pages by closer printing. This with the thinner paper makes the reading of the second edition a real eye-strain, especially to those of us that are not born in the Gothic type.

In the first chapter Kohler gives us, besides his usual fling at Jhering (to whose Jahrbücher he often contributed), a succinct account of his own general philosophy and its relation to law. Law is a part of human culture (i. e., process of human development), and can be understood fully only in a philosophy which grasps the character and aim of this development. In spite of an obviously eclectic tendency which shows itself in a predilection for such diverse modes of thought as Hindoo mysticism, medieval scholasticism, Hegel and Nietzsche, Kohler's temperament will not allow any other alternatives than extreme positivism and his own pantheism. The arguments by which he establishes his position are vehement and suggestive, but not always logically convincing. Certainly the fact that positivism happens to be of French and English origin is not a scientific argument against it even in Germany. Moreover when one considers Kohler's use of history and the actual content of his legal system, one has reason to suspect that his differences with the positivists are more formal than substantial. This is particularly true of this book, and especially of his treatment of criminal law and procedure which occupies more than half of the book.

Kohler begins the second chapter in the approved German manner, with a series of elaborate arguments for free will against determinism. In spite, however, of his protestation that this is the basic problem of criminology, he does not make out a real difference between the empirical consequences of his position and those of determinism. Not only are the influences of heredity and environment admitted, and the possibility of making valid inferences from the past to the future conduct of an individual, but the whole tendency of his penologic policy is to minimize the importance of personal punishment (e. g., in the case of those we euphemistically call "cadets"), and to emphasize the preventive and meliorative functions of the state, not merely in the education of the young, but by state regulation of industry, the liquor traffic, the activity of the press, etc. His favorite penal device is such deportation as will enable the deported to begin life again under the proper conditions. Kohler's statement that the results of the Russian system of deportation to Siberia and Sakhalien are most favorable, is certainly not borne out by the best statistical information. To be sure, Kohler sharply distinguishes between the right to *punish*, based on corrective or retributive justice from the merely utilitarian idea of prevention, or even ethical help. But no necessity for this metaphysical idea of retribution is established. If we give up all utilitarian ideas of social welfare, what necessity is there that the universe should be organized like a penitentiary, on the basis of rewards and punishments? The argument that the character of sin is the basis of Christianity and of our whole cultural system is not well founded. The concept of sin is also found among the ancient Babylonians, and some

very primitive peoples. Moreover, the notion of sin has no inherent connection with that of free will. Familiarity with penitential hymns from the days of the Babylonians, the Old Testament, down to the days of Thomas a Kempis or of Calvinism, shows that sin is not always regarded as a voluntary affair. The whole institution of sacrifice is based on the idea that sin is a more or less contagious body, with which people may come in contact and be contaminated in spite of themselves.

As observed above, the homage which Kohler pays to the metaphysical idea of retribution or atonement does not seriously interfere with his detailed views on penologic problems. Imprisonment to protect us against those who threaten our possessions is justified when these possessions are sufficiently important. The closest connection between Kohler's metaphysics and his criminology is perhaps to be found in his complacent belief that increase of crime does not hinder the progress of civilization.

In matters of criminal procedure, Kohler is an ardent admirer of English methods. His knowledge, however, of the history of English criminal procedure is not very accurate; witness his denial that torture ever formed part of English procedure. (Even down to the 19th century, torture was used to compel the accused to plead.)

Though Kohler's attitude toward continental criminal procedure is rather critical, he believes that more important than legislative changes is the adoption in spirit of two maxims, viz. (1) No one is to be compelled to testify against himself, and (2) the defense is as sacred as the accusation or investigation. Kohler is inclined to view the former as an eternal self-evident principle, as a corollary to the principle of freedom of will. But if the maxim is taken thus rigorously, there can be no justification for compelling any one whose welfare is in any way bound up with the accused to testify, or for the state to examine the private books, papers, etc., of the accused. Our own experience in this country has amply demonstrated that this principle is useful only when properly qualified. Carried beyond its proper limitations, this principle has caused infinite mischief in the form of immunity baths, etc.

Kohler's regard for the right of the accused leads him to urge that the person found innocent should not only have his actual costs repaid by the state, but should also be reimbursed for the trouble and loss sustained by the arrest and trial. He thinks it is due to the influence of capitalism that people get excited at the prospect of the state taking away the private property of an individual, but make no protest at the state taking away from an innocent person the personal right of freedom (and all that it carries with it), without any remuneration. But capitalism is hardly the root of this anomaly. It is rather to be found in the preoccupation of all our western legal system with the idea of property, witness the common law of torts as regards seduction, injury to feelings, etc.

Kohler also uses the recent discoveries of psychology in regard to the fallibility or aberrations of perception and memory, to point out the danger of pressing witnesses or parties so as to extract a full story,

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or of supposing that the agreement of two independent witnesses is necessarily conclusive as to the facts of the case or as to the falsehood of one who tells a somewhat different story.

On the question of the jury system, as in the other matters of criminal procedure, Kohler is an enthusiastic admirer of the English. Because of the difficulty of framing questions that a jury can readily and unambiguously answer by yes or no, he would seem to be in favor of general rather than special verdicts. The peculiar modifications of the jury system in states like New York, which make it a fit instrument to delay or defeat justice, are apparently unknown to Kohler. He favors the active participation of laymen in criminal as well as in trade and commercial courts, (1) to offset the one-sidedness resulting from technical preoccupations, and (2) to bring into the administration of justice the knowledge of the usual modes of thought and conduct, how people are affected by various transactions, etc. Kohler's classical philosophy will, of course, not allow him to say that the advantage of the jury system is that it makes our criminal procedure conformable not to abstract justice, but to the sense of justice of the community.

To the main objection to the jury system that it represents untrained intelligence, and therefore, unable to understand the psychology of evidence, Kohler answers that jurists are likely to overemphasize their own material (i. e., records), while jurymen may use the same caution that they employ in their daily business. Still, Kohler would have one jurist on the jury to explain legal questions, and would take certain purely technical questions, like those of psychiatry, entirely away from the jury.

The remaining chapters of the book are devoted to the problems of association or corporation law, civil procedure, and international law.

The wide ground covered by this compact little book, the distinction of the author's knowledge and insight makes it an exceedingly useful book and well worth translating into English.

College of the City of New York.

MORRIS R. COHEN.

STRAFRECHT UND AUSLESE. EINE ANWENDUNG DES KAUSALGESETZES AUF DEN RECHTBRECHENDEN MENSCHEN. *Von Dr. Hans von Hentig*, Berlin. Julius Springer, 1914. Pp. 236, M. 6.

So broad is this book in its scope, that seemingly every causal law of crime and every aspect of the penal system as a selective process is considered. There is a wealth of historical material and information about contemporary procedure in various countries, which it is impossible to summarize within the limits of a review.

The keynote of the book is that the penal offense is to be considered as a measurement of the individual's adaptiveness to social conditions, and the question then becomes whether he can be made adaptive, or whether he should be eliminated from society. Elimination is accomplished at present by death sentence, life commitments,

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accidents, and suicides. "Suicide is the criminality of the weak-willed." Accidents are usually due to carelessness or lack of foresight. Germ elimination is accomplished by lifelong segregation or segregation during the reproductive period, sterilization, restrictive marriage laws and customs, breeding methods through which the unfit are eliminated, betterment of environmental factors, polygamy, euthanasia, and artificial hindrance of conception.

The chapter devoted to betterment by means of punishment contains much interesting material regarding recidivists, laying emphasis on the fact that because most convicted criminals are mentally incapable of forming inhibitive associations and are indifferent to bodily discomfort, therefore they remain uninfluenced by punishment and relapse repeatedly. Short terms of confinement not only do no good, but are positively harmful. Prisons and jails shelter and nourish incapables better than their natural environment, and send them out refreshed and ready for new criminal activity. Many insane and mentally defective are incapable of betterment by any means, and time and money are wasted trying to accomplish such improvement. They should be permanently segregated. Betterment for those mentally capable can be accomplished only by the gradual building up of social and moral associations and habits. Prisons may produce a person who is adapted to prison, but not to social life. The parole system for young and plastic individuals is approved, as are also institutions where a community life is lived as nearly as possible like that of the outside world. Surgical or medical treatment may be beneficial in some cases.

Assistance in crime, attempted crime, and carelessness vs. criminal motive received full treatment. Accessories to crime are definitely dangerous because of their abnormal suggestibility and because many crimes could not be committed without accessories. Jurisprudence which allows itself to be ruled by the mere coincidence which frustrates the attempted crime and neglects to take in hand the individual who attempted it, is unworthy of the name. The constitutionally careless are probably as unimprovable as the constitutionally criminal, and the results of their acts are practically the same.

Physical and chemical influences, such as light, temperature, narcotic and stimulating drugs have deleterious effects upon persons of lessened resistance. Light and rising temperature up to a certain point have exciting effect, therefore early summer is most productive of crime. The consumption of alcohol rises then. Drunkenness is more an expression than a cause of mental incompetence; few cases develop except on the basis of a psycho-neurotic disposition. Short imprisonments or fines for drunkenness are worse than useless. Drunkards should be treated very early by regular life, fresh air, work and lack of mental friction.

The most dangerous criminals are those who are not caught, or are not convicted when tried. Probably not more than a fifth of all criminals are brought to trial, and a large percentage of those tried are not convicted. Some escape through intelligence, being keen-witted, though morally defective; others through money, which liter-

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ally covers a multitude of sins. Much discussion is given to the foolishness of fines, which are no punishment or deterrent to the rich, and which the poor cannot pay.

The author deplures the slight knowledge of psychology and psychiatry possessed by those having to do with criminal procedure. It is this, primarily, which makes the penal system so poor an instrument of proper selection. An error in legal interpretation will seem worse than the non-detection of a criminal, or the non-punishment of a known but influential one.

The problem of the economic and social status of the wife and children of the convicted criminal is usually considered a complicated and deplorable one. Dr. von Hentig, however, takes it up from a rather new point of view, and shapes biology and history to bear on his *laissez faire* theory. Though the man woos, the woman is always free in her selection. If through lack of judgment she makes a selection which leads her into trouble, it is only because of her lack of judgment that misfortune has befallen her, and persons with lack of judgment may safely be allowed to undergo natural elimination. The children probably are tainted from both sides of the family. Better let them go, also. If the lack of judgment, and hereditary taint, by any chance are not present, the individuals will, in spite of all hardships, regain their social and economic status. All this we may be permitted to take with a good-sized grain of salt. He also says that orphans so often turn out badly, not because of lack of good training, for the training they get in institutions is often better than what they would have received at home, but because they must be of poor stock or the parents would not have died so early.

All through the book, charts, tables and copious notes illustrate and amplify the text. While some rather sweeping statements are made concerning the psychology of suicide, for example, on the whole the book is unusually good, absorbingly interesting, and a real, and in some ways an original contribution to the science of criminology.

Ann Arbor.

Mrs. JOHN F. SHEPARD.

EUGENICS RECORD OFFICE, REPORT No. 1 (1913), AND BULLETINS No. 10A AND 10B, by *Harry H. Laughlin*, from the Committee to study and report on the best means of cutting off the defective germ-plasm in the American population. By Harry H. Laughlin, Cold Spring Harbor, New York, 1914. Pp. 64 and 149.

Enthusiasts in every line are likely to magnify the importance of a hobby, and to minimize everything which tends to demonstrate contrary facts. This is unfortunate, for others realizing the importance of the adverse facts may go to the opposite extreme. This is excellently shown in the operation of eugenic agitation, where the science is abused on the one side by its friends, and on the other by those who pose as opponents. Realizing that all nature teaches that like tends to beget like, and observing, for example, that sons of criminals frequently become criminals, amateur eugenists demand the sterilization

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of criminals. On the other hand, in his message vetoing the Pennsylvania sterilization act, Governor Pennypacker truly observes: "Scientists, like other men whose experiences have been limited to one pursuit, and whose minds have been developed in a particular direction, sometimes need to be restrained. Men of high scientific attainments are prone, in their love for technique, to lose sight of broad principles outside of their domain of thought." He then runs to the opposite extreme and asserts: "Idiocy will not be prevented by the prevention of procreation among these inmates," and much of his message does not harmonize perfectly with known facts.

Radical action should be based upon demonstrated facts, rather than upon theory or impression, especially when the action involves legislation. Legislation wisely formed is an aid to progress; legislation which is essentially wrong retards progress, and arouses opposition. Amateur enthusiasts have lately been rushing to the legislative bodies with all forms of half-baked ideas. It would be well if all pondered over John G. Saxe's fable of the six blind men who went to see the elephant, and that legislative efforts be restrained until the ground shall have been carefully surveyed.

What is desired from the Eugenics Record Office is a demonstration of *facts*. The facts so far published are certainly sufficient to warrant legislation to provide for further investigation; but it may be seriously questioned if the office has as yet demonstrated sufficient evidence to warrant the advice which it gives for sterilization. According to the rules of science, all possible factors must be considered. Apparently the office seems content with simply showing the reappearance of the same trait in successive generations. It is recommending radical operations on *a priori* reasoning, and on "feeling" generated in hearsay evidence. We well remember when it was universally thought that malarial fever was the product of some miasm; now it has been proven that it is the result of an animal parasite which is developed in a certain genus of mosquito. It is with surprise that we read in Bulletin 10A the apparent indorsement of the words of Havelock Ellis: "Moreover, the attitude of society toward the individual criminal and his peculiarities must be to some extent determined by our knowledge of criminal heredity. The hereditary character of crime, and the organic penalties of natural law, were recognized even in remote antiquity." Mr. Laughlin admits that "A biologic, psychologic, or genetic analysis of criminalistic persons better suited to eugenic studies is up to the present time lacking;" yet, in the place of making such a critical analysis we find the office advising sterilization. "From a moral, social and religious, as well as from a biologic and legal point of view, the program of segregation and sterilization is, the committee feels, justified because,"—and the reasons are academic, rather than scientific. The third reason given is "(C) The consent of the inmate (or his guardian) to the necessary operation can often be secured, thus relieving the state from imposing upon an individual, even though he be defective or insane, who may, because of such operation, bear some resentment against society."

The idea that a supposedly scientific committee should advise such

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a radical operation, before it has made a critical study of the facts, and that it should do so on a "feeling" *because* an unfortunate individual, admittedly not in possession of full mental poise, can be persuaded to give his consent to the operation is preposterous.

Just a few years ago the southern states were the home of many people of very low mental development; lazy, shiftless, and to a greater or less degree public charges. Missionary efforts did not seem to help. In the light of the knowledge of a dozen years ago they were evidently cacogenic, and needed to be suppressed. Now it is known that by killing the blood-destroying hookworm these individuals are made self-supporting, energetic and intelligent members of society. A fine piece of mechanism may more easily be ruined than one of coarser construction; but the fineness is necessarily for the work to be done, and the destruction is not due to the inherent character of the machine. Just so, though insanity may be based upon the heritable character of the brain, the breakdown is due in probably every case to some extraneous cause. The problem for the Eugenics Office is to determine how much is due to heredity, and how much is the product of environment.

The Report No. 1 gives a bird's-eye view of the mechanics of the service, tells of the training of field workers, and their use. Bulletin 10A gives the report of the committee, which advises segregation and sterilization, after a few outline remarks, but without adding anything to our previous knowledge. Bulletin 10B seems the most valuable of the three pamphlets mentioned. It contains an analysis of the sterilization laws, considering those enacted, vetoed, or failed of passage. The text of veto messages, and opinions of legal authorities upon enactments are given, with the decision of cases which had occurred up to the time of the publication of the Bulletin. The committee also presents the draft of a model law.

Three motives are recognized as possible excuses for sterilization: eugenic, punitive and therapeutic. The committee casts aside as unworthy of consideration punitive sterilization, and the use of the operation for therapeutic purposes is without the scope of the investigation. Having cast aside punitive operations, unless it be shown that criminality is *per se* hereditary, it would seem that there would be no rational excuse for the operation among those distinctly criminal. Since criminality is essentially an ethical problem, and dependent apparently upon a lack of moral education, we should not expect it to be transmitted in the germ plasm. However, before digging for the foundations, the committee has seen proper to begin to erect the superstructure, to tell in a general way who should be segregated and sterilized, what legal steps should be taken, and it even presents in tabulated form an estimate of the amount of operating which will need to be performed in order to reduce the dependent class to a fraction of one per cent by 1980, and to a minus quantity in the next five years.

Several pages are devoted to a discussion of the subject, "The viewpoint as to the import of sterilization, whether it be held to be within police regulatory powers, or whether it be deemed of sufficient consequence to require in each case, due process of law." The constitution of the United States guarantees the protection of "due process

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of law" to all, and it makes no exception of the use of police power. If under summary use of police power the hearing be not afforded before the operation, all concerned are liable to the injured party in such damages as may appear. On the other hand, if the operation be not performed under police power, and we do not use it as a punitive measure, it does not appear by what possible authority the state may interfere. From a legal point of view, therefore, the topic seems meaningless, though the committee "feels" that "compulsory eugenic sterilization should be authorized only as a result of due process of law."

Some of the sterilization laws provide for the operation in such cases as show no hope of improvement. The committee wisely says, "Hereditary traits are dependent upon ancestry, and do not rise and fall in value with the condition of the individual."

It must be remembered that the work of this particular committee pertains only to the negative phase of eugenics—the cutting off of the undesirable blood-plasm. Unfortunately, the emphasis recently placed upon this phase tends to becloud the greater subject of positive eugenics. We must express the "feeling," (to use the committee's expression), that such reports of the committee will tend to intensify opposition and ridicule for the entire subject. From a scientific point of view the report shows more of the partiality of a narrow specialist, than of the critically scientific study of men with broad experience and observation. If, with the exceptional opportunities of the Eugenics Record Office, the committee is unable to formulate an answer to the scientific questions involved it is evident that others should not be expected to make the answer. It therefore follows that without knowing definitely what is to be attempted in a scientific manner, all discussion of the legal phase of the matter is premature.

Evanston, Ill.

HENRY B. HEMMENWAY.

AMERICAN STATE TRIALS, VOL. I. *John D. Lawson*, Editor. F. H. Thomas Law Book Company, St. Louis, Mo., 1914. Pp. 857.

This is the first of a proposed series of twenty volumes to cover, as the title shows, a record of the noteworthy American criminal trials. There is no such work nor any approaching it in this country. The purpose is to produce a set which shall rank with "Howell's State Trials of England" (which has been continued since 1830 under the title, "State Trials," by governmental authority), and "*causes celebres*," of France. The well known ability of the editor bespeaks success for the venture. The first volume corroborates the prediction. If the painstaking care of editing and wisdom of selecting cases is continued through the series, the result will be a distinct addition to the literature of the nation. We confidently expect the editor to show wisdom not only in the selection, but perhaps what is more important, in the exclusion of cases from his list. The series should, and no doubt will, be limited to cases which are distinctive and will exclude all those cases, however prominent the parties, or general the temporary notoriety, which are, however, only typical of the ordinary trial for the offense charged.

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The character of the work is best shown by reference to some of the cases selected for the first volume.

The trial of Bridget Bishop and George Burrows for witchcraft will dramatically impress one with the havoc this illusion wrought. It seems to us impossible that persons of standing and intelligence could be executed as witches because of the existence of a mole upon the body, an inability to recite the Lord's prayer correctly, an inability to shed tears upon command, and similar *non sequitur facts*, but the conviction and execution of these defendants shows the fact.

The case of Tully and Dalton for piracy and murder, in addition to rather remarkable arguments, shows a most remarkable dissertation by Judge Story in pronouncing sentence.

The trial of Jacob Gruber for inciting slaves to rebellion is especially notable. The charge was based upon a sermon preached by the defendant in Washington County, Maryland, against slavery. The prosecuting attorney was Luther Martin, the attorney general of Maryland, who had formerly been counsel for the defense in the impeachment trial of Judge Chase and the treason trial of Aaron Burr, and was attorney for the State of Maryland in *McCullough vs. Maryland*. The defendant was represented by Roger B. Taney, who years later became chief justice of the United States. Much discussion has taken place as to the views of Judge Taney on slavery. It is noteworthy that in this trial defending the right of free speech, however much it may offend slavery, in a locality much inflamed against the defendant, Mr. Taney showed himself the high minded lawyer just as years later in following his logic to an unpopular result, he showed himself a just judge.

The case of Holmes, for manslaughter, for the negligent handling of his vessel resulting in collision with an iceberg, and the death of many of the passengers and crew, is made of present interest by the Titanic and Empress of Ireland disasters.

The trial of Vallandigham for disloyalty was probably worth recording, although it is a question whether the performances of that erratic character should be further dignified by historical mention.

The trial of George Bowen for murder in persuading a fellow convict to commit suicide, and the argument is interesting. One's professional interest in a curious problem almost leads him to regret that the jury robbed the case of the interesting question, by finding that the suicide was not the result of the defendant's advice.

It is to be hoped the series will fulfill the ambitions of the editor.

Wausau, Wisconsin.

C. B. BIRD.

DREISSIG JAHRE DEUTSCHER KRIMINALSTATISTIK. Von Landgerichtsdirector a.D. Geheimen Justizrat Dr. Aschrott, in Berlin. Zeitschrift für die gesamte Strafrechtswissenschaft. Fünfunddreissigster Band, Fünftes Heft. Pp. 507-533.

Dr. Aschrott seeks in this article to present to the reader some of the most important facts which his study of the thirty reports on

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German criminal statistics, the last of which has just appeared, has brought to his knowledge.

I have read other studies of these self-same statistics which were more comprehensive and more learned; but Dr. Aschrott has succeeded within the space of a few pages, in stating a number of very interesting facts regarding the tendencies and changes in German criminality, and this, I take it, was in the main his purpose.

Some of the most important of these are:

1. A great increase in the number of sentenced criminals. This is not only an absolute increase, but an increase in proportion to population.

2. This increase is due to an increase in the number of male criminals, the number of female criminals having decreased.

3. The number of juvenile offenders has swollen enormously; and again it is the male sex which accounts for the increase.

4. One of his most important conclusions, it seems to me, is that the increase in the number of sentenced criminals can, for the most part, be explained by reference to the increased recidivism.

5. The crime of injury to the person, fraud, embezzlement, failure to obey industrial laws, force and threats, insults, crimes against morals, food crimes and forgery all show an increase.

5. Theft has decreased. In 1882, this crime constituted 32.6 per cent of all the criminality; while in 1911, it amounted to but 20.3 per cent.

6. In 1882, the crime of bodily injury constituted 18 per cent of the criminality; now it amounts to 22.1 per cent. This is the crime which shows the most remarkable increase.

7. There has been, during the thirty-year period, a shift in the kind of penalty imposed. The change has been from imprisonment to fines; and there has also been a decided tendency to send fewer persons to the penitentiaries. How great the change from imprisonment to fines has been can be seen easily from a comparison of the figures for 1882, and those for 1911. In the former year 73.6 per cent of all the sentences called for imprisonment, whereas in the latter year the sentences to imprisonment made up only 47 per cent. Dr. Aschrott says that the judges, with the exception of those in the South, inclined to milder punishments. There is an absolute decrease in the number of those sent to the penitentiaries. The length of sentence is also growing shorter.

8. Less and less use is made of the additional penalty of loss of civil rights. Indeed, so far as the women are concerned, it has become a negligible item. Moreover the tendency seems to be to place fewer criminals under the oversight of the police.

In general, these facts presented by Dr. Aschrott correspond to those which can be found in the writings of others. Two points call for attention. The increase in juvenile delinquency and recidivism emphasize the fact that the prevention of crime is largely a matter of the proper treatment of young offenders, or rather of providing such environment to the young that they will not offend against the laws of their country.

Swarthmore College.

LOUIS N. ROBINSON.

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REPORT OF THE SPECIAL COMMISSIONER ON THE ALIEN INSANE IN THE CIVIL HOSPITALS OF NEW YORK STATE. By *Spencer L. Dawes, M. D.* J. B. Lyon Co., Albany, 123 pages.

The advocates of new and more drastic legislation to control the quality of the vast numbers of immigrants landing daily at our ports could scarcely have brought forward a more telling bit of evidence in its favor than that embodied in the "Report on the Alien Insane in the Civil Hospitals of New York State," submitted last January to Governor Glynn, by Dr. Spencer Dawes, special commissioner on the alien insane.

The evidence gains force from the fact that the report does not deal primarily with the immigration problem, but with the problem of lessening the burden of insanity in New York State, which problem it attacks through the special problem of the alien insane.

The committee gathered its data at public hearings at the various state hospitals and at the cities of New York and Albany, where all persons directly connected with the problem were interrogated; and also by a study of statistics of the nationality and citizenship of every patient in the New York State Civil Hospitals, as given by a special census taken in September, 1912.

The report presents the actual numbers of the alien insane; it points out the causes which make these numbers disproportionately large, and it suggests measures designed to relieve the situation.

It is rather a startling commentary on existing legislation to find that, although the Immigration Act calls for the exclusion of all insane, idiots, imbeciles, and feeble-minded persons, in September, 1912, the foreign born constituted 43.4 per cent of the insane in the New York State hospitals, 29 per cent being aliens. Moreover, of all admissions during the eight years from 1905 to 1912, inclusive, 44.5 per cent of admissions were foreign born, 69.2 per cent were of either foreign or mixed parentage, and 30.5 per cent were aliens. To understand something of the import of these figures, they should be compared with the ratio of foreign born to native born, and with the ratio of those of foreign and mixed parentage to those of native parentage, in the general population of the state. The report states that 30 per cent of the general population was foreign born, and 62.9 per cent of the general white population was of foreign and mixed parentage. Thus the per cent of foreign born insane was 13.4 per cent greater, and the per cent of the insane of foreign and mixed parentage was 6.3 per cent greater than the corresponding groups in the general population of the state. These figures show conclusively that the foreign element in New York State is contributing decidedly more than its share to the insane population.

Further figures are given to show the numerical relation of the New York State foreign population, and also of its insane charges to the corresponding United States groups. While New York State has but 9.9 per cent of the total population of the United States, it has 20.4 per cent of its foreign population, 17.8 per cent of the total of those of foreign birth and of foreign and mixed parentage, and 16.7 per cent of the total insane; 9.9 per cent of the total population, 20.4

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per cent of the total foreign population; 9.9 per cent of the total population, 16.7 per cent of the insane. These figures also seem to indicate that the foreign element in New York has much to do with its large number of insane.

The report contains a detailed statement of the cost to New York of the care of its insane. In brief, the net expenditure during 1912 for the care of the citizen insane was \$4,751,352.56, at a per capita of \$212.27, while that for the alien insane was \$2,108,688.05, at a per capita of \$228.19. Though the citizen insane numbered 2.4 times the alien insane the net expense for the former lacks \$309,498.76 of being 2.4 times as great. This is accounted for by the fact that a greater number of citizen insane contributed toward their own maintenance.

The limitations on the deportation of alien insane imposed by the present Immigration Act leaves so many insane aliens in New York whom it is quite possible to return to their homes that the state has devised a way of returning them. The Bureau of Deportation sends to their homes at the expense of the state, those alien insane who will consent to return, and whom the Federal Government refuses to send. When necessary, it sends an attendant with them, and provides for their return to their home city. The bureau has been remarkably successful in securing the consent of many aliens, so that more are actually returned by this method, which is called repatriation, than by deportation by the Federal Government. The expenditure of the Bureau of Deportation for the year 1912 amounted to \$46,939.24, for which sum 1753 aliens and non-residents were sent to their homes, a per capita net cost of \$26.77. The successful work of the bureau is remarkable because all the business, both with the aliens and with the steamship companies, is accomplished without the aid of state or national legislation. The report urges that the state be generous in its appropriations for this purpose, as many more aliens could be repatriated was the money available.

The records show that up to the present time the average length of time spent by an alien in a state hospital is 9.85 years. Calculating the expense of support for this length of time, of the number of aliens in the state hospitals in September, 1912, it amounts to \$25,412,038.44. Comparing the expense of repatriation with these figures, it seems clear that it is good economy for the state to repatriate the maximal possible number of alien insane. The saving for one year is enough to justify the method, but when this is multiplied by 9.85, we gain some idea of the saving to New York State in spending freely on repatriation.

The section on causes of existing conditions is very illuminating. The first one mentioned is that while the bulk of the burden of the alien insane is borne by the several states, all power of limitation and regulation of immigration lies with the Federal Government. The result is that a government which contributes but \$8,290.57 where a single state contributes \$2,579,902.38 to the support of its aliens, a government which collects a head tax of \$4.00 for each immigrant, and spends but a few cents on the entrance examinations of each one, has

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little practical inducement to relieve the situation. Next are mentioned a group of causes inherent in the Immigration Act. First among these, failure to exclude those who have been previously insane, chronic alcoholics, and constitutional psychopathic inferiors. These three groups of persons contribute largely to the alien insane in the New York hospitals. Another fruitful cause is the limitation of the deportation period to three years; statistics show that 70.4 per cent enter the hospitals more than five years later than they enter the United States, and only 19.4 per cent enter the hospitals within three years of landing. The report considers that the time limit should be increased to five years or altogether stricken out. Moreover, an insane alien is not subject to deportation unless he has become a public charge. This is a discrimination in favor of the richer alien insane, who eugenically are just as great a menace; while it also results in the care of the poorer aliens by friends until the three-year period expires, after which time the state is compelled to care for them. If the insane alien becomes a public charge within the three-year period, the condition of deportation is that the state prove his condition to be the result of causes existing prior to landing. As the state is often unable to procure evidence relating to conditions existing prior to landing, it would be more rational to state the condition in the following way: such an alien must be deported unless the causes of his condition arose subsequent to his entry into the United States. As the last word in the deportation of an alien insane lies with the Department of Commerce and Labor, and as expert medical opinion has been found of no avail in the effort to prove an early cause, this change would overcome many difficulties. More equitable decisions would also result if when the Department of Commerce and Labor question the advisability of a deportation advised by a state, such state be allowed to hear the opposing evidence, and to present additional evidence if it so desires.

A very real cause of the admission of so many mentally inferior immigrants is the inadequate examination they receive. The steamship companies are held responsible, and are fined \$100 each for all idiots, imbeciles, epileptics, persons afflicted with tuberculosis or a loathsome or dangerous, contagious disease, brought into this country. Strange to say, no fine is imposed for insane or feeble-minded persons, although they are excluded by the Immigration Act. The examinations conducted by the steamship companies is cursory in the extreme; the British immigrants are examined on the barge carrying them to the ship, at the rate of 7 to 20 per minute, while the Italian immigrants are examined at the rate of 2 to 6 per minute, the mental examination being merely incidental to that for physical disease. At Ellis Island the tremendous daily pressure of immigration makes the task of adequate examination an almost impossible one. For the last ten years the immigration to this country has averaged 900,000 per year; as many as 80,000 have reached New York in a single month, and sometimes four or five thousand per day arrive for several succeeding days. Those cases of mental defect which can be detected in a rapid inspection are set aside for further examination; those which

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cannot be so detected are admitted and later apparently find their way in goodly numbers to our hospitals for the insane. The steamship companies are willing to take the chance of passing in defective immigrants, and to risk the fine of \$100. It is suggested that the fine be raised to \$200, and that it be applied also to insane, feeble-minded, chronic alcoholics and constitutional psychopathic inferiors.

The suggestion that the prevalence of insanity among aliens is due to the abrupt change to a strange environment is discussed. Although the effect of the environment is recognized, it is noted that many, if not the majority of authorities believe that mental breakdown occurs as the result of stress of existence only when such stress is borne by an individual already predisposed to insanity, an individual with an inherited weakness or fundamental defect of makeup. In a study of the incidence of the various psychoses, paresis and alcoholic insanity occur relatively more frequently among the foreign born than among the native born. As paresis is generally attributed to syphilis, and as the condition does not as a rule develop until five years after the original lesion, its frequency furnishes a tangible argument in favor of increasing the length of the possible deportation period.

The report emphasizes not only the present economic effect of admitting mentally defective aliens, but calls attention to the fact that the effect on future generations will be still more serious. It states that modern investigators "assure us that heredity is by far the most important single factor in the causation of certain forms of mental disease," and that investigation justifies the statement "that it is highly undesirable that feeble-minded, epileptics, and those with certain types of insanity should have children. It is patent, therefore, that both the insane, the mentally defective, and those particularly likely to become insane, who are so undesirable as parents of future generations of Americans should be excluded, so far as possible, from entry into this state or country. If, however, they have been admitted and have not become citizens of this country, they should be returned to the homes from which they came."

The value of this little pamphlet can hardly be overestimated. As the danger to this country of allowing its mentally defective classes to increase at the present rate is incalculable, such precise documentary evidence of one source of increase is invaluable. We most earnestly second the plea that such investigations be continued in New York, and undertaken in other states. We feel that the whole country owes a debt of gratitude to New York State for its wisdom in initiating the work of repatriation, by which it has so effectually reduced the number of alien insane.

Lincoln, Illinois.

CLARA HARRISON TOWN.

REPORT OF THE CIVIL SERVICE COMMISSION OF THE CITY OF CHICAGO.
PRISON LABOR AND MANAGEMENT; HOUSE OF CORRECTION. By
Messrs. Campbell, Lower, Flynn, 1914. Pp. 66.

At the meeting of the city council of Chicago on December 8th, 1913, an order was presented by Alderman Charles E. Merriam and

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was, on motion, duly passed, which directed the Finance Committee to investigate the use of convict labor at the House of Correction, and to recommend appropriate measures for the relief of the disgraceful conditions then prevailing.

The Finance Committee asked the Civil Service Commission for information. The commission reported in full, on March 14th, 1914. The report goes into detail concerning the organization, the management and the labor situation in the institution. Some excellent results have already been brought about, and steps are being taken to have several other recommendations of the committee adopted. Mr. John L. Whitman, the superintendent, is commended for his earnestness and efficiency in the general control and direction of the penal work of the institution, but on the other hand the report sets forth the faults in the statutes, the organization, the management and the control of the inmate labor of the institution. The report is well written and is valuable for anyone who wishes to know the exact situation existing in the House of Correction of Chicago. The ground covered by the report is:

- (1.) Statutory provisions and city ordinances.
- (2.) Organization of institution.
- (3.) Management of institution.
- (4.) Methods, systems and records.
- (5.) Population—prisoners and inmates.
- (6.) Housing, sanitation, medical care and welfare.
- (7.) John Worthy School for Boys.
- (8.) Contract prison labor.
- (9.) Extension of municipal industries—farm colony.
- (10.) Prison labor and industries:
 - (a) Contract and piece price system.
 - (b) Municipal use system.
- (11.) Conclusions and recommendations.

The most important recommendations are:

1. That action be taken so that bills be presented to the next legislature providing for an amendment to the statutes abolishing the offices of the board of inspectors, and placing the responsibility for the management and the direction of the House of Correction definitely on one official to be appointed by the mayor, with the consent of the city council.
2. That the system of contract labor be abolished.
3. That the various department heads of the city use prison labor and the products manufactured in the House of Correction, as far as possible.
4. That consideration be given to a plan to pay the longer-term prisoner; the money earned to be given to the prisoner at the time of his release or else to his family during the period of his incarceration.
5. That the city give consideration to the question of providing

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a farm to which inmates of the House of Correction could be sent to work.

The other recommendations have mainly to do with the organization and management of the institution.

As a result of the report, the city council passed a resolution, on March 30th, 1914, which provided for the termination on May 1st, 1914, of the contracts with the three companies for which the House of Correction had been supplying labor, and also ordered the abolition of the contract system of labor. The city council ordered the various department heads of the city to use every means possible for the utilization of prison labor and the products manufactured at the House of Correction, and that the other recommendations in the report be considered by the Committee on Finance, with a view of putting them in effect as far as practicable.

Because of its contents, and because of the results achieved, this report is worthy of careful study.

Chicago.

JOEL HUNTER.

CODE DE L'ENFANCE ANNOTE (Belgian). By *Edmond Picard*, G. Dansaert-de Baillencourt, and Arthur Oliviers. Bruxelles, 1913. Pp. 420.

This is a strikingly useful little book, not only as a summary of Belgian laws relating to children, but as an essay in comparative legislation. It covers practically every phase of the problem of childhood, including laws ministerial orders for the protection of childhood, for juvenile courts and probation, apprenticeship, prosecution of cruel and immoral parents and others who commit crimes against children; also laws concerning the civil rights of minors; property, marriage, divorce, guardianship, adoption, wages, legitimation, nationality, and the common rules of procedure covering such questions; laws regarding infanticide, abortion, abandonment; finally such miscellaneous laws as pertain to the army, public charity, savings banks, child labor, prostitution, drunkenness, vagabondage, and midwifery as they bear upon minors. Its method is even more comprehensive, especially in the sections relating to the protection of children. After citing the law, the authors add references to the Belgian constitution, to the codes, to ministerial circulars, to commentaries on the codes, to treatises on constitutional law and other legal topics, and to foreign legislation. For example, the section dealing with *Le Juge des enfants* carries with it three references to legal treatises, as many to Belgian laws, and references to laws of Prussia, England, Austria, Denmark, Egypt, Spain, France, Hungary, Italy, Russia, Sweden, Switzerland, and twenty-seven of the United States. The section on probation *mise en liberte surveillee* is even more abundantly annotated. Not the least important part of the book is the selected list of organizations and institutions, public and private, concerned with problems of child welfare. Those which caught the reviewer's special attention were the creches, the committees

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for the defense of juvenile delinquents, the societies for protection of abnormal, idiot and insane children, societies for prevention of cruelty to children, (*Oeuvres des enfants martyrs*), *Consultations de nourrissons*, and *Soupes scolaires*. The authors are to be congratulated on having produced a work which cannot fail to be of great service to workers for children. Their dedication of the book of Madame Henry Carton de Wiart, wife of the Minister of Justice, and herself a leader in the work for neglected childhood, indicates that they were prompted by a high purpose, which their patient scholarship has enabled them to accomplish.

University of Pittsburg.

ARTHUR J. TODD.

PRISON LABOR IN GOVERNORS' MESSAGES, 1912-1913. Prison Labor Leaflets No. 8, National Commission on Prison Labor, New York, pp. 101. 25 cents.

Prison Leaflet number eight has grown into a pamphlet of one hundred and one pages. The Leaflet is composed of those passages in the Governors' Messages for the years 1912-1913, which bear on the subject of prison labor. The size of the pamphlet indicates the interest that is being manifest in this subject throughout the various states. During the year 1913 this question received attention in some form by the governors of thirty-six states.

The topics treated by the various governors are classified in this pamphlet into five main subjects: administration, employment of prisoners, punishments, measures for reform, and disabilities as a result of imprisonment. Under administration such questions as reorganization and increased efficiency of the boards of control, elimination of politics from the administration of penal institutions, per capita costs of prisoners and the improvement and care of women prisoners and first offenders are given the principal attention. Improvement in the care of county and city prisoners receives attention in seven states.

On the subject of employment two things stand out prominently. First, that the use of convicts on a state farm is gaining wide recognition as a useful and desirable method of dealing with criminals. This matter received consideration in fourteen states. Second, that work on public roads is regarded as one of the most useful ways to employ the criminals of the state. This method of use was recommended in twenty-four states. In addition to these questions, the abolition of contract and lease systems in favor of state use in some form was recommended in a number of states.

The question of reform measures calls forth proposals concerning reformation, industrial education, grading of prisoners, honor system, the payment of earnings to the prisoner's family, etc. The social responsibility for assisting the unfortunate members of society is clearly recognized and expressed. Likewise the responsibility of

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protecting society against the recurrence of subnormal individuals through hereditary influences is recognized, and sterilization is recommended in three states.

This Leaflet is a very useful source of information, showing the trend of public opinion on this very important social problem.

F. S. DEIBLER.

Northwestern University.