

1917

## Reviews and Criticisms

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## REVIEWS AND CRITICISMS

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A HISTORY OF CONTINENTAL CRIMINAL LAW. By *Carl Ludwig von Bar*. Translated by Thomas S. Bell and Others. Boston: Continental Legal History Series Vol. 6. Little, Brown and Company. 1916. Pp. lvi. 561. \$4.00 net.

This book is the sixth of eleven volumes in the Continental Legal History Series published under the auspices of the Association of American Law Schools. The importance of the series to students of comparative law and legal science in the United States is to be gauged by the fact that this work embodies translations of the writings upon continental civil, criminal, procedural, and public law by the ranking European scholars in this field. Until now there has been no work available in English which afforded a survey of the historical development of continental law. To the criminologist and the sociologist, to all interested in changes in criminal law and procedure and in the reforming of prison conditions and methods, this volume on the History of Continental Criminal Law is undoubtedly the most valuable of the series. The fifth volume, entitled *History of Continental Criminal Procedure*, should be mentioned as probably next in importance from this standpoint.

The publication in English of these two volumes is timely. Recent tendencies in this country, both in the field of criminology and penology, foretell a revolution in our conception of crime, in criminal law and procedure, and in the treatment by society of the offender. The value of the scientific study of the delinquent by psychological methods, exemplified best, perhaps, by Healy's book, *The Individual Delinquent*, has led to the establishment of a growing number of psychopathic laboratories in connection with courts and to a recognition by judges, by probation officers, by superintendents of penal and reformatory institutions, and, in a less degree, by the general public, of the importance of examination by physician and psychologist of the physical and mental status of the individual offender. In criminal procedure and treatment of crime we have witnessed the separation of child from adult delinquency as evidenced by the rapid development of the juvenile court, the probation system, and the state industrial schools for boys and girls. For adult offenders, probation, the indeterminate sentence, the parole system, are now part and parcel of our criminal procedure and penal methods. At the present time, the trend in the further practical application of the reformatory principle to the treatment of delinquents is evolving experiments with the so-called "honor systems" and the "limited self-governing" plans. In a time of transition when old conceptions of crime, punishment, and reformation are either being discarded or are undergoing the chaotic process of revision and re-interpretation, there is point in gaining historical perspective from the comparative study of the development of conceptions of crime and criminal law in Western Europe.

The editorial preface by Professor John H. Wigmore gives an excellent statement of the scope of the available sources for the history of continental criminal law, an enumeration of the books and essays

translated for the volume, and a brief biographical sketch of the authors and the translators. It can be quite justly stated that the *History of Continental Criminal Law* as presented to American and British readers is built around Professor von Bar's work entitled "Geschichte des deutschen Strafrechts und der Strafrechtstheorien." As suggested by this title the book falls into two main parts: the first, comprising about four hundred pages, deals with the "General History of Criminal Law," and the second of one hundred pages with the "History of the Theories of Criminal Law." An appendix of fifty pages is devoted to von Bar's "Critique of the Theory of Criminal Law."

The leading place given to von Bar's name on the title page is justifiable not only because the major portion of part one and all of part two and the appendix are translated from his book, but also since the organization of his material, originally concerned with Germany alone, makes possible the incorporation of the selections representing the development of criminal law in France, Switzerland, Scandinavia, and the Netherlands. The exclusion of Italy is due to no oversight, but to the fact that the history of the Italian criminal law is adequately treated in the volume in the series which has for its subject matter the general history of Italian law.

The scope of the first and major part of the book, dealing with the general history of criminal-law, is indicated by the titles of its five main divisions: I. The Roman and the Germanic Elements; II. The Middle Ages; III. The Renaissance, the Reformation, and the 1700s; IV. The French Revolutionary Period; V. Modern Times.

The selection of Roman criminal law as the point of departure for the historical survey of the field presents, at least on first reflection, a serious genetic difficulty. Would it not be preferable to begin with the analysis of the more primitive Germanic communities rather than with the culturally advanced Roman society? Regardless of an affirmative or negative answer to this question, there is a consideration of weight which supports von Bar's method of procedure. Roman criminal law as the starting point affords unity of treatment. The history of continental criminal law centers consequently, about the imposition of the Roman law upon the native criminal system. The interaction of these two elements, the Roman and the indigenous, with reference to the life conditions of various continental peoples provides an integrating and unifying principle.

The contrast between Roman and German criminal law is clearly and incisively made by von Bar. The Roman criminal law is an expression of the conception of the absolute subordination of the individual to the state. "The individual has no rights which the State is bound to respect." (P. 17.) The common notion that Roman law tended to give the individual a degree of independence relative to the state is effectively demolished by von Bar. In the primitive Germanic criminal law the rights of the individual as against the state are recognized. The law is not so much statute as an ideal standard to which both state and individual conform. This distinction between

the Roman and Germanic conception of law is not regarded by von Bar as ethnically but as socially determined. He gives a terse description of the process by which the exigencies of the struggle for existence of the Roman city-state, as well in its beginnings as in the course of its growth, made imperative the subserviency of the individual to the group. "The small Roman community, surrounded as it was by many enemies, regarded the murder of one of its citizens as an attack upon its own strength and prosperity, and as a breach of the duties owed to it by the individuals" (p. 16). The organic nature of the development of criminal law from this principle is exhibited in the imperial period in the growing severity of punishment, in infamy and confiscation of property, in the increasing range of criminal law, in the crime of *lese majeste*, and in the persecution of the Christians.

So much by way of detail for the two contrasting conceptions of crime and the criminal; the interaction of these two elements as modified by the circumstances of the historical situations of European nations provided the central process for the development of continental criminal law.

In contrast with the sophisticated Roman conception of crime as an offense against the public welfare, stands the naive primitive principles of vengeance and self-defense. Von Bar takes the position that the community is interested in the crime only in so far as arranging the terms of peace between the offender and the person injured, and for that reason, perhaps, rejects Wilda's theory of outlawry as the most primitive form of punishment. Interesting outgrowths of the Germanic attitude to crime are found in the little attention given to the element of intention and the tendency to augment the punishment where the element of secrecy accompanies the offence.

The Middle Ages, both in Germany and in France, are characterized by the impress of the Christian church upon the criminal law. Its influence is marked in many ways; among others, by the acquisition by the church of temporal jurisdiction, the harsh penalties against heresy, and the partial adoption by the criminal law of the Mosaic code. While, in the main, von Bar condemns church control as prejudicial to the functional development of criminal law, he points out its contributions as, first, the idea of an absolute objective law and order superior to individual rights, and secondly, the idea of reformation. (P. 94.)

The 1500s mark the reception of the Roman law in Germany and culmination of the study and application of its principles in France. Historical circumstances contrived to make the outcome radically different in the two countries.

The reception of Roman law in Germany was in reality a combination of the Roman with the German elements demanded by the maturity and complexity of life. The simple maxims fitted for the freedom of life in forest and village were archaic with reference to city conditions. First, the influence of the law-books of Italian jurists and, then, the Bambergensis, textbook and code in one, and, finally, the "Carolina" which was enacted into imperial law in 1532, brought

about a general introduction into Germany of the principles and procedure of Roman law.

In France, in contrast with Germany, the dominance of Roman law was absolute since it met with little or no obstructions. With the centralization of political power in the hands of an absolute monarch the royal judge trained in Roman law exercised a discretionary power of arbitrary character. The criminal law in France had not the nature of an organic growth from the life of the people, but that of a structure superimposed. Concretely, "the official judge and the official prosecutor alone had the power to declare what was crime and to say what penal consequences should follow the act so declared to be crime." (P. 263.)

The Reformation in Germany according to von Bar led to retrogression because of the re-introduction of theology and of the principles of the Mosaic code into criminal law. The radical changes in criminal law in the 1700s and the French Revolution represent a reaction against the ideals of Roman law as a resultant of existing conditions and the prevailing philosophy of the time.

In France, the writings of Beccaria, Montesquieu and Rousseau, prepared the way for a complete transformation of the criminal law. The Code of 1791 sought to put into effect two principles: prohibition only of acts injurious to society and the impartial infliction of strictly necessary punishments. In its reaction from evils connected with the unlimited power of discretion the code went to the other extreme and abolished the executive power of pardon and of commutation of sentence, and prescribed specific and unalterable penalties for offences.

In Germany the changes in criminal law in this period are also related to the "trend of the times." The reaction of Grolmann and Feuerbach against Pufendorf's theory of moral responsibility as based on the assumption of human freedom, gave rise to a specialized literature in the questions and problems of criminal law and criminal procedure. The work of Feuerbach, as legislator for Bavaria, found practical expression in the Bavarian Code of 1813, which served as a model for criminal legislation in the German states at the close of the years of French supremacy.

In the period denominated "Modern Times," or from 1800 in France and 1813 in Germany, the development of criminal law in the two countries, though conforming to the same general trend, has presented definite divergent tendencies. In France the Penal Code of 1791 was superseded by the Penal Code of 1810 which remedied the outstanding defects of the former and sought "to secure the defense of society by means of intimidation." (P. 337.) The chief reforms of the French penal law since 1810 are grouped under five principles: "mitigation of penalty; the development of the principle of extenuating circumstances; the extension of the application of the Penal Code; the reform of the offender through punishment; the principle of social defense, as involving the distinction between first offenders and recidivists." (P. 339.)

In Germany the changes in criminal law, while also reflecting the spirit of the times, have been profoundly influenced by the processes of political unification. Evidence of this is at once apparent in the number of successive codes, or drafts for codes, which register the stages in German union: the Prussian Code of 1851; the Bavarian Criminal Code of 1861; the 1869 draft of a Criminal Code for North Germany; the Code of the North German Federation, which became the code of the empire; and the Draft Code of 1909. Von Bar points out that "the new institutions of the German Empire and the needs of business rendered necessary a considerable number of special provisions in the nature of police regulations;" at the same time, he is guardedly critical of the statutes dealing with the press, traffic in food supplies, and usury as difficult to square with the theory of criminal law. (P. 361.)

The second part of the book entitled "History of the Theories of Criminal Law," is an analytical statement and comparison of the theories of criminality from the Sophists to Binding. However, since it ends in Germany with 1880 and in other European countries with 1850, it takes no account of the modern movement introduced by Lombroso, Ferri, and Garofalo. In the appendix is presented von Bar's critique of preceding theories of criminal law and an exposition of his own theory of moral disapprobation as the fundamental basis for criminal law.

This fragmentary resume of the subject matter of the volume is probably sufficient to indicate the scope, point of view, and the authority of the work. It will, therefore, not be out of place to suggest one or two of its deficiencies or limitations. The outstanding shortcoming is the almost total ignoring of the developments of the last thirty-five years. Though von Bar's work appeared in 1882, he wrote to the editorial committee in 1911 that "the later investigations have not been such as to give me any reason to make any substantial changes in the text."

The limitation of the work is ably stated by Professor Wigmore in his editorial preface; "An ideal history of the criminal law should cover three fields: First, the history of *criminal law in general*,—its moral and political ideas, its legislative movements, its general legal doctrines, and its penal methods; secondly, the history of *specific crimes* as defined by the law; and thirdly, the history of *crime* itself,—its practices, methods, and causes. But no such ideal history exists in print,—nor in prospect for some time to come."

That von Bar's work falls short when measured by this standard is no criticism, it is only a realization of its necessarily limited scope and aim. It has the value and the deficiencies of all studies of the historical and comparative type. At any rate, the presentation of continental criminal law as an organic growth from the accommodation of the two principles, Roman and Germanic, modified successively by the influence of the Christian Church, national development, the French Revolution, and the modern humanitarian movement indicates that changing circumstances involve changes in function and structure. Is

not, then, the present scientific study of the offender a fact of import in the future evolution of criminal law?

The editorial committee merit high commendation for its success in the difficult task of the selection, the organization, and the translation of materials, and for the workmanship of the undertaking.

University of Chicago.

ERNEST W. BURGESS.

SOCIETY AND PRISONS. By *Thomas Mott Osborne*, L. H. D., Yale University Press, New Haven, Connecticut, pp. 225, \$1.35 net.

This volume is the published "Yale Lectures on the Responsibilities of Citizenship," given by Mr. Osborne two years ago and issued during the last year.

The book sets forth the rather well-known ideas of this prison reformer more fully than his previous story giving his experiences in Auburn Prison. The literary style is equally interesting and versatile. While not claiming to be a scientific or historical treatise on penology, it does set forth in some detail the progress of prison reform during the past century. In an added note of apology for the imperfections of the publication, the author truly states "there is a gap at present in our literature of penology which this book will serve to fill until a better one be printed."

To the charge which has sometimes been intimated, that Mr. Osborne is a sentimentalist, we may find answer in such a statement as this: "We must hold a man closely responsible for his crime, for that is the way to prevent repetition, and it also gives a chance to educate him to a better outlook on life." At another point the writer says, "May I again urge the fact that I do not for a moment lose sight of the wickedness and folly of which these prisoners have been guilty. With the exception of a very few innocent men, they fully deserve the exile from society to which they have been condemned." He then adds, "What I wish to emphasize is the existence of the criminal's essential humanity. The blasphemous theory of the irreclaimable criminal, foreordained to a life of wickedness and social perversion will break down completely, whenever it is honestly tested." It is the belief of Mr. Osborne that the prison system of the past, and largely of the present, does not give proper recognition to human considerations.

He emphasizes the fact that the only effectual punishment which society can inflict upon men lies in sending them to prison. This, he believes to be the "direst punishment that can be meted out to any man." His experience indicates that men who are guilty do not resent this impersonal punishment on the part of society. It is only the additional tyranny and brutality exercised by officials or keepers, some of whom may not be much more intelligent or virtuous than the offender. He feels that the injury of all such forms of punishment is the inevitable outcome of arbitrary and irresponsible authority of some human beings over others.

He speaks of this as "a relation which has most disastrous effects

in both directions. It not only turns the punished into wicked and revengeful wild beasts, but it turns the punisher, a good intentioned man, into an arbitrary and cruel tyrant."

The author urges that the purpose of imprisonment should not be to make "good" prisoners, but to make good citizens. In order to do this it is held that they must not only learn to *think* right, as was originally erroneously supposed to be accomplished by the solitary system, and to *act* right as they have been compelled to do under the congregate prison system, but, most important of all, they must be given an opportunity to *feel* right towards their keepers and towards society in general. When this is accomplished, they are much more likely to think and act right after their release.

After developing these considerations by a comparison of the old with the newer standpoint in prison administration, Mr. Osborne describes in detail the organization and development of the "Mutual Welfare League" in Auburn Prison, and later in Sing Sing. The author apparently considers the principle underlying this League with its basis of self-government of greater importance at this time than any other matter of prison administration. Speaking of its advocates he says: "They believe that the true foundation of a new and successful penology has at last been found." His argument for self-government as a true basis of responsibility is quite convincing, especially if one does not bring into the consideration other important factors of prison life.

Nothing whatever is said, for instance, about the efficient business management of a prison, of adequate industries, of the orderliness and cleanliness of an institution, and many other factors which would seem to be essential in the training of men for future good citizenship.

The great virtue of the self-government theory is clearly shown to be in giving an opportunity for individual development. Mr. Osborne states, "that while liberty alone fits for liberty," no privilege should be granted to prisoners without imposing a corresponding responsibility. He believes that practically all inmates of a prison will respond to this imposition of responsibility.

He discounts entirely the growing conviction on the part of most other observers in this field that a considerable proportion of prisoners are below normal mentally. He admits considerable variation in mental ability and attainment, but says, "To talk of any large proportion of convicts being mentally deficient is the sheerest nonsense." He attributes most of the obvious peculiarities of offenders to the bad effects of imprisonment, though this would apparently not explain the foolish things often done by first offenders under probation.

In any case, the system of self-government in practice would apparently give a better opportunity for the discovery of individual possibilities than the routine methods of a more centralized control. It might lead society to see, as the author of this book says, "that every man who is in need of reform, requires a different treatment from all other men."



Giving further value to the self-government method of prison administration, it is recognized that the same system of individual responsibility must be extended beyond prison walls, if penal institutions are to be greatly improved. As the author says, "it is, after all, the frightful insincerity and falseness and corruption of our politics that form the most fertile source of crime."

Chicago.

F. EMORY LYON.

A STUDY OF FAMILY DESERTION. By *Earle Edward Eubank*, Ph. D.  
Published by the Department of Public Welfare, City of Chicago,  
1916. Pp. 73.

All things considered, this is by far the broadest study of family desertion yet undertaken. It includes a brief historical survey of desertion, a summary of previous studies, a detailed analysis of the problem as it stands today, its extent and causes, its social significance, and methods both current and prospective, for its treatment. The materials are drawn from census reports and other printed records, but more largely from unpublished public reports, manuscript papers by social workers, personal letters from charity officials, and case records of disrupted families. The latter include 327 cases from the Chicago Court of Domestic Relations, and over 600 cases from the Stock Yards District of the Chicago United Charities. These primary sources and their analysis give the book its chief warrant and value.

Dr. Eubank's study leads him to six important conclusions. (1) Desertion is predominantly a city problem, because of the absence of primary group attachments, the anonymity, the break-down of the economic basis of the family, and the spirit of discontent which characterize modern city life. (2) Desertion is in the main a husband problem, because social conventions, maternity and economic dependence hold the wife to the home however much she may want to run away. (3) Desertion is not a racial or national phenomenon, for apparently American city life loosens the restraints of racial tradition. The author found 29 nationalities among the 8957 deserted families aided by the Cook County public poor relief agent from 1909 to 1915. The order in which the nationalities stood, judged by the number of deserters, was as follows: Jewish, Negro, Lithuanian, Danish, Canadian, Irish, American (white), French, Scotch, Hungarian, German, Russian, Slavonian, Polish, etc. (4) Desertion is not a phenomenon of religion or sect. "With respect to religious affiliation no sect or creed is exempt." Nor do mixed marriages apparently increase the danger. For out of the 327 Domestic Relations Court cases only 57 revealed differences of religious belief between husband and wife, while in 270 cases they were identical. It is perhaps true, as the author believes, that the proportion of Catholics is higher than it would be if their church permitted out-and-out divorce. His statistics might become more conclusive if they could be related to figures showing the distribution of religious affiliation in the general population of Chicago. The same remark would hold for the figures on nationality. (5) Desertion is, in many cases at least, "the poor man's

divorce," because it is easy, effective, cheap, without social stigma, and because it permits the patching up of family rents should the deserter ever care to return. (6) Desertion, however, is not due, primarily, to economic conditions. It often is, and this the author admits; but his chief argument is to the effect that poverty is not the main nor the necessary cause. His evidence is drawn largely from statistics showing a relatively smaller number of deserted families handled by charitable societies in times of industrial depression.

The extent of desertion is difficult to ascertain, for official governmental statistics are lacking, save where it ultimates in divorce. But the experience of relief societies in America and abroad shows that of all families under their care about 1 in 10 has dropped into dependence through desertion. The figures from American cities vary widely on this point (from 2.6% to 24.5%), but they are gathered from such widely separated dates that they are hardly comparable.

The classification of desertion types can hardly be other than pragmatic, based as it is in this and other studies upon the exigencies of relief methods. Dr. Eubank finds five types: the spurious deserter, the gradual deserter, the intermittent husband, the ill-advised marriage type, and the last-resort type. His principle of classification varies somewhat from that worked out by the Philadelphia Society for Organizing Charity which gave us these five classes: the chronic, the reclaimable, the spurious, the half-excusable, the un-get-at-able.

The main proposals in his constructive program of treatment include suggestions for a special schedule for use in charity offices with desertion cases; training of "desertion specialists," to handle this particular type of dependency; more rigorous attempts to separate spurious from genuine cases; emphasis upon efforts through kindly persuasion to reclaim the deserter and heal domestic differences; cutting down relief during the period where it is still possible that the husband may return (with the idea that his sense of magnanimity may be aroused by the knowledge that his family is really suffering by his absence); legal proceedings as a last resort, with the proviso that the wife should be required to testify in desertion cases, and that desertion should be made a misdemeanor rather than a felony. In this connection the author criticizes severely the hindrances to legal proceedings which make the way of the deserter altogether too easy. Philanthropic societies and wives hesitate about initiating prosecutions; courts refuse to issue warrants unless the deserter's probable address can be assured; police are dilatory in apprehending deserters; governors discourage extradition; local treasuries protest against the expense of bringing back deserters; and juries hesitate to indict or convict a deserter for felony.

As preventives the author suggests education, especially sex education, character building, inculcation of high ideals of home life, improvement of economic conditions to make a high plane of home life possible. This part of the book, it must be confessed, is the scantiest and least provocative.

Such a really valuable study merited a more becoming dress.

The typography is crabbed and unattractive, the statistical tables in some places almost drowned by the text. The proof reading was superficial, and many inexcusable errors in spelling cry out at the reader in consequence. Should a second edition be printed, the reviewer suggests that all French quotations be translated or rigorously corrected. (On p. 13, for example, six errors occur in a single paragraph, and some are to be found in all the other citations.) Also references to James Brice (pp. 10, 14), should correct the spelling of his name. A gross slip also mars a very important passage on p. 20: men are said to desert their wives very rarely "because of lack of unemployment," which is pure absurdity.

On the whole there is little to quarrel with in the materials themselves, although one may question the author's assumption that woman was the arch deserter among primitive peoples because she was denied divorce, and his flat generalization to the effect that "there is no doubt that the entrance of women into wage-earning occupations before marriage tends to make them unfit for married life." It is a subject for surprise also that no mention is made of the fact that in many cases of desertion there has never been a legal marriage. Moreover, an index is desirable even in a book of this size: let us not fall into the Continental habit of depending merely upon a table of contents.

These criticisms, however, must by no means be taken to becloud the real merits of Dr. Eubank's study. They merely suggest that so important a task was worthy of somewhat more finish and care for details.

University of Minnesota.

ARTHUR J. TODD.

SLAVERY OF PROSTITUTION—A PLEA FOR EMANCIPATION. By *Maude E. Miner*. The MacMillan Co., New York, 1916. Pp. 306.

"This book," says Miss Miner in her introduction, "is neither a 'vice report' nor a philosophical treatise, but an earnest study of what I consider without sensationalism or exaggeration to be the slavery of prostitution."

It is written from the point of view of an experienced probation officer who has dealt directly and personally with many hundred women of every degree of demoralization, as they passed through the Night Court of New York City. The pages are rich with illustrative instances, with observations of prostitutes themselves regarding their life histories and with a cross fire of comment by the author on the responsibility of the community for the unhappy fate of these women.

The book is a valuable contribution to the literature regarding prostitution, gathering quite completely in one volume a discussion of the complex and intricate causes of prostitution, an exposition of the operations of the exploiters of prostitutes, an analysis of the successes and failures of probation work, reformatories and protective societies, and a vigorous indictment of society for the sloth and blindness and selfishness which make this evil, not necessary but possible.

No one but a person who has known prostitutes at first hand, known of their hard childhood, their dejected life on the streets and in

brothels and of their severe struggle for rehabilitation could have written such a book. It may well be read not only by those who are actively interested in vice repression, and the reformation of delinquent and criminal women, but also by all who wish to secure in a single volume an exposition of what is no doubt society's most difficult problem, the cause and remedy of prostitution.

Chicago.

WALTER CLARKE.

PROCEEDINGS OF THE FORTY-THIRD ANNUAL MEETING OF THE NATIONAL CONFERENCE OF CHARITIES AND CORRECTIONS, INDIANAPOLIS, 1916. Pp. 702.

The published proceedings of the forty-third annual meeting of the National Conference of Charities and Corrections constitutes a valuable addition to the literature of social service. The preface states that "the Indianapolis transactions may be considered a leading incident in the history of organized social service and reform in the United States. Specifically, they represent a year's growth of a dignified and powerful association." The program dealt with concrete social problems, under certain large and general subjects. Numerous papers were presented upon the various aspects of each of these topics. Upon the whole, these papers are more exhaustive than usual, and indicate large familiarity with the subjects presented. The belief that the field of one's own work constitutes *the* social problem and that one's own remedy constitutes *the* social panacea, is noticeably absent from these papers.

The conference had, this year for the first time, a Committee on the Promotion of Social Programs, and the first division of the volume is given over to the report of this Committee presented by Graham R. Taylor and also discussed by others. This report emphasizes the necessity of building up social programs "through the participation and social thought of all elements in the community, rather than their formulation by a handful of people who call themselves experts." Mr. Lawson Purdy, President of the Department of Taxes and Assessments of New York City, urges the importance of proper taxing and assessing systems in order that there may be adequate sources of public support for social programs.

In view of the increasing strength of the anti-liquor movement, it is significant that alcoholism was singled out as one of the subjects of attack. In this division, Mr. Arthur Hunter of the New York Life Insurance Company, shows that the leading life insurance companies look with disfavor upon the applications of those who drink freely, and also of those who have taken alcoholic beverages to excess in the past. He affirms that statistics and experience indicate that total abstinence increases longevity. Dr. Alexander Fleischer, Supervisor of the Welfare Division of the National Life Insurance Company, points out that the attitude of large employers towards the use of alcohol by employees is becoming increasingly unfavorable. The relation between education and temperance is discussed by Elizabeth Tilton and Dr. Haven Emerson.

Unemployment was the topic for another group of papers. Gra-

ham Taylor emphasizes the fact that grappling with the unemployment problem must be a co-operative undertaking, to be participated in by government, business, and charity. Professor W. M. Leiersen proposes a Federal Labor Reserve Board, as the administrative organization for putting unemployment remedies into practice. Mr. J. R. Shillady, Secretary of the Mayor's Committee on Unemployment in New York, proposes that the public expenditures for buildings, rivers and harbors, the reclamation service, good roads development and the like, should be planned to compensate for decreased private employment during business depression, instead of being made in years of greatest trade activity, as is so often the case.

The section on Feeble Mindedness and Insanity has largely to do with state policy in dealing with the insane and the feeble minded. The treatment of this subject is more thorough than that given to some of the other topics. Dr. Edward H. Ochsner describes the new Illinois law providing for the commitment of the feeble minded. There are valuable descriptions of the successful experiments in the new colony plan for the feeble minded, conducted at Templeton, Mass., Menantico and Burlington, N. J., and Rome N. Y. Additional papers follow upon the classification of the feeble minded, the modern treatment of insanity, and borderline cases.

The largest number of papers appears under the topic of Public and Private Charities, twenty-two papers upon this subject being presented. The regulation and standardization of charities was one of the important questions considered. Amy F. Acton of the Massachusetts State Board of Charities, describes the Massachusetts system of chartering and supervising all private charities. Her paper is an effective argument for some measure of public supervision, in recognition of the principle that private charity is a public trust. Eugene T. Lies, General Superintendent of the United Charities of Chicago, deplors the fact that political influences has too frequently predominated in the granting of public outdoor relief in Chicago, but he points to the fact that at present the most friendly relations obtain between the county and the private charities, a fact which augurs well for the improvement of the work. The social welfare boards of Kansas City and St. Joseph are described by other speakers.

A variety of subjects are discussed under the topic, The Family and the Community. The place given to the problems of the small community will prove welcome to many, as evidence of recognition of the social and civic problems which exist outside of the urban centers. Four papers are given to "Civic Effort in Small Communities."

Under Corrections, perhaps the most important paper is by Thomas Mott Osborne, upon "Prison Discipline and Character Building," in which the author gives expression to some of his well-known views upon this subject. The defective delinquent, the psychopathic delinquent, and the police-women movement also come in for consideration.

In the division given to Children, the problem presented is "Does Social Service Understand and Support the Public School?" Mrs

Florence Kelley opens the discussion with a brief but stimulating paper on "How Can Social Agencies Promote the Effectiveness of Public Schools?" The papers which follow all describe some form of actual or possible co-operation between the school and social agencies.

The concluding division is upon Health. Among the constructive proposals worthy of note, is the one of Dr. C. S. Woods of Indianapolis, that all venereal diseases should be promptly reported to the health authorities, and that every victim of such a disease should be hospitalized.

Many other able papers not here referred to are found in the proceedings. The variety of subjects treated is great, the different points of view represented are numerous. The information contained as to methods actually in use by various agencies is extremely valuable, and most of the proposals for new legislation and constructive work are worthy of consideration. The volume should prove a valuable handbook to social workers, sociologists, and all those interested in modern movements of amelioration and reform. All in all, it is a worthy companion to its predecessor.

Northwestern University.

RALPH E. HEILMAN.

MECHANISM OF CHARACTER FORMATION: INTRODUCTION TO PSYCHO-ANALYSIS. By *Dr. William A. White*. The Macmillan Company, New York. 1916. Pp. 342. \$1.75.

In this book, Dr. White has undertaken to show the contribution that the psycho-analytic method makes to the problems involved in the building of character. The book brings to the attention of the reader the genetic interpretation of character. The study and treatment of mental disorders by the method named has brought to light in many instances causative factors in unconscious complexes, the results of earlier experiences. The conception developed in this book is that of a vast rich unconscious life. It is only a small portion of mental life that lies in the foreground of consciousness. The steadying influences are in the unconscious. This is a valuable concept in that it leads on the one hand to an understanding of characteristics that form an aspect of personality and on the other hand it suggests a means for the alteration of characteristics already present. This means consists in the implanting of complexes in the unconscious such as may conflict with and thwart the expression of those the displacement of which is desired. This offers the one way of meeting failure and directing the individual toward adequate adjustment to his surroundings. The treatment of the subject matter of the book in hand tends to fill in the false gap between the physical and the psychological and to emphasize the hypothesis of psycho-physical monism.

Dr. White's work in this book is the most rational and the broadest statement of the Freudian doctrine that is known to the reviewer. Psychologists who are inclined to quarrel with the extreme Freudians will find little in this volume for adverse criticism. Educators who read it thoughtfully will be encouraged because of its emphasis upon

the development of dispositions. It occurs to the reviewer that many students of feeble-mindedness would find here reason for the query whether after all much that passes for natural feebleness of mind is not after all an expression of submerged, acquired complexes.

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ROBERT GAULT.

STUDIES IN FORENSIC PSYCHIATRY. By *Bernard Glueck*, M. D. Criminal Science Monograph No. 2. Boston: Little, Brown, and Company. 1916. Pp. 269.

Glueck's monograph is mainly a reproduction of various studies on forensic psychiatry and not a systematic treatise. The first paper, "Psychogenesis in the Psychoses of Prisoners" (pp. 1-65), gives a digest of chiefly the German studies on the effects of the prison on mental health, and on the degenerative psychoses, illustrated by cases of the author's own observation. The second chapter (Psychoses of Prisoners, pp. 66-131) covers similar ground from a somewhat different angle more apt to furnish a survey of the general topic. The last three chapters deal with special disorders: "The Forensic Phase of Litigious Paranoia" (pp. 132-155), "The Malingering: A Clinical Study" (pp. 156-238), and the "Analysis of a Case of Kleptomania" (pp. 239-266).

Looking over the ground covered, one cannot help feeling the tremendous departure from the medical-legal literature which consists mainly of the accounts of cases as they appear in the course of the traditional court procedure. In the first place, it is not a question of insanity or sanity that stands first, but a careful analysis of all the facts of the patient's stock and personal life as far as they can throw a light on the constitutional and incidentally also on the criminal tendency. In the second place, the whole analysis has the character of a biological reconstruction of the various facts with far more emphasis on the question of what there is to be done about the cases than on the question of responsibility or the question of guilty or not guilty put before a jury.

The book is written in a very readable style. While in some respects it follows rather closely German patterns, it follows in many ways the analytical psychodynamic interests more and more characteristic of American psychiatry. We may well look forward to interesting supplements from the unique field of Glueck's present work at Sing Sing, as supplementing this possibly somewhat one-sided material of observation at the Government Hospital for the Insane.

Johns Hopkins University.

ADOLF MEYER.

JUSTICE FOR THE POOR. By the *Committee on Criminal Courts of the Charity Organization Society of New York*. Published by the Committee, 1916. Pp. 25.

As a result of the work of the Page Commission in 1910 the inferior Criminal Courts of New York City were reorganized in such manner as greatly to increase the efficiency of the city magistrates'

court. Since 1910 there has been, under the auspices of the Charity Organization Society, a committee on criminal courts, whose special function has been to assist in the practical achievement of some of the reforms contemplated at the time of the reorganization of the courts.

This pamphlet, published by the committee on criminal courts, calls attention to certain evils which have resulted from the establishment in 1895 of a separate court of special sessions, and which though much more serious to defendants and prosecutors and the general public than commonly realized, are not necessary for the continuance and effectiveness of that court.

The special evils mentioned under the present operations of the magistrates' court and the court of special sessions are three: first, unnecessary punishment inflicted on poor men because of their poverty under misdemeanor charges, through being imprisoned, because of lack of bail, between the first hearing in the magistrates' court and the hearing in the court of special sessions; second, the red tape, delays, and inefficiency, and annoyance to officials and citizens under the present method of trying offenders for the violation of municipal ordinances, and regulations of the state and city departments; and, third, annoyance to witnesses and the obstruction of justice through delays which are not necessary.

The one important socially desirable good in the present system, which should be retained in any new proposal of change, is noted as being the right to demand a trial by more than one man in important and difficult cases, there being some cases which, both for fairness to the accused and to the prosecutor for the public, can better be heard before a court of special sessions with three judges than before a magistrates' court with only one judge.

The source of the evils which attend the present operation of the courts is said to be in the fact "that the legislature has attempted to define by a rigid and inapt classification those cases in which the trial should be delayed and formal." "Thus a mandatory stay in jail averaging about four and half days has been fastened upon prisoners held even for the most trifling offenses when both sides would be better served by an immediate disposition" before a magistrate; "and the trial court," the court of special session. "And its really important operations are retarded by a great mass of petty business which should and otherwise could be disposed of easily and promptly by the magistrate to the relief of all concerned."

The remedy for this situation is said to be as follows: First, to give the magistrate the power to dispose of the whole matter at once, at the first hearing, in all cases where the reason for formal trial does not exist; second, the creation of a special branch of the municipal court in which shall be heard all cases pertaining to violations of the sanitary code, labor law, and departmental regulations; and, third, the extending to justices of the magistrates' court of powers of the court of special sessions and vice versa so as to allow a shifting of justices from one court to the other to meet the current need, which plan



would also involve the placing of all clerks, officials, and records of both courts under one administrative system.

On answering certain criticisms of the plan the committee shows that such changes as these suggested would not give magistrates too much power; would not permit the "jockeying" of cases under friendly judges more than at present; would not lead to greater diversity in sentences than now; would not abolish the court of special sessions, rather retaining this with its good features; and would not infringe upon borough autonomy.

The pamphlet is well worth the careful attention of all students of social problems because of the thoroughness of the investigation of its authors, because of its fairness of approach, its clearness of statement, and its almost universal application. It marks a signal effort, on the part of trustworthy students, to make practical and more useful the criminal court machinery of a great city, which like most institutionalized machinery has been lagging behind the practical needs of the day. The work of this committee should stimulate interest in careful study of the social needs of criminal courts in other cities. The City of Chicago, for instance, is in need of just such a study at the present time. All of the evils found in the New York system are found in Chicago. There is gross outrage practiced in the handling of the poor man in the courts; there is red tape and needless delay in the handling of cases; and there is much annoyance, though not as much as formerly, owing to a change in the call system at the criminal court, to officers and witnesses and the obstruction of justice through delays; and there are duplicate hearings in the Municipal and Criminal Courts of cases over which the Municipal Court should have final jurisdiction at the time of the first hearing.

It is to be regretted that in some of our cities the methods of criminal procedure in the courts is so fundamentally bad that much more than a revision in some small details is needed before there can be any approach to a socially efficient court.

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ROY WILLIAM FOLEY.